

**AGENDA**  
**Board of Directors Meeting**  
**February 1, 2023**

**\*\*\*\*\*Start Time: 10:00 a.m. (CLOSED SESSION)\*\*\*\*\***  
**1170 W. 3rd Street, San Bernardino, CA 92410, 2<sup>nd</sup> Fl. (The Super Chief)**

**\*\*Convene Regular Meeting immediately following Closed Session\*\***

**LOCATION:**  
**San Bernardino County Transportation Authority**  
**First Floor Lobby Board Room**  
**1170 W. 3rd Street, San Bernardino, CA**

**TELECONFERENCING WILL BE AVAILABLE AT THE FOLLOWING LOCATION:**

**Needles Council Chambers**  
**1111 Bailey Avenue**  
**Needles, CA 92363**

**Board of Directors**

**President**

Art Bishop, Council Member  
*Town of Apple Valley*

**Vice-President**

Dawn Rowe, Supervisor  
*County of San Bernardino*

Daniel Ramos, Mayor Pro Tem  
*City of Adelanto*

Paul Courtney, Mayor  
*City of Barstow*

Rick Herrick, Council Member  
*City of Big Bear Lake*

Eunice Ulloa, Mayor  
*City of Chino*

Ray Marquez, Council Member  
*City of Chino Hills*

Frank Navarro, Mayor  
*City of Colton*

Acquanetta Warren, Mayor  
*City of Fontana*

Sylvia Robles, Council Member  
*City of Grand Terrace*

Rebekah Swanson, Council Member  
*City of Hesperia*

Larry McCallon, Mayor  
*City of Highland*

Rhodes "Dusty" Rigby, Council Member  
*City of Loma Linda*

John Dutrey, Mayor  
*City of Montclair*

Janet Jernigan, Mayor  
*City of Needles*

Alan Wapner, Council Member  
*City of Ontario*

L. Dennis Michael, Mayor  
*City of Rancho Cucamonga*

Paul Barich, Mayor Pro Tem  
*City of Redlands*

Deborah Robertson, Mayor  
*City of Rialto*

Helen Tran, Mayor  
*City of San Bernardino*

Joel Klink, Council Member  
*City of Twentynine Palms*

Rudy Zuniga, Council Member  
*City of Upland*

Debra Jones, Mayor  
*City of Victorville*

Bobby Duncan, Mayor Pro Tem  
*City of Yucaipa*

Rick Denison, Mayor  
*Town of Yucca Valley*

Paul Cook, Supervisor  
*County of San Bernardino*

Jesse Armendarez, Supervisor  
*County of San Bernardino*

Curt Hagman, Supervisor  
*County of San Bernardino*

Joe Baca, Jr., Supervisor  
*County of San Bernardino*

Rebecca Guirado, Caltrans  
*Ex-Officio Member*

Ray Wolfe, *Executive Director*

Julianna Tillquist, *General Counsel*

San Bernardino County Transportation Authority  
San Bernardino Council of Governments

AGENDA

Board of Directors  
February 1, 2023

**\*\*\*10:00 a.m. (CLOSED SESSION)\*\*\***  
**1170 W. 3rd St., 2<sup>nd</sup> Fl. (The Super Chief)**  
**San Bernardino, CA**

**REVISED CLOSED SESSION**

- 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
**(Threatened)** Pursuant to Government Code Section 54956.9(d)(2) and (4)--1 case  
SBCTA--Claim filed by The Lane-Security Paving Joint Venture/**Initiation of litigation**  
*Based on existing facts and circumstances there is a significant exposure to litigation. and the  
legislative body is deciding whether to initiate litigation.*

**\*\*Convene Regular Meeting immediately following Closed Session\*\***  
**1170 W. 3<sup>rd</sup> Street, 1<sup>st</sup> Floor Lobby Board Room, San Bernardino, CA 92410**

**TELECONFERENCING WILL BE AVAILABLE AT THE FOLLOWING LOCATION:**  
**Needles Council Chambers, 1111 Bailey Avenue, Needles, CA 92363**

Items listed on the agenda are intended to give notice to members of the public of a general description of matters to be discussed or acted upon. The posting of the recommended actions does not indicate what action will be taken. The Board may take any action that it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

To obtain additional information on any items, please contact the staff person listed under each item. You are encouraged to obtain any clarifying information prior to the meeting to allow the Board to move expeditiously in its deliberations. Additional “*Meeting Procedures*” and agenda explanations are attached to the end of this agenda.

**CALL TO ORDER**

(Meeting Chaired by Art Bishop)

- i. Pledge of Allegiance
- ii. Attendance
- iii. Announcements  
Calendar of Events
- iv. Agenda Notices/Modifications

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**Possible Conflict of Interest Issues**

Note agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item.

**1. Information Relative to Possible Conflict of Interest**

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Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

**This item is prepared monthly for review by Board and Committee members.**

## CONSENT CALENDAR

Items listed on the Consent Calendar are expected to be routine and non-controversial. These items have been discussed at Policy Committee meetings and made available for public review as noted in the agenda. The Consent Calendar will be acted upon as a single motion. Items on the Consent Calendar may be removed for discussion by Board Member Request. Items pulled from the consent calendar will be brought up immediately following the vote on the Consent Calendar.

### Consent - Administrative Matters

#### **2. Board Presidential Appointment & Vacancies**

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A. Note the presidential appointment for Alternate Damon Alexander, City of San Bernardino, to serve on the Southern California Association of Governments (SCAG) Energy and Environment Committee, for a term expiring December 31, 2023.

B. Note the vacancy for one member to serve on the SCAG Community, Economic, and Human Development Committee.

C. Note the vacancy for a member to serve on the Emerging Technology Ad Hoc Committee.

**Presenter: Marleana Roman**

**This item has not received prior policy committee or technical advisory committee review.**

### Consent - Regional/Subregional Planning

#### **3. Release of Request for Proposals No. 22-1002781 for Call Box Maintenance Services**

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That the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

Approve the release of Request for Proposals No. 22-1002781 for the procurement of Call Box Maintenance Services for the SBCTA Call Box Program.

**Presenter: Cheryl Wilson**

**This item was reviewed and recommended for approval (17-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on January 12, 2023. SBCTA General Counsel, Procurement Manager, and Risk Manager have reviewed the item and the draft Request for Proposals.**

#### **4. Metrolink Accessibility Improvement Project - Phase II Amendments to City Cooperative Agreements**

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That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002314 with the City of Montclair for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Montclair.

B. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002315 with the City of Upland for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Upland.

C. Approve Amendment No. 2 to Cooperative Agreement No. 20-1002316 with the City of Rancho Cucamonga for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Rancho Cucamonga.

Agenda Item 4 (cont.)

D. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002317 with the City of Fontana for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Fontana.

E. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002318 with the City of San Bernardino for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of San Bernardino.

**Presenter: Juan Lizarde**

**This item was reviewed and recommended for approval (16-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on January 12, 2023. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendments.**

**Consent Calendar Items Pulled for Discussion**

**Items removed from the Consent Calendar shall be taken under this item in the order they were presented on the agenda.**

**DISCUSSION ITEMS**

**Discussion - Administrative Matters**

**5. Amendment No. 2 to Contract No. C08100 (00-1000369) with Amtrak**

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That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 2 to Contract No. C08100 (00-1000369) with the National Railroad Passenger Corporation (Amtrak) to extend the contract expiration eight (8) months, extending the termination date to October 31, 2023, and increasing the contract amount for a revised not-to-exceed amount of \$138,000; and ratify the monthly fee increase to \$1,000 since July 1, 2016 which occurred without formal contract amendment.

**Presenter: Colleen Franco**

**This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendment.**

**Discussion - Air Quality/Traveler Services**

**6. Amendment No. 4 to Contract No. 20-1002323 with Carpe Carma, LLC dba Pomona Valley Towing for Construction Freeway Service Patrol**

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That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 4 to Contract No. 20-1002323 with Carpe Carma, LLC, dba Pomona Valley Towing, to increase the contract amount by \$42,000, which is fully funded by the California Department of Transportation (Caltrans) Cooperative Agreement No. 20-1002356 (08A3133), for a revised not-to-exceed amount of \$2,332,207, to provide weekend Construction Freeway Service Patrol support services for the Caltrans Victorville Oak Hill Road to Bear Valley Road Project No. 0815000244.

**Presenter: Cheryl Wilson**

**This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft amendment.**

**Discussion - Transit**

**7. Award Contract No. 22-1002700 for AMF Hydrogen Fuel Upgrade Project: Hydrogen Fuel System** Pg. 67

That the Board, acting as the San Bernardino County Transportation Authority:

A. Award Contract No. 22-1002700 for the Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System, to Linde Engineering North America, LLC, which includes design, construction/installation, maintenance, and fuel delivery for a not-to-exceed amount of \$8,406,475 with allocations of \$6,300,000 for design and construction/installation and \$2,106,475 for maintenance and fuel delivery for the initial three-year term of operation.

B. Approve a contingency of 10% of the capital portion of the contract in the amount not-to-exceed \$630,000 for Contract No. 22-1002700 and authorize the Executive Director, or his designee, to release contingency as necessary for the delivery of the hydrogen fueling system.

C. Approve the additional allocation of \$1,614,000 in Valley State Transit Assistance-Population Share funds to fund Contract No. 22-1002700.

D. Approve \$3,660,100 in Valley Local Transportation Funds for the maintenance and fuel delivery period with initial term of three years and two (2) one-year option terms for a total of five years.

E. Authorize the Executive Director, or his designee, to exercise the two (2) one-year options following the initial three-year term of the maintenance and fuel delivery period, bringing the total potential contract not-to-exceed amount to \$9,960,100.

**Presenter: Joy Buenafior**

**This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft contract.**

**Discussion - Council of Governments**

**8. Regional Early Action Planning 2.0 Grant Application Resolution No. 23-028** Pg. 254

That the Board, acting as the San Bernardino Associated Governments (SBCOG):

Approve Resolution No. 23-028, authorizing staff to submit applications to the California Department of Housing and Community Development (HCD) for the Regional Early Action Planning 2.0 grant program and authorize Executive Director to enter into and execute Standard Agreement with HCD if funds are awarded to SBCOG.

**Presenter: Josh Lee**

**This item was reviewed by the SBCOG Housing Trust Ad-Hoc Committee. SBCTA General Counsel has reviewed the draft resolution.**

**Public Comment**

**Brief Comments from the General Public**

**Comments from Board Members**

**Brief Comments from Board Members**

**Executive Director's Comments**

**Brief Comments from the Executive Director**

**ADJOURNMENT**

## **Additional Information**

Attendance  
Acronym List

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## **Agency Reports**

Mobile Source Air Pollution Reduction Review Committee Agency Report

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## **Committee Membership**

Representatives on SCAG Committees  
Appointments to External Agencies  
Committee Membership

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## **Mission Statement**

Mission Statement

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## Meeting Procedures and Rules of Conduct

**Meeting Procedures** - The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

**Accessibility** - The meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk can be reached by phone at (909) 884-8276 or via email at [clerkoftheboard@gosbcta.com](mailto:clerkoftheboard@gosbcta.com) and office is located at 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, CA.

**Agendas** – All agendas are posted at [www.gosbcta.com/board/meetings-agendas/](http://www.gosbcta.com/board/meetings-agendas/) at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed online at that web address. Agendas are also posted at 1170 W. 3<sup>rd</sup> Street, 1st Floor, San Bernardino at least 72 hours in advance of the meeting.

**Agenda Actions** – Items listed on both the “Consent Calendar” and “Discussion” contain recommended actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken by two-thirds vote of the Board of Directors or unanimous vote of members present as provided in the Ralph M. Brown Act Government Code Sec. 54954.2(b).

**Closed Session Agenda Items** – Consideration of closed session items excludes members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Chair will announce the subject matter of the closed session. If action is taken in closed session, the Chair may report the action to the public at the conclusion of the closed session.

**Public Testimony on an Item** – Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Board of Directors or Policy Committee Members should complete a “Request to Speak” form, provided at the rear of the meeting room, and present it to the Clerk prior to the Board's consideration of the item. A "Request to Speak" form must be completed for each item an individual wishes to speak on. When recognized by the Chair, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The Chair or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations. Members of the public requesting information be distributed to the Board of Directors must provide 40 copies of such information in advance of the meeting, except for noticed public hearings. Information provided as public testimony is not read into the record by the Clerk.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

**Agenda Times** – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

**Public Comment** – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board’s authority. Matters raised under “Public Comment” may not be acted upon at that meeting. “Public Testimony on any Item” still applies.

**Disruptive or Prohibited Conduct** – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Chair may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive or prohibited conduct includes without limitation addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, bringing into the meeting any type of object that could be used as a weapon, including without limitation sticks affixed to signs, or otherwise preventing the Board from conducting its meeting in an orderly manner. Your cooperation is appreciated!



**General Practices for Conducting Meetings  
of  
Board of Directors and Policy Committees**

**Attendance.**

- The Chair of the Board or a Policy Committee (Chair) has the option of taking attendance by Roll Call or Self-Introductions. If attendance is taken by Roll Call, the Clerk of the Board will call out by jurisdiction or supervisorial district. The Member or Alternate will respond by stating his/her name. If attendance is by Self-Introduction, the Member or Alternate will state his/her name and jurisdiction or supervisorial district.
- A Member/Alternate, who arrives after attendance is taken, shall announce his/her name prior to voting on any item.
- A Member/Alternate, who wishes to leave the meeting after attendance is taken but before remaining items are voted on, shall announce his/her name and that he/she is leaving the meeting.

**Basic Agenda Item Discussion.**

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on “Request to Speak” forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee.
- Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.
- The “aye” votes in favor of the motion shall be made collectively. Any Member who wishes to oppose or abstain from voting on the motion, shall individually and orally state the Member’s “nay” vote or abstention. Members present who do not individually and orally state their “nay” vote or abstention shall be deemed, and reported to the public, to have voted “aye” on the motion.

**The Vote as specified in the SANBAG Bylaws.**

- Each Member of the Board of Directors shall have one vote. In the absence of the official representative, the alternate shall be entitled to vote. (Board of Directors only.)
- Voting may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five official representatives present, or at the discretion of the presiding officer.

**Amendment or Substitute Motion.**

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the maker of the original motion is asked if he or she would like to amend his or her motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is voted upon first, and if it fails, then the original motion is considered.
- Occasionally, a motion dies for lack of a second.

**Call for the Question.**

- At times, a Member of the Board/Committee may “Call for the Question.”
- Upon a “Call for the Question,” the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively and at the Chair’s discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

**The Chair.**

- At all times, meetings are conducted in accordance with the Chair’s direction.
- These general practices provide guidelines for orderly conduct.
- From time-to-time circumstances require deviation from general practice.
- Deviation from general practice is at the discretion of the Chair.

**Courtesy and Decorum.**

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

*Adopted By SANBAG Board of Directors January 2008  
Revised March 2014  
Revised May 4, 2016*



# Important Dates to Remember...

## February 2023

**SBCTA Meetings – Cancelled:** I-10/I-15 Corridor Joint Sub-Committee

**SBCTA Meetings – Scheduled:**

General Policy Committee	Feb 8	9:00 am	SBCTA Lobby, 1st Floor
Legislative Policy Committee	Feb 8	9:30 am	SBCTA Lobby, 1st Floor
Transit Committee	Feb 9	9:00 am	SBCTA Lobby, 1st Floor
Metro Valley Study Session	Feb 9	9:30 am	SBCTA Lobby, 1st Floor
I-10/I-15 Corridor Joint Sub-Committee	CANCELLED	---	SBCTA Lobby, 1st Floor
Mountain/Desert Committee	Feb 17	9:30 am	Mojave Desert AQMD

**Other Meetings/Events:**

None			
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**SBCTA Offices will be CLOSED:**

- **February 20th, President’s Day**

For additional information, please call SBCTA at (909) 884-8276

Communication: Calendar of Events (Announcements)

## ***Minute Action***

AGENDA ITEM: 1

***Date:*** February 1, 2023

***Subject:***

Information Relative to Possible Conflict of Interest

***Recommendation:***

Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

***Background:***

In accordance with California Government Code 84308, members of the Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

<b>Item No.</b>	<b>Contract No.</b>	<b>Principals &amp; Agents</b>	<b>Subcontractors</b>
4	20-1002314-01	<i>City of Montclair</i>	None
	20-1002315-01	<i>City of Upland</i>	None
	20-1002316-02	<i>City of Rancho Cucamonga</i>	None
	20-1002317-01	<i>City of Fontana</i>	None
	20-1002318-01	<i>City of San Bernardino</i>	None
5	00-1000369-02	National Railroad Passenger Corporation (Amtrak) <i>Christopher Hartsfield</i>	None
6	20-1002323-04	Carpe Carma LLC, dba Pomona Valley Towing <i>Marc A. Weiss</i> <i>Edward Carpinelli</i>	None
7	22-1002700	Linde Engineering North America, LLC <i>Dominic Cianchetti</i> <i>Andreas Brox</i>	PCL Construction Services, Inc. S. Gordin Structural Design & Engineering Services, Inc.

***Financial Impact:***

This item has no direct impact on the budget.

***Reviewed By:***

This item is prepared monthly for review by Board and Committee members.

***Responsible Staff:***

*Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority*

Board of Directors Agenda Item  
February 1, 2023  
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Approved  
Board of Directors  
Date: February 1, 2023  
Witnessed By:

San Bernardino Council of Governments  
San Bernardino County Transportation Authority

## *Minute Action*

AGENDA ITEM: 2

***Date:*** February 1, 2023

***Subject:***

Board Presidential Appointment & Vacancies

***Recommendation:***

A. Note the presidential appointment for Alternate Damon Alexander, City of San Bernardino, to serve on the Southern California Association of Governments (SCAG) Energy and Environment Committee, for a term expiring December 31, 2023 .

B. Note the vacancy for one member to serve on the SCAG Community, Economic, and Human Development Committee.

C. Note the vacancy for a member to serve on the Emerging Technology Ad Hoc Committee.

***Background:***

**Recommendation A:** This recommendation is to apprise the Board of the presidential appointment made for Alternate Board Member Damon Alexander, City of San Bernardino, to serve on the Southern California Association of Governments (SCAG) Energy and Environment Committee. SBCTA policy states that appointees to SCAG Committees must be Board Members. However, should there not be a Primary Board Member able to serve, an Alternate Board Member may be appointed. Per Policy No. 10001, the SBCTA President is authorized to make appointments to SCAG Committees. SCAG Committees meet the first Thursday of each month. Subregional appointees receive a stipend of \$120 for up to four (4) Policy or Task Force meetings per month paid by SCAG. Terms of appointment expire December 31 of odd-numbered years.

**Recommendation B:** This recommendation notices a vacancy for a board member to serve on the SCAG Community, Economic and Human Development Committee. SCAG Committees meet the first Thursday of each month. Subregional appointees receive a stipend of \$120 for up to four (4) Policy or Task Force meetings per month paid by SCAG. Terms of appointment expire December 31 of odd-numbered years.

**Recommendation C:** This recommendation notices a vacancy for a board member to serve on the SBCTA Emerging Technology Ad Hoc Committee. This committee looks broadly at Transportation Technology and has a term end date of December 31, 2023.

***Financial Impact:***

This item has no financial impact on the Fiscal Year 2022/2023 Budget.

***Reviewed By:***

This item has not received prior policy committee or technical advisory committee review.

***Responsible Staff:***

Marleana Roman, Clerk of the Board

*Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority*

Board of Directors Agenda Item  
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Approved  
Board of Directors  
Date: February 1, 2023  
Witnessed By:

San Bernardino Council of Governments  
San Bernardino County Transportation Authority

## *Minute Action*

AGENDA ITEM: 3

***Date:*** February 1, 2023

***Subject:***

Release of Request for Proposals No. 22-1002781 for Call Box Maintenance Services

***Recommendation:***

That the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

Approve the release of Request for Proposals No. 22-1002781 for the procurement of Call Box Maintenance Services for the SBCTA Call Box Program.

***Background:***

San Bernardino County Transportation Authority (SBCTA) currently operates approximately 750 cellular and 27 satellite call boxes, for a total of 777 call boxes throughout San Bernardino County, for commuters experiencing an emergency or in need of roadside assistance. There are approximately 31 call boxes located in the “urban” areas of the county, and an estimated 746 call boxes located in the “rural” areas of the county. Call boxes in the “urban” region are predominately located along freeway transitions. A large number of the “rural” call boxes are in areas that may either have no standard cellular coverage, or the coverage is poor and inconsistent. Generally, these highway segments have poor and/or inconsistent cellular coverage: Interstate 40 (I-40), State Route (SR) 18, SR 38, SR 62, SR 127, SR 330, United States (US) Route 95, US 395, and Fort Irwin Road. In these areas, a standard mobile cell phone may not be able to successfully connect to the cellular network. As a result, the call boxes are equipped with a high powered external antenna (and some operate on the satellite communication network), enabling the call boxes to provide a connection to the cellular network to complete a call to the call answering center, whereas often a standard cell phone is not able to connect to the cellular network.

Each call box contains a battery-powered, solar-charged roadside terminal, 14-feet high, with a microprocessor and a built-in digital cellular or satellite component, and equipped with a teletypewriter (TTY). Since inception in 1987, the San Bernardino call box network has assisted more than 1.5 million callers and is typically able to connect a cellular signal in areas where cell phones cannot. Over the last 12 months, approximately 3,300 calls have been made by motorists. Many of these requests for aide were on highways where cellular reception does not exist or the cellular signal is poor and inconsistent.

Call Box Maintenance Services consist of providing ongoing corrective and preventative maintenance, knockdown and vandalism repairs, temporary removal, relocation and reinstallation of call boxes impacted by construction, ensuring functionality of the call boxes, supplying necessary parts, and installing new call boxes or permanently removing call boxes as required. Additional maintenance services include Americans with Disabilities Act evaluation and improvements, and a 4G call box cellular upgrade.

The current contract for Call Box Maintenance Services, which was awarded in June 2018, is scheduled to terminate on June 30, 2023. The anticipated term for Call Box Maintenance Services under Request for Proposals (RFP) No. 22-1002781 is scheduled to begin July 1, 2023 and continue through June 30, 2028. The draft Scope of Work is included with this item as *Entity: San Bernardino County Transportation Authority*



Board of Directors Agenda Item

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Attachment A. The estimate for this contract is approximately \$3,694,100, with the goal of entering into a three-year contract with two (2) one-year option terms. The contract will be funded with Service Authority for Freeway Emergencies (SAFE) – Vehicle Registration Fees.

Staff recommends approval to release RFP No. 22-1002781 for the procurement of Call Box Maintenance Services for SBCTA’s Call Box Program. This procurement will enable continued Call Box Maintenance Services with no service interruption to the motoring public.

**Financial Impact:**

This item is consistent with the Fiscal Year 2022/2023 Budget.

**Reviewed By:**

This item was reviewed and recommended for approval (17-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on January 12, 2023. SBCTA General Counsel, Procurement Manager, and Risk Manager have reviewed the item and the draft Request for Proposals.

**Responsible Staff:**

Cheryl Wilson, Management Analyst II

Approved  
Board of Directors  
Date: February 1, 2023

Witnessed By:

**ATTACHMENT A**

**SCOPE OF WORK**

**CALL BOX SYSTEM MAINTENANCE SERVICES**

**RFP NO. 22-1002781**

The San Bernardino County Transportation Authority (SBCTA) operates a motorist aid call box system consisting of cellular and satellite call boxes, all teletypewriter (TTY) equipped, that requires extensive year-round maintenance, repairs, upgrades and other related fieldwork to ensure the proper functioning and appearance of the call box system. SBCTA's current call box network consists of approximately 777 cellular call boxes which includes 32 satellite call boxes located on highways and freeways throughout San Bernardino County. Routine maintenance is conducted monthly, but some repairs may require immediate attention depending on the nature of the damage to the call box. To efficiently manage the maintenance of the call box system, a computerized maintenance system is required to notify the CONTRACTOR of repairs needed and to view, track, photograph and record every repair made to the call box system.

**I. GENERAL CONDITIONS**

**A. Work to be Performed**

CONTRACTOR shall perform all work necessary to maintain the motorist aid call box system in a satisfactory manner as detailed in this Scope of Work (SOW). No tasks under this SOW shall be performed by a sub-contractor without the written consent of the SBCTA Project Manager. CONTRACTOR must be located in or have a field office within San Bernardino County. Unless otherwise provided, CONTRACTOR shall furnish all materials, equipment, tools, labor, and incidentals necessary to complete the services for the specified flat fee. Instructions for accessing a list of call box location information are available upon request. All work shall be in compliance with the California Highway Patrol (CHP)/Caltrans Call Box and Motorist Aid Guidelines – Attachment E, Caltrans requirements, American with Disabilities Act (ADA) regulations, and all other applicable federal, state, and local laws. CONTRACTOR is alerted to and is responsible for complying with all applicable prevailing wage laws as further set forth in Section I.E of this SOW and Article 42 of the Contract. CONTRACTOR shall facilitate at its own cost all transition tasks with the previous maintenance provider, if applicable, including, but not limited to, transfer of call box materials, swapping of call box data, and other related tasks. CONTRACTOR is expected to start repairs immediately at start of the contract period with the appropriate staffing levels and materials necessary. It is the responsibility of the CONTRACTOR to account for repairs that may not be completed or have not been started by the previous maintenance CONTRACTOR. The call box system shall be handed over to the CONTRACTOR in an "as-is" condition.

**B. Plans and Specifications**

CONTRACTOR shall keep at the local office, a copy of all plans, specifications and schematics to which SBCTA shall have access to at all times. Any additional documentation or specifications for new equipment or processes (i.e. transceiver, TTY) shall also be kept by CONTRACTOR in the local office and be available for review by SBCTA. Any call box specification plans the CONTRACTOR does not have shall be created by CONTRACTOR as part of an administrative task and may be facilitated by the SBCTA Project Manager.

### **C. Rights of Entry and Permits**

CONTRACTOR shall be responsible for ensuring all rights of entry, encroachment permits, and other licenses or permits required to perform the work necessitated by this SOW have been granted and are in effect prior to performing work on the call box system during the term of the Contract.

### **D. Materials and Workmanship**

All materials, parts, and equipment furnished by CONTRACTOR shall be of high grade and free from defects. Enclosures shall not be replaced with others of lesser quality as measured by paint brightness and coating integrity. Quality of work shall be in accordance with generally accepted standards. Materials and work quality shall be subject to SBCTA's approval.

### **E. Labor**

Only competent workers shall be employed for tasks under this Agreement. Any person found by SBCTA to be incompetent, disorderly, working under the influence of alcohol or controlled substances, unsafe, or otherwise unfit to perform the work shall be removed by CONTRACTOR and not re-employed for services under the Contract. SBCTA shall have final approval on the lead staff assigned or changes to lead staff to this Contract.

CONTRACTOR is alerted to and is responsible for complying with all applicable prevailing wage laws as further set forth in Article 42 of the Contract.

### **F. Inspection**

All performance (including services, materials, supplies, and equipment furnished or utilized) shall be subject to inspection and approval by SBCTA. Any SBCTA authorized representative shall have access to CONTRACTOR's office(s) utilized for this project.

### **G. Condition of Site**

Throughout the term of the Contract, CONTRACTOR shall keep call box sites clean and free of rubbish and debris (including removed pad material, removal of ants/bugs from the handset/callbox housing area if needed, and the removal of miscellaneous stickers/notices that may have inappropriately been applied to call boxes and/or call box signs/poles, etc.) Keep inside of call box and the hand set unit clean as well. All unnecessary materials and equipment shall be removed from the call box site immediately or as soon as the materials, tools, and equipment are no longer needed.

### **H. Reuse of Parts:**

CONTRACTOR shall reuse parts that have been damaged or replaced assuming CONTRACTOR has repaired the parts and ensured that functionality is not degraded and the integrity of the component is not compromised.

### **I. Reserve Inventory**

CONTRACTOR is required to maintain a sufficient quantity of call box equipment, parts, and materials in stock in its local office to fulfill the requirements of this SOW. Replenishing the call box equipment stock is the sole responsibility and at the cost of the CONTRACTOR. SBCTA acknowledges any materials purchased by the CONTRACTOR that remain unused at the end of the contract are the property of the CONTRACTOR.

## **J. Storage of Materials**

CONTRACTOR shall be responsible for storing and maintaining materials in a manner that preserves their quality and fitness for future use. CONTRACTOR shall store call box housings, electronics, poles, and other appurtenances within its warehouse. CONTRACTOR shall relinquish any and all remaining SBCTA owned materials upon termination of the contract.

## **K. Communication**

CONTRACTOR shall ensure that the lead field technician (supervisor and key personnel) and staff have the necessary communication devices for interacting efficiently with SBCTA Project Manager, other designated representatives, and partner agencies. The devices to be provided by the CONTRACTOR must include, but are not limited to, a cell phone, office phone, fax machine, email services and drop box capabilities, if needed, to send and receive large files and databases relating to the call box system.

## **II. CALL BOX MAINTENANCE SYSTEM AND DATABASE**

A maintenance system is currently in place to monitor the SBCTA call box system; that system's information may need to be transferred to the awarded CONTRACTOR's maintenance system. SBCTA is responsible for obtaining all call box data and providing it to the successful CONTRACTOR to be inputted into its maintenance system. The CONTRACTOR shall facilitate such transfer by working with SBCTA to format data accordingly. The CONTRACTOR will not be compensated for maintenance tasks until the maintenance system is fully operational. SBCTA retains ownership of all files containing call box related data provided to the CONTRACTOR. All such data, including newly inputted data related to the tasks performed by the selected CONTRACTOR, shall be turned over to SBCTA at the termination of the Contract, in a Microsoft Excel format or other format as identified by SBCTA.

The CONTRACTOR's maintenance system shall be made compatible with the SBCTA call box communication devices. It is the CONTRACTOR's responsibility to upgrade its maintenance system in order to perform the necessary maintenance of the SBCTA call boxes and the overall system. CONTRACTOR is responsible for ensuring the maintenance system has a data back-up plan in place so that the information stored is not compromised during system malfunctions. CONTRACTOR shall not change any devices in the call boxes to make them compatible with CONTRACTOR's maintenance system. Any changes and/or upgrades to the maintenance system shall be at the cost of the CONTRACTOR. All SBCTA call boxes shall be monitored by a maintenance system and each cellular call box shall make one (1) call once a day, and all satellite call boxes shall make one (1) call every five (5) days into the into the system for a diagnostic checkup.

Each day, SBCTA may request the CONTRACTOR provide an exception report (a list of those call boxes scheduled to call in that day that were not able to call in successfully and the reason why – alarm code, etc.). If the CONTRACTOR, per the exception report, sees an area where it appears a large number of call boxes have suddenly stopped working, SBCTA shall be made aware of the possible concern, and the CONTRACTOR shall make the appropriate outreach to SBCTA's cellular provider.

The CONTRACTOR is responsible for maintaining an electronic call box system database that contains general information about SBCTA's call boxes, work performed, photos of the call box site (before and after repairs) and records of all work orders. Information contained in the call box system database, maintenance records, copies of work orders, etc., must be easily retrievable and

exportable into a Microsoft Excel spreadsheet and must be accessible to SBCTA at any time via Internet connection or equivalent means acceptable to SBCTA.

The call box system database shall include, at a minimum, the following information:

- General description of the call box system, including but not limited to, latitude and longitude of call boxes, call box site type as specified in Exhibit A, CHP/Caltrans Call Box and Motorist Aid Guidelines - Attachment E, call box location description and current call box status.
- Description of all corrective maintenance visits including the call box sign number, date and time of work issue date, date and time of visit, date and time work completed (if different from the first visit), description of work performed, and notation of tech that addressed the work;
- Description of preventive maintenance visits including the call box sign number, date and time of visit, pictures taken of call box (including call box site area) during each preventative maintenance visit, description of work performed if it deviates from the standard preventive maintenance requirements, and a notation as to which tech addressed the work;
- Description of other site work including, but not limited to the following: knockdowns, vandalism, sign repair, site repairs, other repairs, CHP reports, removals, reinstallations, pad replacements or removals. Pictures of knockdowns (before and after) to also be included. These entries shall also include the work issue date and time (alarm date where applicable), site visit date and time, sign number, date and time of completion, and name of tech.

CONTRACTOR shall furnish its own digital camera, GPS devices, and other devices or equipment necessary to provide the above information in the maintenance system. CONTRACTOR shall keep the maintenance system updated and current to prevent misinformation, so that SBCTA has access to the most updated information/data possible regarding the San Bernardino call box system.

Some specifications of the Call Box System Database and overall maintenance system may be altered by CONTRACTOR with prior written approval (email is acceptable) from SBCTA Call Box Program staff. At the written request of SBCTA Call Box Program staff, additional information in the call box system database may be added or unnecessary information deleted.

All information, including historical data, within the maintenance system must be accessible to SBCTA Call Box Program staff at any time via Internet connection or equivalent means acceptable to the SBCTA. SBCTA should have access to monitor all repairs, the timeliness of such repairs, and the number of times each call box calls into the maintenance system via the maintenance system.

During a project kick-off meeting after award of the Contract, SBCTA and CONTRACTOR will finalize the components and layout of the call box system database, and determine appropriate access for SBCTA.

### III. CALL BOX MAINTENANCE TASKS

The CONTRACTOR shall perform the following tasks and administrative tasks routinely throughout the term of the Contract. All special projects will be initiated through SBCTA and agreed upon in writing by both parties as described in Task F. Compensation for all work is described in Attachment B, Price Proposal.

Some call box repairs and maintenance tasks may need to be performed immediately if they present a potential hazard or if call box components are damaged and in the way of traffic. Should CONTRACTOR need to pick up damaged call box parts, CONTRACTOR shall also repair the call box at the same time to minimize the number of trips needed to repair the call box, to the extent reasonable. An inoperable call box shall be bagged (yellow call box and blue call box signs both to be bagged) by the CONTRACTOR if left unattended to make such trips. In addition, at the request of SBCTA, CONTRACTOR shall remove call boxes permanently from the system as described in Task E, which may be necessary throughout the term of the Contract.

#### **Task A. Corrective Maintenance**

CONTRACTOR shall perform corrective maintenance as needed on all call boxes. Corrective maintenance includes all repairs to the call box associated with electronics, transceivers, power supply (battery and solar panel), and the interface with the cellular system provider or anything that affects the proper function of the call box. All equipment and materials used to perform repairs must be removed immediately after completion of the repair. Corrective maintenance requires that the CONTRACTOR be accessible to the call box call answering center (CAC), CHP, and SBCTA to report non-operational call boxes.

Upon notification from CHP, CAC, SBCTA or the maintenance computer that a call box is out of service, CONTRACTOR shall determine the cause. If due to general failure of the call box, CONTRACTOR shall take the necessary action to restore it to a good operating condition, including the repair or replacement of parts, components, and mountings as needed. Activities falling within the definition of corrective maintenance shall be completed by 4:00 p.m. on the same day for events reported by 8:00 a.m. on a workday. For events reported after 8:00 a.m., the call boxes shall be operable by 4:00 p.m. on the following workday. For events reported on a holiday or weekend, the call box shall be repaired by 4:00 p.m. on the first workday following notification of the event. In the event that the call box is obstructing traffic, CONTRACTOR shall respond immediately. CONTRACTOR shall provide management and field staff sufficient to perform repairs on call boxes within the established time periods. Should the CONTRACTOR not be able to meet these specified timeframes, CONTRACTOR must notify SBCTA in writing of the reasons why such repairs shall be delayed.

If CONTRACTOR is unable to put a call box back in service during the first visit to the box after notification of its failure to perform, CONTRACTOR shall cover and securely attach a heavy duty plastic bags over the yellow call box *and* both large blue call box signs for each “out of order” call box; **this is critical**. CONTRACTOR shall remove the plastic bag(s) once the call box is back in service.

#### **Task B. Preventive Maintenance**

CONTRACTOR shall perform the following preventive maintenance tasks at least two (2) times a year, at approximately six-month intervals, as necessary to keep call boxes clean and operational. Call boxes with adjunct devices shall be maintained similarly.

CONTRACTOR shall report to SBCTA any unusual findings made while performing preventive maintenance. Some preventive needs may be reported by SBCTA and shall be addressed by CONTRACTOR on preventive maintenance visits.

The preventive maintenance activities for all call boxes, shall include, but are not limited to, the following tasks:

- Cleaning, sanding off rust, and painting of call box housings as necessary;
- Checking call box housing door, magnet, and spring;
- Replacement or addition of outdated, damaged, or missing instruction placards and vandalism stickers;
- Removal of items not part of the call box such as stickers and garbage bags;
- Inspection and anti-corrosion treatment of external electrical connections;
- Operational check of call box controls and system operational sequence including performance of voice test calls on each call box;
- Check outer door, handset, and illumination for proper operation;
- Check hook switch;
- Check cellular antennae and cable;
- Minor cleaning of the surrounding area of the call box (includes minor pruning, pulling of weeds and debris removal, spraying for insects);
- Visual inspection of the solar panel orientation and cleaning of the solar panel collecting surface;
- Testing of the TTY screen for brightness and legibility, and testing of the TTY keyboard for functionality and keeping both clean. In addition, CONTRACTOR shall make one (1) TTY test call to the CAC from each of three (3) call boxes for which preventive maintenance was performed each day. CONTRACTOR is responsible for tracking the TTY call box tests to ensure that tests are being distributed across the system;
- Inspection and repair of the pedestrian pad;
- Inspection of pathway from the traffic lanes to the call box for wear and tear or vandalism;
- Maintenance of the call box mounting pedestals or other devices used for mounting the call boxes on sound walls;
- Replacement of faded call box blue sign and missing letter and number stickers;
- Taking an updated photo of the call box site and uploading to the call box system database; and
- Inspection and replacement, if needed, of the interior “HEARING IMPAIRED ONLY” or “VOICE CALL ONLY” stickers/applications inside the call box These stickers are supplied by SBCTA.

CONTRACTOR shall use preventive maintenance visits to protect boxes from corrosion and fading.

The color of all call boxes shall fall between Pantone yellow no. FL100 and Pantone yellow no. FL123. CONTRACTOR shall replace or repair any such defective enclosures in a timely and satisfactory manner. Preventative maintenance tasks and costs are the responsibility of the CONTRACTOR as part of the preventative maintenance cost indicated in the Price Proposal. CONTRACTOR shall keep track of the work performed for each preventative maintenance visit in the call box system database.

### **Task C. Knockdown and Vandalism Repairs**

Once informed of damage, CONTRACTOR shall perform maintenance repairs and/or replacements required as a result of damage by collisions, vandalism, or other willful acts, and other such causes (including insect intrusion). CONTRACTOR may become aware of damage to call boxes in various ways, including receiving notification from SBCTA, the CAC, or the CHP, by observing the damage, or by receiving a signal from the call box's built-in sensor that it is no longer perpendicular to the ground. The knockdown repair limit for which CONTRACTOR is responsible will be twelve percent (12%) of the system total each Fiscal Year, July 1 – June 30.

#### *1. Knockdown Repairs*

Knockdown repairs shall be defined as services conducted by CONTRACTOR to restore call boxes to full operability after being knocked down by vehicle collision or other such causes. CONTRACTOR shall make work orders and other related information on a knocked down call box readily available to SBCTA to assist in knockdown recovery efforts.

#### *2. Vandalism Repairs*

Vandalism repairs shall be defined as services conducted by CONTRACTOR to repair call boxes, call box sites or call box components damaged as a result of vandalism, willful acts, or other such causes (including insect intrusion). Such tasks shall include but not be limited to: replacing broken outer door, repairing ripped handset, removing graffiti from signs or call box housing, and repairing damaged site material pads, retaining walls, etc. CONTRACTOR shall salvage any or all parts of the damaged call box as long as the integrity of the component is not compromised. If no foundation work is required, CONTRACTOR shall have the call box placed back in service by 4:00 p.m. on the same day for knockdown or vandalism events reported by 8:00 a.m. on a workday. For damages reported after 8:00 a.m., the CONTRACTOR shall have the call box back in service by 4:00 p.m. on the following workday. If foundation work is required, CONTRACTOR shall have the call box placed back in service by 4:00 p.m. on the second workday following notification. For events reported on a holiday or weekend, the call box shall be repaired by 4:00 p.m. on the first workday if no foundation work is required, or by 4:00 p.m. on the second workday following the notification of the event if foundation work is required.

In some cases, knockdown and vandalism repairs may be needed as soon as possible because of a potential hazard or urgent safety concern. CONTRACTOR may be notified by SBCTA should they be notified by CHP or another agency. Upon receiving the notification, CONTRACTOR shall respond within a four (4) business hour period.

### **Task D. Temporary Removal and Reinstallation**

#### *1. Temporary Removals*

At the request of SBCTA, CONTRACTOR shall remove call boxes from existing locations on an as needed basis to accommodate freeway construction activity and other projects that come into conflict with SBCTA call boxes. Whenever possible, SBCTA will give one (1) week notice to CONTRACTOR of upcoming temporary call box removal. In special cases removals may be required immediately. SBCTA retains ownership of call boxes authorized for removal, and CONTRACTOR shall store removed boxes at its location and make all removed call boxes available for reinstallation at any time. CONTRACTOR shall coordinate the removal (including de-activation of necessary call box alarms prior to removals and possible de-activation of long term temporary removals) and storage of call boxes as requested by SBCTA. CONTRACTOR shall also maintain proper inventory documentation. In some cases, CONTRACTOR may need to pick up boxes that are temporarily removed by Caltrans or its contractors at off site locations.



Coordination for pick up shall be the responsibility of the CONTRACTOR. Some call boxes may be temporarily removed for several years, depending on the nature of the construction project. The temporary removal and reinstallation limit will be ten percent (10%) of the system total for the Fiscal Year, July 1 – June 30.

## *2. Reinstallation*

Once the construction project is complete and the call box removal is no longer needed, CONTRACTOR shall coordinate with SBCTA reinstallation and deferred installation tasks, including permitting, site approval, installation, and reactivation. CONTRACTOR shall have the call box reinstalled and operational within three weeks of notification. Some construction projects may cause the call box to be permanently inaccessible. In such cases, CONTRACTOR shall recommend new locations for the call boxes to SBCTA. SBCTA, however, has discretion to permanently remove, rather than relocate, such locations. After reinstallation has been completed, a photo of the call box site shall be taken and uploaded to the call box system database. Should the call boxes have new sign numbers or phone numbers due to relocation, CONTRACTOR shall immediately notify SBCTA and CAC, in writing, of the changes before they are implemented, to allow an opportunity to provide updates to the maintenance system and call answering systems for CHP and American Automobile Association.

### **Task E. Permanent Removals**

At the request of SBCTA, CONTRACTOR shall permanently remove call boxes from the system in accordance with current CHP/Caltrans Call Box and Motorist Aid Guidelines - Attachment E. Such removals may be necessary throughout the term of the contract. SBCTA reserves the right to reduce the number of call boxes at any time during the term of this agreement. CONTRACTOR shall be responsible for all permanent removal activity, including the cancellation of phone numbers with the service provider. Permanently removed call boxes shall be returned to SBCTA's inventory. CONTRACTOR shall store the removed call box with enclosure, pole, signs, solar panel, and assemblies at locations designated by SBCTA. The stored materials and parts may then be used by CONTRACTOR in performing maintenance tasks for SBCTA's call box system from which the materials and parts originated.

### **Task F. Special Projects**

CONTRACTOR may be requested to conduct special projects throughout the term of the Contract. Special projects may include but are not limited to: installation of new cellular and satellite call boxes for SBCTA, partner agencies, and other entities; removal or relocation of call boxes due to special circumstances; cellular upgrade of call boxes; evaluation and modification of call box sites to comply with ADA requirements; as described in the CHP/Caltrans Call Box and Motorist Aid Guidelines - Attachment E; and special site evaluations and other special projects related to the call box system as needed. All special projects will be requested by SBCTA and agreed upon by both parties in writing.

## **IV. ADMINISTRATIVE TASKS**

CONTRACTOR shall be responsible for the administrative tasks detailed below in order to perform maintenance tasks. These administrative tasks shall be included within the flat rate for maintenance proposed by the Proposer.

### *A. Meetings, Field Surveys, and Correspondences*

CONTRACTOR shall be required to attend meetings that relate to the call box system as requested by the SBCTA Project Manager. CONTRACTOR shall respond to SBCTA's written and email inquiries regarding the call box system. In addition, coordination with SBCTA staff may be

required to assist in producing a monthly report of call box statistical information. At the request of SBCTA, CONTRACTOR shall provide pictures, plans, drawings, maps, and other documents to SBCTA at no additional cost.

#### *B. Encroachment Permits*

Encroachment permits are required prior to doing work on Caltrans and County-owned right of way. CONTRACTOR shall be the primary point of contact for Caltrans and County permit issues related to the system and shall coordinate final field surveys and field review meetings to approve or modify call box locations with Caltrans, the County (Fort Irwin Road), CHP, and SBCTA. SBCTA shall prepare and submit encroachment permit applications as required, with assistance from CONTRACTOR as needed. If required, CONTRACTOR shall be responsible for fees associated with CONTRACTOR's permits. CONTRACTOR shall comply with all terms of the permits, particularly any requirements related to lane closures necessary to complete the tasks under this SOW, and shall ensure permits are in effect prior to conducting any work.

#### *C. Inventory and Supplies*

CONTRACTOR shall be responsible for the general upkeep of SBCTA's call box storage, including tracking inventory of supplies, disposing of obsolete and irreparable parts, and organizing components within the storage facility. SBCTA occasionally sells used call box supplies to other vendors and may request CONTRACTOR to coordinate sale and delivery of such supplies.

#### *D. Maintenance System Management*

CONTRACTOR shall maintain and frequently update the call box maintenance system to reflect changes in site location, site type, etc. CONTRACTOR shall also maintain an accurate, up-to-date database containing information on the entire call box system, as described in Section II.

#### *E. Reporting*

CONTRACTOR shall provide access to the following database and reports as requested by SBCTA:

- Call Box System Database – ongoing access via Internet connection;
- Call Box Maintenance Exception Report - a report of all cellular call boxes that have failed to report into the maintenance system after one (1) day, and a report of all satellite call boxes that have failed to report into the maintenance system after five (5) days;
- Call Box Preventative Maintenance Report - a report of the call boxes visited that month, including the date and time and description of work completed; and
- Call Box Corrective Maintenance Report - a report of call boxes visited that month, including the date and time and description of work completed.

### **V. RECOVERY SERVICES**

CONTRACTOR shall keep an updated call box summary/pricing sheet and shall submit an updated Microsoft Excel form on a quarterly basis to SBCTA. In addition, the technician's work order, including the materials and equipment replaced, must be submitted with the monthly invoicing. Therefore, all materials and equipment listed on the work orders should have a corresponding item on the cost summary/Pricing Sheet.

## *Minute Action*

AGENDA ITEM: 4

***Date:*** February 1, 2023

***Subject:***

Metrolink Accessibility Improvement Project - Phase II Amendments to City Cooperative Agreements

***Recommendation:***

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002314 with the City of Montclair for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Montclair.

B. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002315 with the City of Upland for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Upland.

C. Approve Amendment No. 2 to Cooperative Agreement No. 20-1002316 with the City of Rancho Cucamonga for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Rancho Cucamonga.

D. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002317 with the City of Fontana for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of Fontana.

E. Approve Amendment No. 1 to Cooperative Agreement No. 20-1002318 with the City of San Bernardino for the Metrolink Station Accessibility Improvement Project Phase II to update the project scope and improvements within the City of San Bernardino.

***Background:***

San Bernardino County Transportation Authority (SBCTA) was successful in receiving a grant of Active Transportation Program (ATP) funds for Phase II of the Metrolink Station Accessibility Improvement Project, in the amount of \$6,131,664. As with Phase I, the Phase II project will benefit multiple jurisdictions in San Bernardino County by providing safe pedestrian/bicycle access, wayfinding signage to direct users to the transit centers, sidewalk improvements, high-visibility crosswalks, bicycle parking, and improvements to key corridors of the regional bicycle network designed to directly connect to Metrolink stations in five cities.

In October 2020, SBCTA approved cooperative agreements with the cities of Montclair, Upland, Rancho Cucamonga, Fontana and San Bernardino for Phase II of the Metrolink Station Accessibility Improvement Project. The cooperative agreements identified the proposed improvements and funding contributions within and by each city.

Since the project will be funded with Federal ATP funds, any design modifications needs to be reviewed and approved by the California Department of Transportation (Caltrans). Caltrans reviewed and approved the scope change/design modifications for the project in November 2022. The design modification took place as summarized below:

*Entity: San Bernardino County Transportation Authority*

**City of Montclair:**

- Improvements on Fremont Avenue and Arrow Highway to be delivered separately by the City of Montclair.
- Restroom and picnic benches have been removed at the Montclair Pacific Electric Trailhead.

**City of Upland:**

- Provide enhanced crosswalks and curb ramps at nine (9) intersections along 1<sup>st</sup> Avenue (Ave.), 2<sup>nd</sup> Ave. and 3<sup>rd</sup> Ave. Replace eleven (11) additional curb ramps.
- Add lighting to proposed Pacific Electric Bike Trail Improvements.

**City of Rancho Cucamonga:**

- Protected Class IV bike lane (Cycle Track) on 6<sup>th</sup> Street between Haven Ave. and Rochester Ave. Modified section between Cleveland Ave. to Milliken Ave. to a raised Cycle Track.

**City of Fontana:**

- Colored bike lanes not proposed at conflict zones along Citrus Avenue and Arrow Boulevard.
- Provide sidewalk and curb ramps along Wheeler Avenue, Newport Avenue and Emerald Avenue. Add three (3) additional curb ramps for a total of seven (7) curb ramps.

**City of San Bernardino:**

- Proposed bike lanes from end of the Mt. Vernon Viaduct Project (Santa Fe Depot) to Ramona-Alessandro Elementary School, terminate southern limit at 3rd Street and Metrolink Way.

These design modifications were reported to Caltrans via their “Request for Project Scope Change” (Local Assistance Exhibit 25-D) process. On November 22, 2022, Caltrans provided approval of the design modifications contingent on providing Senate Bill (SB) 1 reporting on the improvements being delivered by local agencies. In this case, the City of Montclair is separately delivering the improvements along Fremont Avenue and Arrow Highway.

Final design has been completed and is circulating with the cities for final approval. Utility coordination is wrapping up and right-of-way certification along with Ready-to-List is expected in January 2023.

**Recommendations A, B, C, D, and E:** These are amendments to the Cooperative Agreements with the Cities of Montclair, Upland, Rancho Cucamonga, Fontana, and San Bernardino to document design modifications during the design process. The design modifications are within the overall project budget and have been approved by Caltrans.

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**Financial Impact:**

This item is consistent with the Fiscal Year 2022/2023 Budget under Task No. 0860 Arterial Projects, Sub-Task No. 0810 Metrolink Station Accessibility Improve. Funding sources include \$1,378,189 of leveraged funds from the local jurisdictions in combination with \$6,131,664 ATP Cycle 4 Funds.

**Reviewed By:**

This item was reviewed and recommended for approval (16-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on January 12, 2023. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendments.

**Responsible Staff:**

Juan Lizarde, Project Manager

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Approved  
Board of Directors  
Date: February 1, 2023

Witnessed By:

**General Contract Information**

Contract No: 20-1002314 Amendment No.: 1  
 Contract Class: Receivable Department: Project Delivery  
 Customer ID: MONT CI Customer Name: City of Montclair  
 Description: Metrolink ATP Accessibility Project - Phase-II

List Any Accounts Payable Related Contract Nos.:

Dollar Amount					
Original Contract	\$	184,140.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>184,140.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>184,140.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9265

**Contract Management (Internal Purposes Only)**

Local Funding Agreement

Accounts Receivable												
Total Contract Funding:		\$		184,140.00		Funding Agreement No:		20-1002314				
Beginning POP Date:		10/07/2020		Ending POP Date:		12/31/2026		Final Billing Date:		12/31/2026		
Expiration Date:		12/31/2026		Z Contract: 21-1002536 PM Description: Metrolink ATP Ph 2 Montclair								
Fund Prog Task Sub-Task Revenue					Fund Prog Task Sub-Task Revenue					Total Contract Funding:		
GL:	6010	40	0860	0810	42414009							184,140.00
GL:												-
GL:												-
GL:												-
GL:												-

Juan Lizarde  
Project Manager (Print Name)

Henry Stultz  
Task Manager (Print Name)

Additional Notes:

Attachment: 20-1002314-01\_CSS (9265 : Metrolink ATP - City Coop Amendments)

**AMENDMENT NO. 1 TO  
COOPERATIVE AGREEMENT NO. 20-1002314  
BETWEEN  
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY  
AND  
THE CITY OF MONTCLAIR**

THIS AMENDMENT No. 1 to Cooperative Agreement No. 20-1002314 (referred to herein as “Amendment No. 1”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Montclair (“CITY”), (SBCTA and CITY may be referred to individual herein as a “Party” and collectively as “Parties”).

**RECITALS:**

**WHEREAS**, SBCTA and City executed Cooperative Agreement No. 20-1002314 in December 2020; and

**WHEREAS**, this Amendment No. 1 is intended to update the project scope identified in Attachment B “Conceptual Layout”.

**NOW, THEREFORE**, the Parties agree to the following changes:

1. Attachment B to the AGREEMENT is replaced in its entirety with the revised Attachment B attached to this Amendment No. 1.
2. Except as otherwise provided in this Amendment No. 1, all other terms and conditions of the AGREEMENT shall remain in full force and effect .
3. This Amendment No. 1 is effective upon execution by SBCTA.

-----SIGNATURES ON THE FOLLOWING PAGE-----

IN WITNESS THEREOF, the parties have duly executed this Amendment No. 1 below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF MONTCLAIR**

By: \_\_\_\_\_  
Art Bishop  
Board President

By: \_\_\_\_\_  
Javier John Dutrey  
Mayor

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

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

**APPROVED AS TO FORM:**

**ATTEST:**

By: \_\_\_\_\_  
Juanda Daniel  
Assistant General Counsel

By: \_\_\_\_\_  
Deputy City Clerk

**DRAFT**

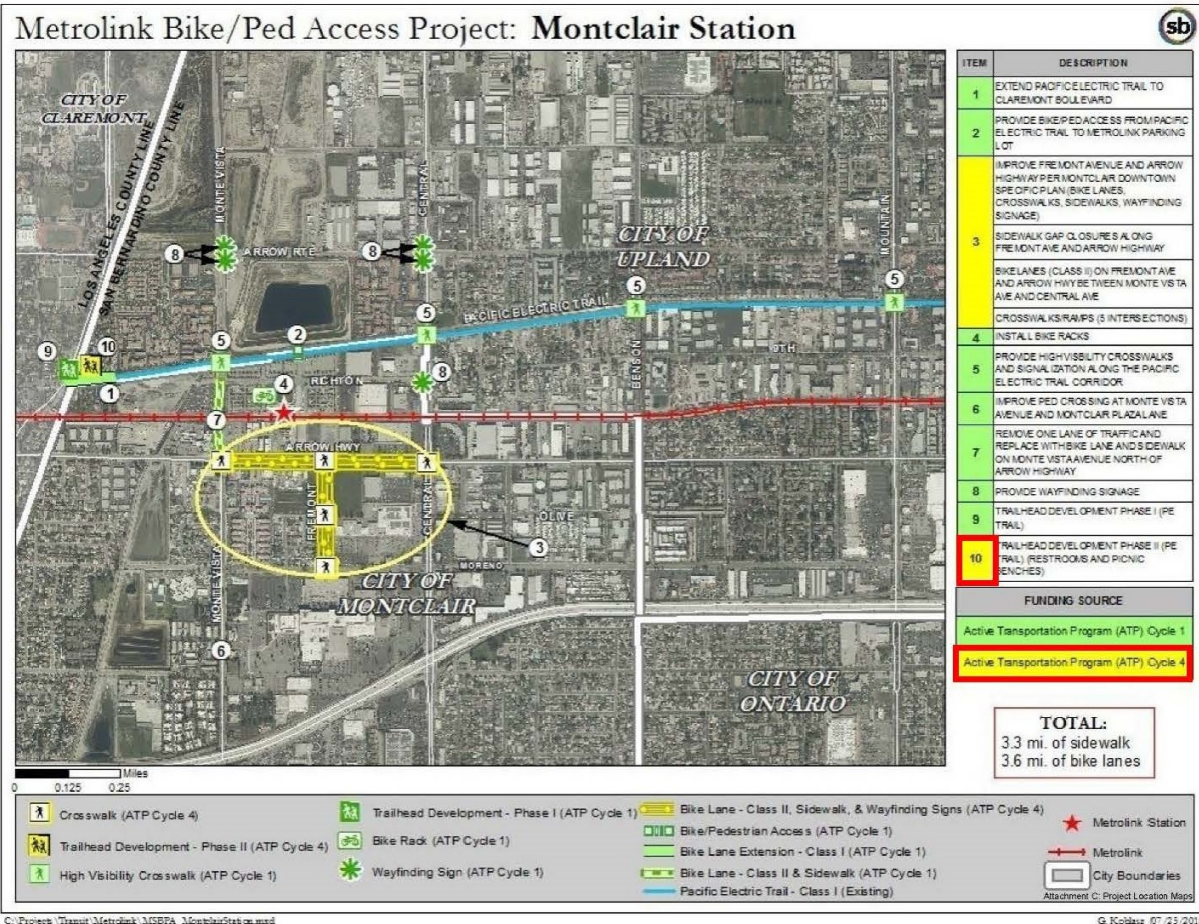
**APPROVED AS TO FORM AND  
PROCEDURE:**

By: \_\_\_\_\_  
Diane Robbins  
City Attorney

Attachment: 20-1002314\_Amend-01\_Montclair (9265 : Metrolink ATP - City Coop Amendments)



## ATTACHMENT B CONCEPTUAL LAYOUT



**Design Modifications:**

3 - To be completed separately by City of Montclair at City cost.

10 - Restroom & Picnic benches no longer part of Project.

Attachment: 20-1002314\_Amend-01\_Montclair (9265 : Metrolink ATP - City Coop Amendments)

**General Contract Information**

Contract No: 20-1002315 Amendment No.: 1  
 Contract Class: Receivable Department: Project Delivery  
 Customer ID: UPLA CI Customer Name: City of Upland  
 Description: Metrolink ATP Accessibility Project - Phase-II

List Any Accounts Payable Related Contract Nos.:

Dollar Amount					
Original Contract	\$	446,340.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>446,340.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>446,340.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9265

**Contract Management (Internal Purposes Only)**

Local Funding Agreement

Accounts Receivable											
Total Contract Funding:		\$	446,340.00		Funding Agreement No:		20-1002315				
Beginning POP Date:		10/07/2020		Ending POP Date:		12/31/2026		Final Billing Date:		12/31/2026	
Expiration Date:		12/31/2026		Z Contract: 21-1002537 PM Description: Metrolink ATP Ph 2 Upland							
Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:	Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:
GL: 6010	40	0860	0810	42432010	446,340.00	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-

Juan Lizarde  
Project Manager (Print Name)

Henry Stultz  
Task Manager (Print Name)

Additional Notes:

Attachment: 20-1002315-01\_CSS (9265 : Metrolink ATP - City Coop Amendments)

**AMENDMENT NO. 1 TO  
COOPERATIVE AGREEMENT NO. 20-1002315  
BETWEEN  
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY  
AND  
THE CITY OF UPLAND**

THIS AMENDMENT No. 1 to Cooperative Agreement No. 20-1002315 (referred to herein as “Amendment No. 1”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Upland (“CITY”), (SBCTA and CITY may be referred to individually herein as a “Party” and collectively as “Parties”).

**RECITALS:**

**WHEREAS**, SBCTA and City executed Cooperative Agreement No. 20-1002315 in December 2020; and

**WHEREAS**, this Amendment No. 1 is intended to update the project scope identified in Attachment B “Conceptual Layout”.

**NOW, THEREFORE**, the Parties agree to the following changes:

1. Attachment B to the AGREEMENT is replaced in its entirety with the revised Attachment B attached to this Amendment No. 1.
2. Except as otherwise provided in this Amendment No. 1, all other terms and conditions of the AGREEMENT shall remain in full force and effect .
3. This Amendment No. 1 is effective upon execution by SBCTA.

-----SIGNATURES ON THE FOLLOWING PAGE-----

Attachment: 20-1002315\_Amend-01\_Upland (9265 : Metrolink ATP - City Coop Amendments)

IN WITNESS THEREOF, the parties have duly executed this Amendment No. 1 below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF UPLAND**

By: \_\_\_\_\_  
Art Bishop  
Board President

By: \_\_\_\_\_  
Michael Blay  
City Manager

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

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

**APPROVED AS TO FORM:**

**ATTEST:**

By: \_\_\_\_\_  
Juanda Daniel  
Assistant General Counsel

By: \_\_\_\_\_  
Deputy City Clerk

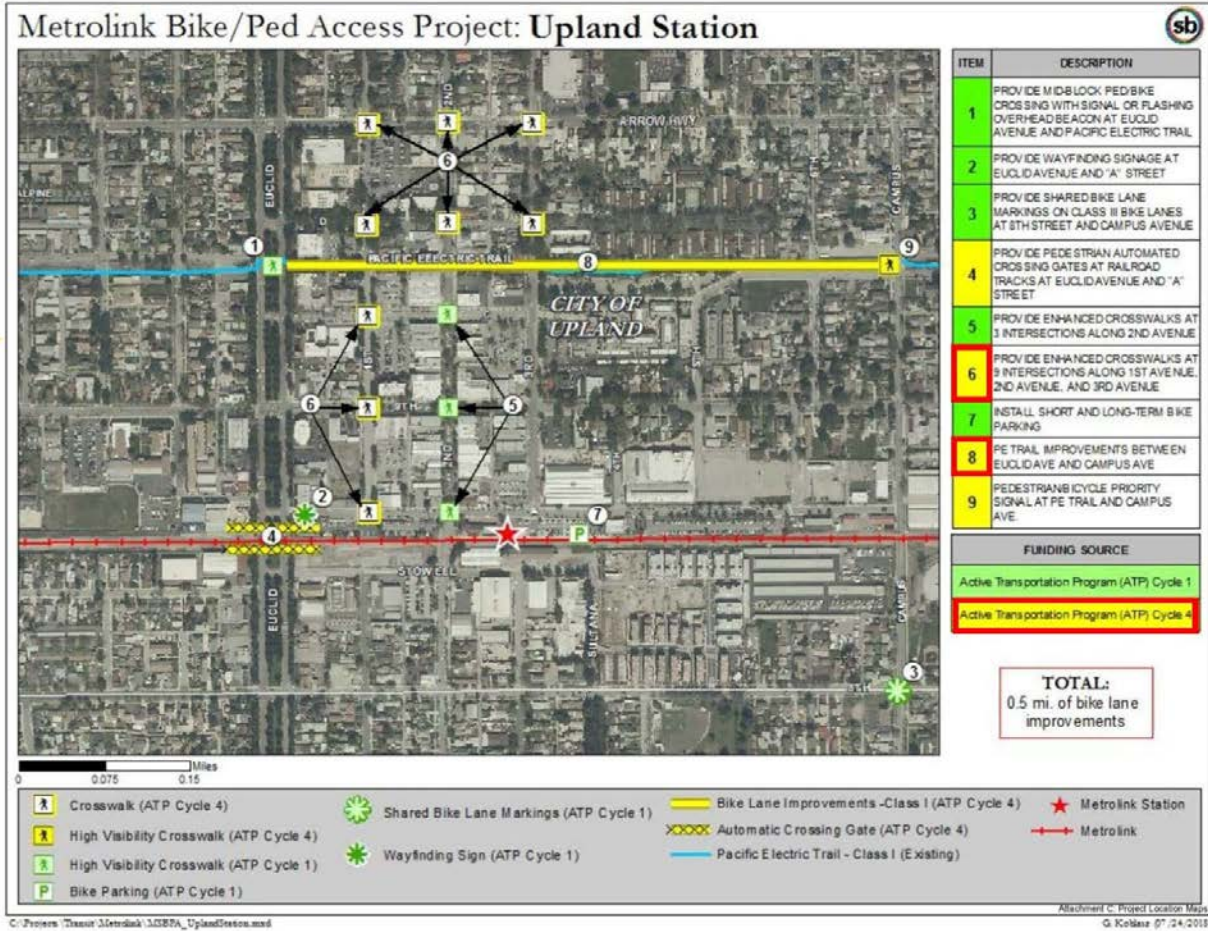
**DRAFT**

**APPROVED AS TO FORM AND  
PROCEDURE:**

By: \_\_\_\_\_  
City Attorney

Attachment: 20-1002315\_Amend-01\_Upland (9265 : Metrolink ATP - City Coop Amendments)

## ATTACHMENT B CONCEPTUAL LAYOUT



**Design Modifications:**

- 4 - No change.
- 6 - High-visibility crosswalks and ADA compliant ramps proposed at the following locations:
  - 2nd Ave and Arrow Hwy: high-visibility crosswalks
  - 3rd Ave and Arrow Hwy: high-visibility crosswalks & 1 new ADA compliant ramp
  - 2nd Ave and D St: high-visibility crosswalks
  - C St and 1st Ave: high-visibility crosswalks & 4 new ADA compliant ramps
  - 9th St and 1st Ave: high-visibility crosswalks & 4 new ADA compliant ramps
  - A Street and 1st Avenue: high-visibility crosswalks & 2 new ADA compliant ramps
  - High-visibility crosswalks at 1st Ave/Arrow Hwy, and 3rd Ave/D St (completed by others)
  - High-visibility crosswalks and ADA ramps at 1st Ave/D St (completed by others)
- 8 - PE trail improvements also include:
  - New DG pedestrian trail
  - New ADA compliant curb ramps
  - New lighting
- 9 - No changes.

Attachment: 20-1002315\_Amend-01\_Upland (9265 : Metrolink ATP - City Coop Amendments)

**General Contract Information**

Contract No: 20-1002316 Amendment No.: 2  
 Contract Class: Receivable Department: Project Delivery  
 Customer ID: RC CI Customer Name: City of Rancho Cucamonga  
 Description: Metrolink Station Accessibility Improvement Phase II Project

List Any Accounts Payable Related Contract Nos.:

Dollar Amount					
Original Contract	\$	341,363.00	Original Contingency	\$	-
Prior Amendments	\$	146,847.50	Prior Amendments	\$	-
Current Amendment			Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>488,210.50</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>488,210.5</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9265

**Contract Management (Internal Purposes Only)**

Local Funding Agreement

**Accounts Receivable**

Total Contract Funding: \$ 488,210.50 Funding Agreement No: 20-1002316  
 Beginning POP Date: 10/07/2020 Ending POP Date: 12/31/2026 Final Billing Date: 12/31/2026  
 Expiration Date: 12/31/2026 Z Contract: 21-1002538 PM Description: Metrolink ATP Ph 2 Rancho Cucamonga

Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:
GL	6010	40	0860 0810	42417007	488,210.50
GL					-
GL					-
GL					-
GL					-

Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:
GL					-
GL					-
GL					-
GL					-
GL					-

Juan Lizarde  
Project Manager (Print Name)

Henry Stultz  
Task Manager (Print Name)

Additional Notes: Receivable Contract No. 21-1002538.

Attachment: 20-1002316-02\_CSS (9265 : Metrolink ATP - City Coop Amendments)

**AMENDMENT NO. 2 TO  
COOPERATIVE AGREEMENT NO. 20-1002316  
BETWEEN  
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY  
AND  
THE CITY OF RANCHO CUCAMONGA**

THIS AMENDMENT No. 2 to Cooperative Agreement No. 20-1002316 (referred to herein as “Amendment No. 2”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Rancho Cucamonga (“CITY”), (SBCTA and CITY may be referred to individual herein as a “Party” and collectively as “Parties”).

**RECITALS:**

**WHEREAS**, SBCTA and City executed Cooperative Agreement No. 20-1002316 in December 2020; and

**WHEREAS**, in July 2022 Parties executed Amendment No. 1 to revise Attachment A “Project Funding Table”; and

**WHEREAS**, this Amendment No. 2 is intended to update the project scope identified in Attachment B “Conceptual Layout”.

**NOW, THEREFORE**, the Parties agree to the following changes:

1. Attachment B to the AGREEMENT is replaced in its entirety with the revised Attachment B attached to this Amendment No. 2.
2. Except as otherwise provided in this Amendment No. 2, all other terms and conditions of the AGREEMENT shall remain in full force and effect .
3. This Amendment No. 2 is effective upon execution by SBCTA.

-----SIGNATURES ON THE FOLLOWING PAGE-----

Attachment: 20-1002316\_Amend-02\_Rancho Cucamonga (9265 : Metrolink ATP - City Coop Amendments)

IN WITNESS THEREOF, the parties have duly executed this Amendment No. 2 below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF RANCHO CUCAMONGA**

By: \_\_\_\_\_  
Art Bishop  
Board President

By: \_\_\_\_\_  
Jason C. Welday  
Director of Engineering / City Engineer

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

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

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM AND  
PROCEDURE:**

By: \_\_\_\_\_  
Juanda Daniel  
Assistant General Counsel

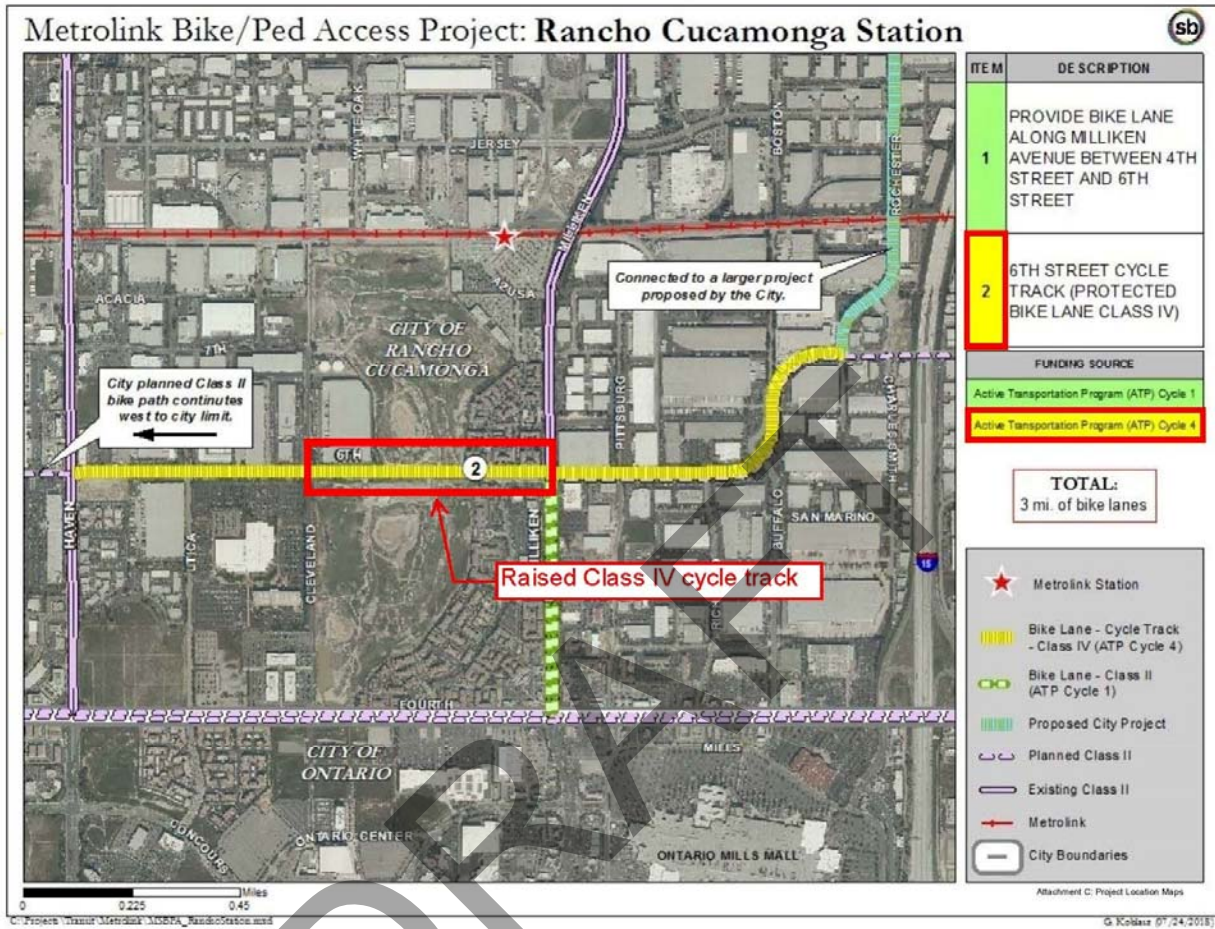
By: \_\_\_\_\_  
Nick Ghirelli  
City Attorney

DRAFT

Attachment: 20-1002316\_Amend-02\_Rancho Cucamonga (9265 : Metrolink ATP - City Coop Amendments)



# ATTACHMENT B CONCEPTUAL LAYOUT



**Design Modification:**

- 2 - Original scope was to install a cycle track (protected Class IV bike lane with curb/median) from Haven Ave to Rochester Ave. The proposed improvements were modified as follows:
  - Class IV bike lane with K71 bollards from Haven Ave to Cleveland Ave
  - Raised Class IV cycle track from Cleveland Ave to Milliken Ave
  - Class IV bike lane with K71 bollards from Milliken Ave to Charles Smith Ave

Attachment: 20-1002316\_Amend-02\_Rancho Cucamonga (9265 : Metrolink ATP - City Coop Amendments)

**General Contract Information**

Contract No: 20-1002317 Amendment No.: 1  
 Contract Class: Receivable Department: Project Delivery  
 Customer ID: FONT CI Customer Name: City of Fontana  
 Description: Metrolink ATP Accessibility Project - Phase-II

List Any Accounts Payable Related Contract Nos.:

Dollar Amount					
Original Contract	\$	388,346.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>388,346.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>388,346.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9265

**Contract Management (Internal Purposes Only)**

Local Funding Agreement

Accounts Receivable											
Total Contract Funding: \$ <u>388,346.00</u>					Funding Agreement No: <u>20-1002317</u>						
Beginning POP Date: <u>10/07/2020</u>			Ending POP Date: <u>12/31/2026</u>			Final Billing Date: <u>12/31/2026</u>					
Expiration Date: <u>12/31/2026</u>					Z Contract: <u>21-1002539</u> PM Description: <u>Metrolink ATP Ph 2 Fontana</u>						
Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:	Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:
GL: 6010	40	0860	0810	42408009	388,346.00	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-

Juan Lizarde  
Project Manager (Print Name)

Henry Stultz  
Task Manager (Print Name)

Additional Notes:

Attachment: 20-1002317-01\_CSS (9265 : Metrolink ATP - City Coop Amendments)

**AMENDMENT NO. 1 TO  
COOPERATIVE AGREEMENT NO. 20-1002317  
BETWEEN  
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY  
AND  
THE CITY OF FONTANA**

THIS AMENDMENT No. 1 to Cooperative Agreement No. 20-1002317 (referred to herein as “Amendment No. 1”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Fontana (“CITY”), (SBCTA and CITY may be referred to individually herein as a “Party” and collectively as “Parties”).

**RECITALS:**

**WHEREAS**, SBCTA and CITY executed Cooperative Agreement No. 20-1002317 in or about December 2020 (of the “AGREEMENT”; and

**WHEREAS**, this Amendment No. 1 is intended to update the project scope identified in Attachment B “Conceptual Layout” of the AGREEMENT.

**NOW, THEREFORE**, in consideration of the agreements set forth herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following changes:

1. Attachment B to the AGREEMENT is replaced in its entirety with the revised Attachment B attached to this Amendment No. 1 and incorporated herein by this reference.
2. Except as otherwise amended by this Amendment No. 1, all other terms and conditions of the AGREEMENT shall remain in full force and effect. From and after the date of this Amendment No. 1, whenever the term “AGREEMENT” appears in the AGREEMENT, it shall mean the AGREEMENT as amended by this Amendment No. 1.
3. This Amendment No. 1 is effective upon execution by SBCTA.

-----SIGNATURES ON THE FOLLOWING PAGE-----

IN WITNESS THEREOF, the Parties have duly executed this Amendment No. 1 below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF FONTANA**

By: \_\_\_\_\_  
Art Bishop  
Board President

By: \_\_\_\_\_  
Matthew C. Ballantyne  
City Manager

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

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

**APPROVED AS TO FORM:**

**ATTEST:**

By: \_\_\_\_\_  
Juanda Daniel  
Assistant General Counsel

By: \_\_\_\_\_  
Deputy City Clerk

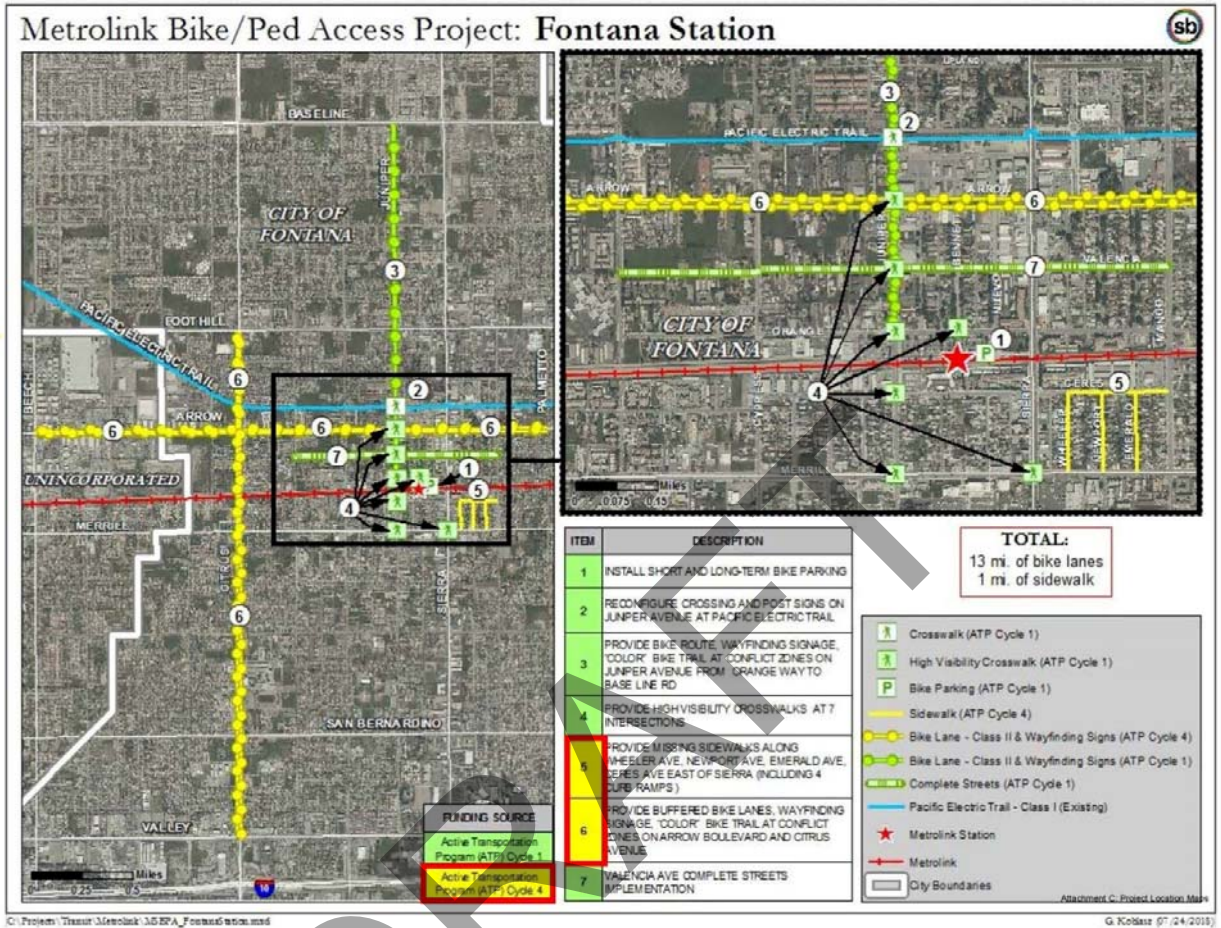
**DRAFT**

**APPROVED AS TO FORM AND  
PROCEDURE:**

By: \_\_\_\_\_  
City Attorney

Attachment: 20-1002317\_Amend-01\_Fontana (9265 : Metrolink ATP - City Coop Amendments)

## ATTACHMENT B CONCEPTUAL LAYOUT



**Design Modifications:**  
 5 - 7 curb ramps proposed instead of 4.  
 6 - Colored bike lanes not proposed at conflict zones only.

Attachment: 20-1002317\_Amend-01\_Fontana (9265 : Metrolink ATP - City Coop Amendments)

**General Contract Information**

Contract No: 20-1002318 Amendment No.: 1  
 Contract Class: Receivable Department: Project Delivery  
 Customer ID: SB CI Customer Name: City of San Bernardino  
 Description: Metrolink ATP Accessibility Project - Phase-II

List Any Accounts Payable Related Contract Nos.:

Dollar Amount					
Original Contract	\$	18,000.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>18,000.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>18,000.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9265

**Contract Management (Internal Purposes Only)**

Local Funding Agreement

Accounts Receivable												
Total Contract Funding:		\$		18,000.00		Funding Agreement No:		20-1002318				
Beginning POP Date:		10/07/2020		Ending POP Date:		12/31/2026		Final Billing Date:		12/31/2026		
Expiration Date:		12/31/2026		Z Contract: 21-1002540 PM Description: Metrolink ATP Ph 2 San Bernardino								
Sub- Fund Prog Task Task Revenue Total Contract Funding:					Sub- Fund Prog Task Task Revenue Total Contract Funding:							
GL:	6010	40	0860	0810	42421012	18,000.00	GL:					-
GL:						-	GL:					-
GL:						-	GL:					-
GL:						-	GL:					-
GL:						-	GL:					-

Juan Lizarde  
Project Manager (Print Name)

Henry Stultz  
Task Manager (Print Name)

Additional Notes:

Attachment: 20-1002318-01\_CSS (9265 : Metrolink ATP - City Coop Amendments)

**AMENDMENT NO. 1 TO  
COOPERATIVE AGREEMENT NO. 20-1002318  
BETWEEN  
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY  
AND  
THE CITY OF SAN BERNARDINO**

THIS AMENDMENT No. 1 to Cooperative Agreement No. 20-1002318 (referred to herein as “Amendment No. 1”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of San Bernardino (“CITY”), (SBCTA and CITY may be referred to individually herein as a “Party” and collectively as “Parties”).

**RECITALS:**

**WHEREAS**, SBCTA and City executed Cooperative Agreement No. 20-1002318 in December 2020; and

**WHEREAS**, this Amendment No. 1 is intended to update the project scope identified in Attachment B “Conceptual Layout”.

**NOW, THEREFORE**, the Parties agree to the following changes:

1. Attachment B to the AGREEMENT is replaced in its entirety with the revised Attachment B attached to this Amendment No. 1.
2. Except as otherwise provided in this Amendment No. 1, all other terms and conditions of the AGREEMENT shall remain in full force and effect .
3. This Amendment No. 1 is effective upon execution by SBCTA.

-----SIGNATURES ON THE FOLLOWING PAGE-----

Attachment: 20-1002318\_Amend-01\_SBD (9265 : Metrolink ATP - City Coop Amendments)

IN WITNESS THEREOF, the parties have duly executed this Amendment No. 1 below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF SAN BERNARDINO**

By: \_\_\_\_\_  
Art Bishop  
Board President

By: \_\_\_\_\_  
TBD  
City Manager

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

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

**APPROVED AS TO FORM:**

**ATTEST:**

By: \_\_\_\_\_  
Juanda Daniel  
Assistant General Counsel

By: \_\_\_\_\_  
Deputy City Clerk

**DRAFT**

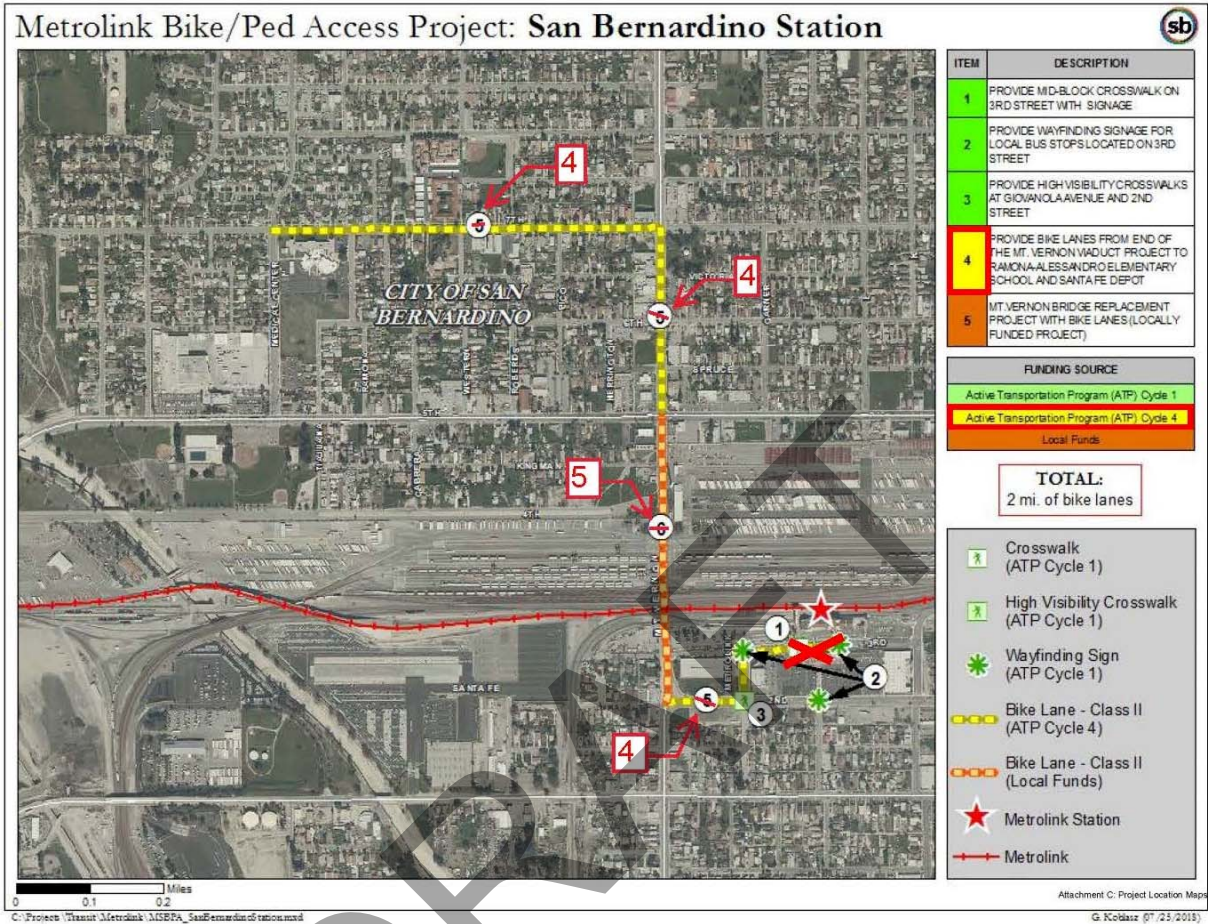
**APPROVED AS TO FORM AND  
PROCEDURE:**

By: \_\_\_\_\_  
City Attorney

Attachment: 20-1002318\_Amend-01\_SBD (9265 : Metrolink ATP - City Coop Amendments)



# ATTACHMENT B CONCEPTUAL LAYOUT



Design Modification:

4 - Class III bike lane terminated at Metrolink Way and not extended through 3rd Street per City's request. City preferred to have bike lane end at westerly parking lot.

Attachment: 20-1002318\_Amend-01\_SBD (9265 : Metrolink ATP - City Coop Amendments)

## *Minute Action*

### AGENDA ITEM: 5

***Date:*** February 1, 2023

***Subject:***

Amendment No. 2 to Contract No. C08100 (00-1000369) with Amtrak

***Recommendation:***

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 2 to Contract No. C08100 (00-1000369) with the National Railroad Passenger Corporation (Amtrak) to extend the contract expiration eight (8) months, extending the termination date to October 31, 2023, and increasing the contract amount for a revised not-to-exceed amount of \$138,000; and ratify the monthly fee increase to \$1,000 since July 1, 2016 which occurred without formal contract amendment.

***Background:***

The San Bernardino County Transportation Authority (SBCTA) and the City of San Bernardino (City), as tenants-in-common of the Santa Fe Depot (Depot), share the responsibilities for the Depot as defined in the Cooperative Agreement No. 04-040 (Cooperative Agreement). Pursuant to the Cooperative Agreement, SBCTA retains the exclusive right to enter into, amend, or terminate all leases and station use agreements at the Depot.

On October 19, 2007, the SBCTA Board of Directors (Board) approved Contract No. C08100 (00-1000369) with Amtrak for the purpose of providing Amtrak customers access to the San Bernardino Santa Fe Depot Main Lobby located at 1170 W. 3<sup>rd</sup> Street, San Bernardino. The agreement established a Station Host program developed at the request of Amtrak to provide services which would directly benefit passengers of the Amtrak Southwest Chief trains. The agreement was for a fifteen (15) year term commencing on December 1, 2007 and ending on November 30, 2022. Under the agreement, Amtrak would pay SBCTA a fee of \$500 each month as compensation for having the main lobby opened to Amtrak's customers during required station opening times and for the maintenance and repair of the station as required. The total estimated revenue for the length of the agreement was \$90,000.

On April 2, 2008, the Board approved contract Amendment No. 1. Due to delays in establishing the Station Host program to greet the arriving Amtrak passengers, the fifteen (15) year term of the agreement was amended to commence on March 1, 2008 and end February 28, 2023.

On July 1, 2016, the monthly fee of \$500 was increased to \$1,000 each month at SBCTA's request to assist with managing increased costs of the Station Host program. No formal contract amendment was processed for the fee increase, which resulted in an estimated revenue increase for the contract from \$90,000 to \$130,000.

In anticipation of this agreement expiring February 28, 2023, SBCTA staff approached Amtrak in June 2022 to begin negotiations for a new and more formal Station Use Agreement to ensure the continued access of the Depot Main Lobby and station services for Amtrak customers. There have been unanticipated delays in drafting and negotiating a new Station Use Agreement with Amtrak. This current amendment is to extend the term of the existing lease an additional eight (8) months from February 28, 2023 to October 31, 2023 at the continued monthly fee of \$1,000  
*Entity: San Bernardino County Transportation Authority*

Board of Directors Agenda Item

February 1, 2023

Page 2

each month. The additional time will allow SBCTA and Amtrak to continue negotiations for a new Station Use Agreement. The term extension is estimated to generate an additional \$8,000 in contract revenue, for a new combined total of \$138,000 over the life of the contract.

**Financial Impact:**

This item has no financial impact to the Fiscal Year 2022/2023 Budget as the Amtrak revenue for the Station Host program was already accounted for in the budget.

**Reviewed By:**

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendment.

**Responsible Staff:**

Colleen Franco, Director of Management Services

---

Approved  
Board of Directors  
Date: February 1, 2023

Witnessed By:

**Contract Summary Sheet**

**General Contract Information**

Contract No: C08100 (00-1000369) Amendment No.: 2  
 Contract Class: Receivable Department: Management Services  
 Customer ID: 03057 Customer Name: Amtrak  
 Description: Opening of the Main Lobby of the San Bernardino Santa Fe Depot  
 List Any Accounts Payable Related Contract Nos.: 00-1000249

**Dollar Amount**

Original Contract	\$	90,000.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	48,000.00	Current Amendment		
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>138,000.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>138,000.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9107

**Contract Management (Internal Purposes Only)**

Local Services N/A

**Accounts Receivable**

Total Contract Funding: \$ 138,000.00 Funding Agreement No: 00-1000369  
 Beginning POP Date: 03/01/2008 Ending POP Date: 10/31/2023 Final Billing Date: 10/31/2023  
 Expiration Date: 10/31/2023 Fund Admin: Yes  
 Parent Contract 00-1000369 PM Description Amtrak Santa Fe Depot Lobby Rental Agreement Laserfiche 00-1000369  
 Z-Related Contracts 00-1000249

Sub-						Sub-					
Fund	Prog	Task	Task	Revenue	Total Contract Funding:	Fund	Prog	Task	Task	Revenue	Total Contract Funding:
GL: 1091	01	0805	0000	43012000	138,000.00	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-

Diego Sanchez  
Project Manager (Print Name)

Colleen Franco  
Task Manager (Print Name)

Additional Notes: In July 2016, an informal increase of \$500 was applied to the compensation fee making it a total of \$1,000 per month as SBCTA's request. No formal contract amendment was processed, however, BOD agenda item 9 at the 12.7.16 meeting does note the increase in fee and the overall increase to the revenue generated by the agreement. Amtrak has been paying \$1,000 per month since July 2016. Orig Contract term 180 months + 8 month ext = 188 months (100 months x \$500 plus 88 months x \$1,000 = \$138,000)  
 The additional fee collected for the period between 07/01/2016 to 02/28/2023 is \$40,000 (\$500 x 80 months).

Attachment: CSS - Revised - 08-25-2022 10.11am [Revision 1] (9107 : Amendment No.2 to Contract C08100 (00-1000369) with the National



cta

San Bernardino County  
Transportation Authority

February 1, 2023

Mr. Christopher Hartsfield  
National Railroad Passenger Corporation  
Assistant Vice President  
Real Estate Department  
30<sup>th</sup> Street Station, 5SW, Box 25  
Philadelphia, PA 19104

Re: Amendment No. 2 to SBCTA Contract C08100 (00-1000369) – Amtrak Letter Agreement for the San Bernardino Santa Fe Depot.

Dear Mr. Hartsfield:

On October 19, 2007, a letter agreement was entered into between the San Bernardino Associated Governments (SANBAG) and the National Railroad Passenger Corporation (Amtrak) for the purpose of providing Amtrak passengers access to the San Bernardino Santa Fe Depot Main Lobby located at 1170 W. 3<sup>rd</sup> Street, San Bernardino, California.

On April 2, 2008, due to delays in establishing the volunteer station host program, the term of the letter agreement was amended to be for fifteen (15) years, commencing on March 1, 2008 and ending on February 28, 2023.

Due to unforeseen delays in establishing a new station use License Agreement and to keep the Depot Main Lobby open for Amtrak passengers, the parties (SBCTA and Amtrak) agree to this Amendment No. 2 as provided below.

Section 1:

1. Term – The term of this agreement shall be for fifteen (15) years and eight (8) months, commencing on March 1, 2008 and ending on October 31, 2023.

4. Amtrak Compensation – Amtrak shall continue to pay SBCTA a fee of One Thousand (\$1,000.00) Dollars (“Fee”) each month as compensation for having the main lobby opened to Amtrak’s customers.

Except as amended herein, all provisions of the original agreement as previously amended shall remain in full force and effect. For ease of reference, the original agreement and Amendment No. 1 are attached hereto and incorporated by reference herein.

By signature below, the parties agree to this Amendment No. 2 to SBCTA Contract C08100 (00-1000369).

By: \_\_\_\_\_  
Art Bishop  
SBCTA President

By: \_\_\_\_\_  
Christopher Hartsfield  
Assistant Vice President

APPROVED AS TO FORM

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



## San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715  
 Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov



- 
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
  - San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
- 

October 19, 2007

Mr. Bruce Looloian  
 Assistant Vice President  
 Real Estate Development  
 National Railroad Passenger Corporation  
 30<sup>th</sup> Street Station, 5SW, Box 25  
 Philadelphia, PA 19104

Re: Amtrak Letter Agreement for the San Bernardino Santa Fe Depot; SANBAG Contract C08100

Dear Mr. Looloian:

This letter agreement (“Agreement”) is entered into October 19, 2007 between the San Bernardino Associated Governments (“SANBAG”) and the National Railroad Passenger Corporation (“Amtrak”) for the purpose of providing Amtrak passenger access to the San Bernardino Santa Fe Depot located at 1170 W. 3<sup>rd</sup> Street, San Bernardino, California (“Station”).

Upon Amtrak’s execution of this Agreement both SANBAG and Amtrak shall agree as follows:

1. Term – The term (“Term”) of this Agreement shall be for fifteen (15) years, commencing on December 1, 2007 and ending on November 30, 2022, unless terminated sooner due to a default in the provisions hereunder or terminated by Amtrak, upon thirty (30) days notice to SANBAG that Amtrak’s passenger rail service to the Station shall be relocated or cease to occur. This Agreement may also be terminated by SANBAG upon thirty (30) days written notice to Amtrak should SANBAG be unable to meet the conditions of Section 2 of this agreement.
  
2. Station Access – SANBAG shall ensure that the main lobby of Station will be open to Amtrak passengers arriving or departing on Amtrak’s train, known as the Southwest Chief, or similar train (“Amtrak Train”). The current schedule for the Amtrak Train has westbound and eastbound arrivals at 5:27 a.m. and 8:29 p.m. respectively. The main lobby will be open no later than ½ hour before each Amtrak Train is scheduled to arrive and close no earlier than ½ hour after each of Amtrak Train’s actual arrivals (“Required Station Opening Times”). If Amtrak should desire to change the Amtrak Train schedule, Amtrak will give SANBAG a thirty (30) day notice before such change goes into effect. It shall be considered a default hereunder if the

C08100-mab.do  
 ISF08

Mr. Bruce Looloian  
 October 19, 2007  
 Page 2

Station is not open during the Required Station Opening Times for at least ninety-five (95) percent of the required time in one month.

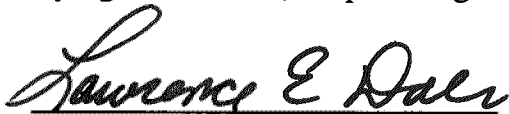
3. Maintenance and Repair of Station - SANBAG, at its sole cost and expense, shall be responsible for all utilities and the maintenance, cleaning, janitorial services and upkeep of the Station, including the maintenance, repair, replacement and alteration of the interior and exterior of the Station and all fixtures, equipment, components and systems that are a part of the Station or necessary to and for the operation of the Station. The Station shall at all times be cleaned and maintained to a condition of a first class transportation station.

4. Amtrak Compensation – Providing that SANBAG is not in default of the terms hereunder, Amtrak shall pay SANBAG a fee of Five Hundred (\$500.00) Dollars (“Fee”) each month as compensation for having the main lobby opened to Amtrak’s customers during Required Station Opening Times and for the maintenance and repair of the Station as required herein. Such compensation will be due to SANBAG no later than the fifteenth (15<sup>th</sup>) day of each month and be mailed to the following address:

San Bernardino Associated Governments  
 Attn: Chief Financial Officer  
 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
 San Bernardino, CA 92410-1715

Providing SANBAG is not in default of the terms hereunder, SANBAG shall have the right to terminate this Agreement if Amtrak has not paid the Fee within thirty (30) days after written notice from SANBAG to Amtrak that it has not received the Fee.

By signature below, the parties agree to the provisions of this letter agreement.



Lawrence E. Dale  
 SANBAG President



Bruce Looloian  
 Amtrak Assistant Vice President  
 Real Estate Development

Approved as to Form:



Jean-Rene Basle  
 SANBAG Legal Counsel

C08100-mab.doc  
 ISF08

SANBAG Contract No. C08100

by and between

San Bernardino Associated Governments

and

National Passenger Railroad Corporation (Amtrak)

for

Opening of the Main Lobby of the San Bernardino Santa Fe Depot

POST 2 22 08

eth  
also R08100  
ME COPY

#5  
1000369

**FOR ACCOUNTING PURPOSES ONLY**

<input type="checkbox"/> Payable	Vendor Contract # <u>N/A Amtrak 12</u>	Retention:	<input checked="" type="checkbox"/> Original
<input checked="" type="checkbox"/> Receivable	Vendor ID <u>Amtrak</u>	<input type="checkbox"/> Yes ___ % <input type="checkbox"/> No	<input type="checkbox"/> Amendment

Notes:

Original Contract:	\$ <u>90,000.00</u>	Previous Amendments Total:	\$ _____
Contingency Amount:	\$ _____	Previous Amendments Contingency Total:	\$ _____
		Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

**Contract TOTAL → \$ 90,000.00**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
<u>ISF08 30508000</u>	<u>TBD</u>	<u>Amtrak</u>	<u>TBD</u>	\$ <u>4,000.00</u> <del>3,000.00</del>
<u>ISF 8050</u>	<u>TBD</u>	<u>Amtrak</u>	<u>TBD</u>	\$ <u>86,000.00</u> <u>MAB</u>
<u>MAB</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	\$ _____
<u>MAB</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	\$ _____

Original Board Approved Contract Date: 10/1/07 Contract Start: 11/1/07 Contract End: 10/31/22

New Amend. Approval (Board) Date: \_\_\_\_\_ Amend. Start: \_\_\_\_\_ Amend. End: \_\_\_\_\_

**If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:**

<b>Approved Budget Authority →</b>	Fiscal Year: <u>07/08</u>	<b>Future Fiscal Year(s) – Unbudgeted Obligation →</b>	\$ <u>86,000.00</u>
	\$ <u>4,000.00</u>		

Is this consistent with the adopted budget?  Yes  No

If yes, which Task includes budget authority? \_\_\_\_\_

If no, has the budget amendment been submitted?  Yes  No

**CONTRACT MANAGEMENT**

Please mark an "X" next to all that apply:

Intergovernmental  Private  Non-Local  Local  Partly Local

Disadvantaged Business Enterprise:  No  Yes \_\_\_ %

Task Manager: **Michael Bair** Contract Manager: **Michael Bair**

<u>Michael Bair</u>	<u>9-21-07</u>	<u>Michael Bair</u>	<u>9-21-07</u>
Task Manager Signature	Date	Contract Manager Signature	Date
<u>Matthew Kelly</u>	<u>9-21-07</u>		
Chief Financial Officer Signature	Date		

Attachment: 00-1000369 Oct 2007 Backup Contract Sum. 1 (9107 : Amendment No.2 to Contract C08100 (00-1000369) with the National Railroad

12 8.17





# San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715  
 Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov



- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

April 2, 2008

Mr. Bruce Looloian  
 National Railroad Passenger Corporation  
 Assistant Vice President  
 Real Estate Department  
 30<sup>th</sup> Street Station, 5SW, Box 25  
 Philadelphia, PA 19104

Re: Amendment No. 1 to SANBAG Contract C08100 – Amtrak Letter Agreement for the San Bernardino Santa Fe Depot.

Dear Mr. Looloian:

On October 3<sup>rd</sup> a letter agreement was entered into between the San Bernardino Associated Governments (SANBAG) and the National Railroad Passenger Corporation (Amtrak) for the purpose of providing Amtrak passenger access to the San Bernardino Santa Fe Depot Main Lobby located at 1170 w. 3<sup>rd</sup> Street, San Bernardino, California.

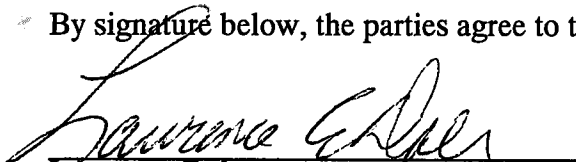
Due to delays in establishing the volunteer station host program that was necessary in order to meet SANBAG's responsibility to open the Depot Main Lobby for Amtrak passengers, the parties (SANBAG and Amtrak) agree to this Amendment No. 1 as provided below.

**Section 1:**

1. **Term** – The term of this agreement shall be for fifteen (15) years, commencing on March 1, 2008 and ending on February 28, 2023.


All other provisions of Sections 1, 2 and 3 shall remain in full force and effect.

By signature below, the parties agree to this Amendment No.1 to SANBAG Contract C08100.

  
 Lawrence Dale  
 SANBAG President

  
 Bruce Looloian  
 Amtrak Assistant Vice President  
 Real Estate Development

Approved as to Form:

  
 Jean-Rene Basle  
 SANBAG Legal Counsel

BL080324-mab  
 80508000

POSTED  
6-30-08  
Let Copy  
Supp # 82

1000369  
**SANBAG Contract No. C08100-1**

by and between  
San Bernardino Associated Governments  
and  
National Passenger Railroad Corporation (Amtrak)  
for

**Opening of the Main Lobby of the San Bernardino Santa Fe Depot**

**FOR ACCOUNTING PURPOSES ONLY**

<input type="checkbox"/> Payable	Vendor Contract # <u>N/A</u>	Retention:	<input checked="" type="checkbox"/> Original
<input checked="" type="checkbox"/> Receivable	Vendor ID <u>Amtrak</u>	<input type="checkbox"/> Yes ____ % <input type="checkbox"/> No	<input type="checkbox"/> Amendment

Notes: Changes beginning term date to March 1, 2008; Monthly compensation remains @ \$500.00

Original Contract:	\$ <u>90,000.00</u>	Previous Amendments Total:	\$ _____
Contingency Amount:	\$ _____	Previous Amendments Contingency Total:	\$ _____
		Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

**Contract TOTAL → \$ 90,000.00**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
80508000	TBD	Amtrak	TBD	\$ 2,000.00
805	TBD	Amtrak	TBD	\$ 88,000.00
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date: 10/1/07 Contract Start: 11/1/07 Contract End: 10/31/22  
New Amend. Approval (Board) Date: 4/2/08 Amend. Start: 3/1/08 Amend. End: 2/28/23

**If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:**

<b>Approved Budget Authority →</b>	Fiscal Year: <u>07/08</u> \$ <u>2,000.00</u>	<b>Future Fiscal Year(s) – Unbudgeted Obligation →</b>	\$ <u>88,000.00</u>
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Is this consistent with the adopted budget?  Yes  No  
If yes, which Task includes budget authority? \_\_\_\_\_  
If no, has the budget amendment been submitted?  Yes  No

**CONTRACT MANAGEMENT**

Please mark an "X" next to all that apply:

Intergovernmental  Private  Non-Local  Local  Partly Local  
Disadvantaged Business Enterprise:  No  Yes \_\_\_\_ %

Task Manager: **Michael Bair** Contract Manager: **Michael Bair**

Michael Bair 3-24-08 Task Manager Signature Date  
Michael Bair 3-24-08 Contract Manager Signature Date  
Lyntha A Cordova 3/24/08 Chief Financial Officer Signature Date

9-16-10

## *Minute Action*

AGENDA ITEM: 6

***Date:*** February 1, 2023

***Subject:***

Amendment No. 4 to Contract No. 20-1002323 with Carpe Carma, LLC dba Pomona Valley Towing for Construction Freeway Service Patrol

***Recommendation:***

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 4 to Contract No. 20-1002323 with Carpe Carma, LLC, dba Pomona Valley Towing, to increase the contract amount by \$42,000, which is fully funded by the California Department of Transportation (Caltrans) Cooperative Agreement No. 20-1002356 (08A3133), for a revised not-to-exceed amount of \$2,332,207, to provide weekend Construction Freeway Service Patrol support services for the Caltrans Victorville Oak Hill Road to Bear Valley Road Project No. 0815000244.

***Background:***

The San Bernardino County Transportation Authority (SBCTA) is responsible for implementing Freeway Service Patrol (FSP) within San Bernardino County. SBCTA's FSP Program began full-time operations in January 2006. FSP is a roving team of tow trucks that travel on selected San Bernardino County freeways during peak commute hours to assist motorists with car trouble. The goal of the FSP Program is to keep freeway traffic moving, reduce the chance of secondary accidents, and make the freeways safer and less congested. At times, construction projects require removal of shoulder areas, which can create unsafe road conditions for motorists. Often times Construction Freeway Service Patrol (CFSP) is asked to be of service and is funded through the project to provide on and off-peak coverage where normal state-funded FSP would not operate.

The FSP Program currently operates on the following nine (9) Beats covering approximately ninety-five (95) centerline miles:

- Beat 5: State Route 60 (SR-60) Reservoir Street (Los Angeles County line) to Milliken Avenue
- Beat 9: Interstate 10 (I-10) from Indian Hill Boulevard (Los Angeles County line) to Haven Avenue
- Beat 10: Interstate 10 (I-10) from Haven Avenue to Sierra Avenue
- Beat 11: Interstate 10 (I-10) from Sierra Avenue to Waterman Avenue
- Beat 14: Interstate 215 (I-215) from Center Street to Devore Road
- Beat 23: Interstate 15 (I-15) Jurupa Street (Riverside County line) to Sierra Avenue
- Beat 27: Interstate 15 (I-15) Sierra Avenue to Oak Hill Road
- Beat 29: Interstate 10 (I-10) Waterman Avenue to Yucaipa Boulevard
- Beat 31: State Route 210 (SR-210) from the Los Angeles County line to Citrus Avenue

Each SBCTA tow operator agreement contains a clause regarding the CFSP services. The goal of CFSP is to assist in construction zones outside of regular FSP hours or locations. The work is provided as "Extra Work" due to the uncertainty of the hours or changes in construction.

SBCTA and California Department of Transportation (Caltrans) entered into Cooperative Agreement No. 20-1002356, which was approved by the SBCTA Board of Directors (Board) in April 2020 to provide CFSP services in areas where FSP may not be

*Entity: San Bernardino County Transportation Authority*

Board of Directors Agenda Item

February 1, 2023

Page 2

available or, when the hours of coverage needed are outside the normal hours of operation. Each instance of Caltrans CFSP support is generated through a task order.

Caltrans has requested that SBCTA provide CFSP support services related to construction activity along the I-15 in the Victorville area (between Oak Hill Road and Bear Valley Road). This is a Caltrans slab replacement project that will take approximately three years to complete. Shoulders have been greatly reduced and call boxes are scheduled to be temporarily removed due to the shoulder reduction. Therefore, Caltrans is requesting FSP construction support activity through Cooperative Agreement No. 20-1002356.

SBCTA staff coordinated with tow operators that have the appropriate resources to provide the requested CFSP “Extra Work” support. As a result, it was determined that Carpe Carma, Limited Liability Corporation (LLC) Doing Business As (DBA) Pomona Valley Towing, who is the current contracted provider for Beat No. 11, had the appropriate resources to provide weekend CFSP support for the Caltrans Victorville construction project.

Weekend CFSP support services began in April 2022 pursuant to Article 4, section 4.9 of the contract, and was originally slated to end December 2022. The weekend hours of operation for this CFSP Victorville construction project is scheduled from 7:00 p.m. to 7:00 a.m. The initial amendment for weekend CFSP services totaled \$79,916. However, Caltrans has requested that weekend CFSP support continue through April 2023, which would result in a projected increased amount of \$42,000 to cover this service extension.

Pursuant to Article 4 of the contract, section 4.9 titled “Extra Work” authorization for “Extra Work” above \$100,000 must be pursuant to a written contract amendment approved by the Board. Therefore, Amendment No. 4 to Contract No. 20-1002323, which would increase the not-to-exceed amount by an additional \$42,000 is submitted for review and approval. This amount is fully funded through the Caltrans Cooperative Agreement No. 20-1002356 (08A3133). The contract amendment and pricing information (Exhibit B) are attached.

With the approval of this amendment, it will allow for CFSP coverage to continue providing weekend tow support services.

Upon Board approval, the amendment will be executed to continue weekend (Saturday through Sunday) CFSP support services for the Caltrans Victorville Project No. 0815000244.

***Financial Impact:***

The contract amendment cost of \$42,000 is fully funded by Caltrans Cooperative Agreement No. 20-1002356 (08A3133) and this revenue source is included in the Fiscal Year 2022/2023 Budget, Task 0704.

***Reviewed By:***

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

***Responsible Staff:***

Cheryl Wilson, Management Analyst II

Board of Directors Agenda Item  
February 1, 2023  
Page 3

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Approved  
Board of Directors  
Date: February 1, 2023  
Witnessed By:

San Bernardino County Transportation Authority

**General Contract Information**

Contract No: 20-1002323 Amendment No.: 4  
 Contract Class: Payable Department: Air Quality and Mobility  
 Vendor No.: 03014 Vendor Name: Carpe Carma LLC DBA Pomona Valley Towing  
 Description: Freeway Service Patrol (FSP) Beat No. 11  
 List Any Related Contract Nos.:

Dollar Amount					
Original Contract	\$	2,196,291.00	Original Contingency	\$	-
Prior Amendments	\$	93,916.00	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	42,000.00	Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>2,332,207.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>-</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>2,332,207.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 9172

**Contract Management (Internal Purposes Only)**

Other Contracts State/Local Sole Source? N/A No Budget Adjustment N/A  
 Freeway Service Patrol N/A

**Accounts Payable**

Estimated Start Date: 04/01/2021 Expiration Date: 03/31/2026 Revised Expiration Date: \_\_\_\_\_

NHS: N/A QMP/QAP: N/A Prevailing Wage: N/A

Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	Total Contract Funding:	Total Contingency:
								\$	\$
GL	2820	15	0704	0000	52001		42213014 FSP	1,361,640.00	-
GL	2810	15	0704	0000	52001		42212001 SAFE-Veh Reg	405,848.80	-
GL	2702	15	0704	0000	52001		42217703 FSP-SB1	403,802.20	-
GL	2625	15	0704	0172	52001		42211503 CALTRANS.SHA_20-1002356-08A3133	121,916.00	-
GL	2625	15	0704	0173	52001		42211503 CALTRANS.CFSP-SR60-SHA_20-1002656_08A3133	39,000.00	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-
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GL								-	-
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GL								-	-
GL								-	-
GL								-	-

Cheryl Wilson

Project Manager (Print Name)

Steven Smith

Task Manager (Print Name)

Additional Notes: Added \$42,000 for the Caltrans Victorville Weekend Project (subtask 0172), revenue code 42211503. This revenue code is fully funded by the Caltrans MOU for CFSP support services and no match is required.

Attachment: CSS - 20-1002323-04 (9172 : Amendment No. 4 to Contract No. 20-1002323 with Carpe Carma, LLC, DBA Pomona Valley Towing for

**AMENDMENT NO. 4 TO CONTRACT NO. 20-1002323**

**FOR**

**FREEWAY SERVICE PATROL BEAT 11**

**(CARPE CARMA LLC, DBA POMONA VALLEY TOWING)**

This Amendment No. 4 to Contract No. 20-1002323, is made by and between the SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY (“SBCTA”) and CARPE CARMA LLC dba POMONA VALLEY TOWING (“CONTRACTOR”).

**RECITALS**

- A. On December 22, 2020, SBCTA and CONTRACTOR entered into an Agreement for the purpose of providing Freeway Service Patrol Services along Beat 11 (hereinafter “Contract”); and
- B. On April 6, 2022, SBCTA and CONTRACTOR entered into Amendment No. 1 to amend the Contract to update insurance requirements in accordance with SBCTA Procurement and Special Risk Assessment Policy No. 11000; and
- C. On May 23, 2022 SBCTA and CONTRACTOR entered into Amendment No. 2 to amend the Contract by increasing the not-to-exceed amount from \$2,196,291 to \$2,251,207, to provide Construction Freeway Service Patrol (CFSP) weekend services as requested by the California Department of Transportation (Caltrans), for the Victorville Construction Project No 0815000244 along San Bernardino County Interstate 15, Post Mile (PM) 28.6 to PM 37.5 - Hesperia/Victorville from Oak Hill Road to Bear Valley Road during the weekend (Saturday and Sunday) as per Article 4, SECTION 4.9 titled “Extra Work.”; and
- D. On August 31, 2022 SBCTA and CONTRACTOR entered into Amendment No. 3 to amend the Contract by increasing the not-to-exceed amount from \$2,251,207 to \$2,290,207, to provide CFSP services as requested by Caltrans for the SR 60 at Ramona Avenue, City of Ontario project, project no. 0817000240, during Fridays at 10 pm through Monday at approximately 5 am) as per Article 4, SECTION 4.9 titled “Extra Work.”; and
- E. SBCTA and CONTRACTOR now desire to amend the Contract by increasing the not-to-exceed amount from \$2,290,207 to \$2,332,207, to continue provide Construction Freeway Service Patrol weekend services through April 2023, as requested by the California Department of Transportation, for the Victorville Construction Project No 0815000244 along San Bernardino County Interstate 15, Post Mile (PM) 28.6 to PM 37.5 - Hesperia/Victorville from Oak Hill Road to Bear Valley Road during the weekend (Saturday and Sunday) as per Article 4, SECTION 4.9 titled “Extra Work.”

NOW THEREFORE, in consideration of the above recitals, and the terms and conditions contained herein, SBCTA and CONTRACTOR agree to revise the Contract as follows:

1. Article 3, COMPENSATION, Section 3.2, is amended in its entirety to read as follows:  

“The total Contract Not-To-Exceed Amount is Two Million, Three Hundred Thirty Two Thousand, and Two Hundred Seven Dollars (\$2,332,207). All Work provided under this Contract is to be performed as set forth in Exhibit A “Scope of Work.” The hourly labor rates identified in Exhibit B shall remain fixed for the term of this Contract and include CONTRACTOR’S direct labor costs, indirect costs, and profit. SBCTA will not compensate CONTRACTOR for any expenses not shown in Exhibit B or agreed to and approved by SBCTA as required under this Contract.”
2. Exhibit B attached to the Contract is replaced in its entirety with the Exhibit B attached to this Amendment No. 4.
3. The Recitals set forth above are incorporated herein by this reference.
4. Except as amended by this Amendment No. 4, all other provisions of the Contract, including all previous amendments, shall remain in full force and effect and are incorporated herein by this reference.
5. This Amendment No. 4 is effective upon execution by SBCTA.

-----SIGNATURES ON FOLLOWING PAGE-----

DRAFT



IN WITNESS WHEREOF, the parties have executed this Amendment No. 4 below.

**CARPE CARMA LLC dba  
POMONA VALLEY TOWING**

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Marc A. Weiss  
Member

By: \_\_\_\_\_  
Art Bishop  
President, Board of Directors

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

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

**APPROVED AS TO FORM:**

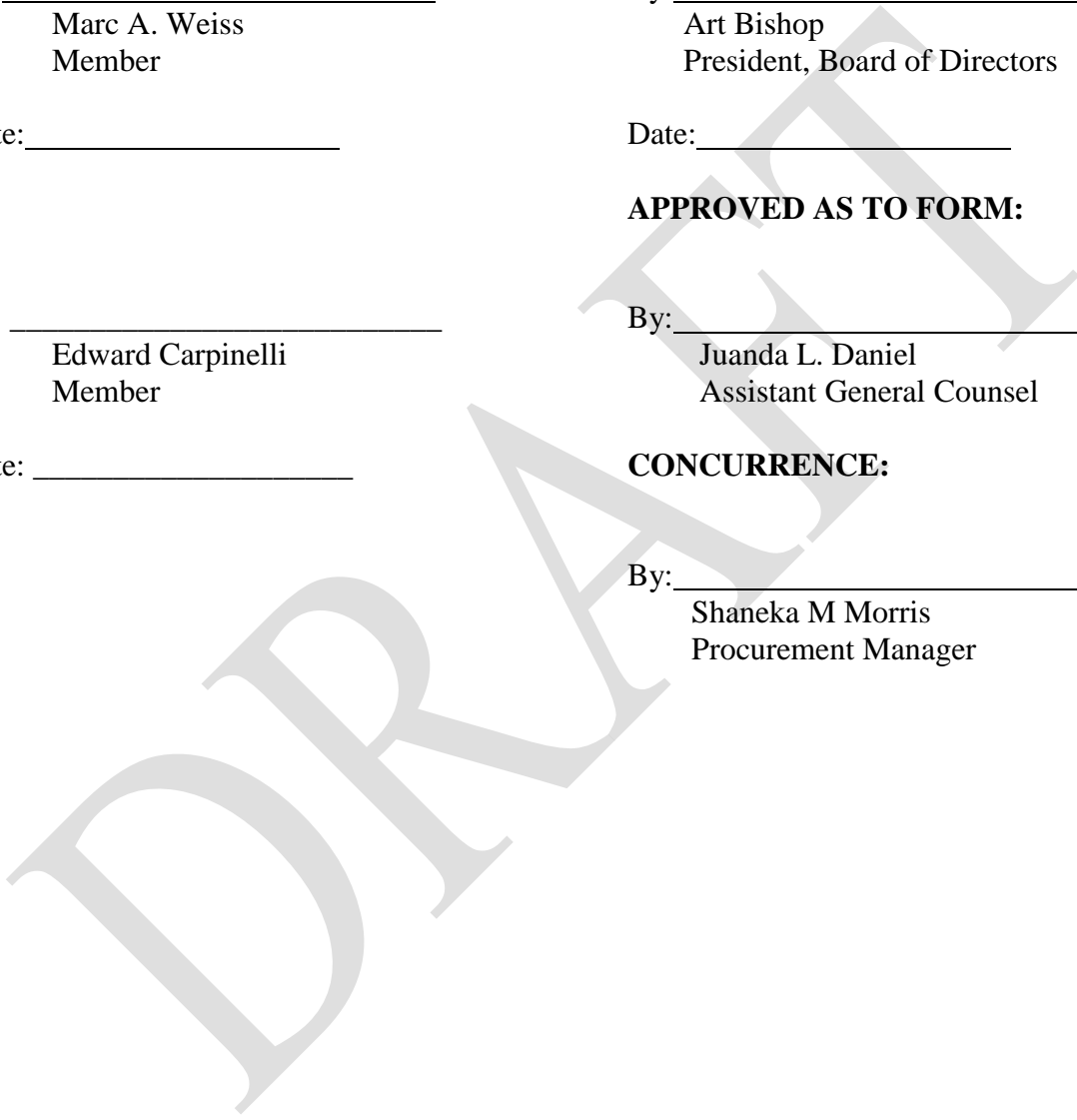
By: \_\_\_\_\_  
Edward Carpinelli  
Member

By: \_\_\_\_\_  
Juanda L. Daniel  
Assistant General Counsel

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

**CONCURRENCE:**

By: \_\_\_\_\_  
Shaneka M Morris  
Procurement Manager



Attachment: 20-1002323-04 (9172 : Amendment No. 4 to Contract No. 20-1002323 with Carpe Carma, LLC, DBA Pomona Valley Towing for

<b>20-1002323-04</b>		<b>Exhibit B</b>									
<b>Carpe Carma LLC dba Pomona Valley Towing 20-1002323</b>											
<b>FSP Beat 11 - I-10 from Sierra Avenue to Waterman Avenue - 3 wheel lift tow trucks that seat 5 people</b>											
	<b>Year 1</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 5</b>	
	<b>FSP Regular Rate</b>	<b>FSP Extra Work Rate</b>	<b>FSP Regular Rate</b>	<b>FSP Extra Work Rate</b>	<b>FSP Regular Rate</b>	<b>FSP Extra Work Rate</b>	<b>FSP Regular Rate</b>	<b>FSP Extra Work Rate</b>	<b>FSP Regular Rate</b>	<b>FSP Extra Work Rate</b>	
	<b>4/1/21-3/31/22</b>	<b>4/1/21-3/31/22</b>	<b>4/1/22-3/31/23</b>	<b>4/1/22-3/31/23</b>	<b>4/1/23-3/31/24</b>	<b>4/1/23-3/31/24</b>	<b>4/1/24-3/31/25</b>	<b>4/1/24-3/31/25</b>	<b>4/1/25-3/31/26</b>	<b>4/1/25-3/31/26</b>	
	<b>FY 20/21-FY 21/22</b>	<b>FY 20/21-FY 21/22</b>	<b>FY 21/22-FY 22/23</b>	<b>FY 21/22-FY 22/23</b>	<b>FY 22/23-FY 23/24</b>	<b>FY 22/23-FY 23/24</b>	<b>FY 23/24- 24/25</b>	<b>FY 23/24- 24/25</b>	<b>FY 24/25- 25/26</b>	<b>FY 24/25- 25/26</b>	
	\$77.00	\$88.37	\$79.10	\$91.02	\$81.00	\$93.43	\$83.00	\$95.95	\$85.15	\$98.65	
Extra Time rate	\$1.28	\$1.47	\$1.32	\$1.52	\$1.35	\$1.56	\$1.38	\$1.60	\$1.42	\$1.64	
Non-Penalized rate	\$1.28	\$1.47	\$1.32	\$1.52	\$1.35	\$1.56	\$1.38	\$1.60	\$1.42	\$1.64	
Penalized rate	\$3.84	\$4.41	\$3.96	\$4.56	\$4.05	\$4.68	\$4.14	\$4.80	\$4.26	\$4.92	
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>						
	<b>4/1/21-3/31/22</b>	<b>4/1/22-3/31/23</b>	<b>4/1/23-3/31/24</b>	<b>4/1/24-3/31/25</b>	<b>4/1/25-3/31/26</b>	<b>Total</b>					
	<b>FY 20/21-FY 21/22</b>	<b>FY 21/22-FY 22/23</b>	<b>FY 22/23-FY 23/24</b>	<b>FY 23/24- 24/25</b>	<b>FY 24/25- 25/26</b>						
Regular FSP 2100 hours x 2 trucks	\$323,400	\$332,220	\$340,200	\$348,600	\$357,630						
Extra Work FSP Weekend Pilot 700 hours x 1 truck	\$61,859	\$63,714	\$65,401	\$67,165	\$69,055						
<b>TOTAL</b>	<b>\$385,259</b>	<b>\$395,934</b>	<b>\$405,601</b>	<b>\$415,765</b>	<b>\$426,685</b>	<b>\$2,029,244</b>					
7% extra hours	\$26,968	\$27,715	\$28,392	\$29,104	\$29,868	\$142,047					
Extra work contingency		\$25,000				\$25,000					
<b>Amendment No. 2 CFSP SUPPORT- Caltrans Construction WEEKENDS</b> Scheduled for 4/16/22-12/31/22 Saturday and Sunday from 7:00 pm to 7:00 am Victorville area (between Oak Hill Road and Bear Valley Road) <b>\$54,916 (603 hours year 2) + \$25,000 ( Original Board Approved contingency)= \$79,916</b>		\$54,916				\$54,916					
<b>Amendment No. 3 Caltrans CFSP Support</b> Estimated Schedule from 8/5/22-9/30/22 SR 60 at Ramona Avenue City of Ontario Project Caltrans Task No 08-11J2014 <b>\$39,000</b>		\$39,000				\$39,000					
<b>Amendment No. 4 CFSP SUPPORT- Caltrans Construction WEEKENDS</b> Estimated Service Dates 4/16/22-4/30/23 Saturday and Sunday from 7:00 pm to 7:00 am Victorville area (between Oak Hill Road and Bear Valley Road) <b>January 2023 through March 2023 (Year 2 Extra Work Rate)</b> (Approximately 338 hours @ \$91.02 per hour) <b>April 2023 (Year 3 Extra Work Rate)</b> ( Approximately 120 hours @ \$93.43 per hour )			\$42,000			\$42,000					
<b>Total</b>	<b>\$412,227</b>	<b>\$542,565</b>	<b>\$475,993</b>	<b>\$444,869</b>	<b>\$456,553</b>	<b>\$2,332,207</b>					

Attachment: 20-1002323-04 Exhibit B (9172 : Amendment No. 4 to Contract No. 20-1002323 with Carpe

## *Minute Action*

AGENDA ITEM: 7

***Date:*** February 1, 2023

***Subject:***

Award Contract No. 22-1002700 for AMF Hydrogen Fuel Upgrade Project: Hydrogen Fuel System

***Recommendation:***

That the Board, acting as the San Bernardino County Transportation Authority:

A. Award Contract No. 22-1002700 for the Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System, to Linde Engineering North America, LLC, which includes design, construction/installation, maintenance, and fuel delivery for a not-to-exceed amount of \$8,406,475 with allocations of \$6,300,000 for design and construction/installation and \$2,106,475 for maintenance and fuel delivery for the initial three-year term of operation.

B. Approve a contingency of 10% of the capital portion of the contract in the amount not-to-exceed \$630,000 for Contract No. 22-1002700 and authorize the Executive Director, or his designee, to release contingency as necessary for the delivery of the hydrogen fueling system.

C. Approve the additional allocation of \$1,614,000 in Valley State Transit Assistance-Population Share funds to fund Contract No. 22-1002700.

D. Approve \$3,660,100 in Valley Local Transportation Funds for the maintenance and fuel delivery period with initial term of three years and two (2) one-year option terms for a total of five years.

E. Authorize the Executive Director, or his designee, to exercise the two (2) one-year options following the initial three-year term of the maintenance and fuel delivery period, bringing the total potential contract not-to-exceed amount to \$9,960,100.

***Background:***

The San Bernardino County Transportation Authority (SBCTA) released a Request for Information (RFI) in December 2020 to gather information that would assist SBCTA in the eventual procurement of a contractor to provide hydrogen fuel and associated infrastructure to support storage and fueling of the Zero Emission Multiple Unit (ZEMU) vehicle at the Arrow Maintenance Facility (AMF) site. The goal was to better understand the proposed approach from potential suppliers to meet the daily hydrogen demand, while considering AMF site constraints and technical requirements set out by the vehicle designer and SBCTA. Staff was interested in learning various contracting opportunities, including private partnerships, on fueling facilities. Consideration for future expansion and increase in daily hydrogen demand was also requested, as SBCTA's goal was to expand the ZEMU fleet. Eight firms responded to the RFI and the information was used to develop the scope of work relative to the fueling system and input to corresponding procurement documents.

On May 11, 2022, Request for Proposals (RFP) 22-1002700 was released seeking a contractor to design and install the hydrogen storage and transfer system to be used for the fueling of a single ZEMU rail vehicle operated for the purposes of both testing & commissioning, and revenue transit service.

*Entity: San Bernardino County Transportation Authority*

Board of Directors Agenda Item

February 1, 2023

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The RFP notification for this project was received by 1,325 consultants registered on PlanetBids and was downloaded by 71 firms. There was a total of 12 contractors that attended the pre-proposal conference. Two job walks were conducted to include a total of eight contractors that attended the first job walk and two firms attended the second; however, the two firms also attended the first job walk. Additionally, two question and answer periods were held via the vendor portal. Furthermore, the proposal due date was extended twice.

On July 21, 2022, SBCTA received one (1) proposal from Linde Engineering North America, LLC, a single bid memo was submitted to the Executive Director requesting approval to continue the procurement process with the one (1) proposal. Due to only one (1) proposal being received there was no Evaluation Committee; however, the procurement professional reviewed Linde's proposal for responsiveness, and the Project Manager evaluated the proposal to ensure that the technical proposal met SBCTA requirements.

The scope of this contract includes the design and installation of a hydrogen fueling system that is capable of supplying fuel cell grade hydrogen to operate the ZEMU vehicle and which is scalable to fuel additional ZEMU vehicles in the future. The scope also includes maintenance of the installed system and hydrogen fuel delivery, including the lease of the liquid hydrogen tube trailer. The amount of delivered hydrogen will vary depending on actual consumption, estimated between 60,000 to 72,000 kilograms. The maintenance of the system will be conducted at 500 and 1,000 hours of operation of the fueling system.

The firm clearly demonstrated a thorough understanding of the scope of work and proposed an overall solid team. Consequently, staff recommends Linde Engineering North America, LLC, be awarded the contract in the amount not-to-exceed \$6,300,000 for the design, construction, and installation of the hydrogen fueling system and a ten percent (10%) contingency in the amount not-to-exceed, \$630,000, to cover unforeseen cost increases during construction. Staff recommends an allocation of \$1,614,000 in Valley State Transit Assistance-Population Share funds to fully fund this contract; however, it should be noted that SBCTA has applied for additional Transit and Intercity Rail Capital Program funds to cover this increase, the result of which is not yet known.

Additionally, staff seeks approval for the maintenance and fuel delivery portion of the contract. The maintenance and fuel delivery period includes initial term of three years and two (2) one-year option terms. The cost for the maintenance and fuel delivery for the three years is estimated at \$2.106 million and \$1.554 million for the option years, roughly \$732,000 per year. This value may increase or decrease depending on the volume of hydrogen delivered/consumed. The overall operations and maintenance (O&M) cost for the ZEMU is being evaluated and staff is identifying funding source for the O&M cost, but the O&M cost for this contract is already budgeted with the recommended allocation of \$3,660,100 in Valley Local Transportation Funds.

This item is being brought directly to the SBCTA Board of Directors without prior Committee approval to ensure the project is not delayed.

***Financial Impact:***

This item is consistent with the Fiscal Year 2022/2023 Budget.

***Reviewed By:***

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft contract.

San Bernardino County Transportation Authority

Board of Directors Agenda Item  
February 1, 2023  
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**Responsible Staff:**  
Joy Buenaflor, Project Manager

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Approved  
Board of Directors  
Date: February 1, 2023  
Witnessed By:

**Contract Summary Sheet**

**General Contract Information**

Contract No: 22-1002700 Amendment No.: \_\_\_\_\_  
 Contract Class: Payable Department: Transit  
 Vendor No.: TBD Vendor Name: Linde Inc.  
 Description: Arrow Maintenance Facility Hydrogen Fuel System Upgrade  
 List Any Related Contract Nos.: \_\_\_\_\_

Dollar Amount					
Original Contract	\$	8,406,475.00	Original Contingency	\$	630,000.00
Prior Amendments	\$	-	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
<b>Total/Revised Contract Value</b>	<b>\$</b>	<b>8,406,475.00</b>	<b>Total Contingency Value</b>	<b>\$</b>	<b>630,000.00</b>
<b>Total Dollar Authority (Contract Value and Contingency)</b>				<b>\$</b>	<b>9,036,475.00</b>

**Contract Authorization**

Board of Directors Date: 02/01/2023 Board Item # 8765

**Contract Management (Internal Purposes Only)**

Capital Project Contracts Sole Source? No No Budget Adjustment  
State/Local Construction N/A

**Accounts Payable**

Estimated Start Date: 02/01/2023 Expiration Date: 08/01/2027 Revised Expiration Date: \_\_\_\_\_  
 NHS: N/A QMP/QAP: N/A Prevailing Wage: N/A

GL	Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	Total Contract Funding:		Total Contingency:	
									\$		\$	
									\$ 8,406,475.00		\$ 630,000.00	
								STA Rail	2,149,000.00		-	
								TIRCP - Infrastructure	654,003.27		-	
								MSRC HIPP	1,662,000.00		-	
								SGR	1,749,023.87		630,000.00	
								TIRCP - Infrastructure	85,972.86		-	
								LTF Rail	2,106,475.00		-	
									-		-	
									-		-	
									-		-	
									-		-	

Joy Buenaflor Victor Lopez  
 Project Manager (Print Name) Task Manager (Print Name)

Additional Notes: Expires 4.5 years after the date of execution (1.5 years for capital and 3 years for maintenance).

Attachment: CSS\_22-1002700\_AMF\_HFS [Revision 3] (8765 : Award Contract No. 22-1002700 for AMF Hydrogen Fuel Upgrade Project)

CONTRACT (22-1002700)

BY AND BETWEEN

San Bernardino County Transportation Authority

AND

*Linde Engineering North  
America, LLC*

FOR

Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System

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EXHIBIT A: SPECIAL PROVISIONS

EXHIBIT B: GENERAL PROVISIONS

EXHIBIT C: TECHNICAL SPECIFICATIONS

This contract (“Contract”) is effective on the Effective Date as defined herein, by and between San Bernardino County Transportation Authority (“SBCTA”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Linde Engineering North America, LLC, (“CONTRACTOR”) whose address is 1585 Sawdust Road, Suite 300, The Woodlands, TX, 77380. SBCTA and CONTRACTOR are each a “Party” and collectively the “Parties” herein.

#### RECITALS:

**WHEREAS**, SBCTA has determined that it requires a hydrogen fueling system that will fuel a zero-emission multiple unit rail vehicle operated for the purposes of testing and commissioning and revenue transit service; and

**WHEREAS**, the Work to be performed by CONTRACTOR pursuant to the Contract (the “Work”) cannot be performed by the employees of SBCTA; and

**WHEREAS**, CONTRACTOR has certified that they have the requisite personnel, experience, materials, and equipment and is fully capable and qualified to perform all Work described herein identified herein; and

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

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

#### **ARTICLE 1. INTRODUCTION**

- 1.1. The work to be performed under this Contract is described in Attachment A to Exhibit A, entitled “Scope of Work”, and Attachment B to Exhibit A, entitled Payment Schedule. If there is any conflict between the Payment Schedule and the Contract Articles, the Contract Articles take precedence.
- 1.2. CONTRACTOR agrees to indemnify and hold harmless SBCTA, its officers, agents and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of the CONTRACTOR. CONTRACTOR will reimburse SBCTA for any expenditure, including reasonable attorney fees, incurred by SBCTA in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of the CONTRACTOR.
- 1.3. CONTRACTOR and the agents and employees of CONTRACTOR, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of SBCTA.
- 1.4. Without the written consent of SBCTA, this Contract is not assignable by CONTRACTOR, either in whole or in part.
- 1.5. No alteration or variations of the terms of this Contract shall be valid unless made in writing and signed by the Parties hereto; and no oral understanding or agreement

not incorporated herein shall be binding on any of the Parties hereto.

- 1.6. The consideration to be paid to CONTRACTOR as provided herein shall be in compensation for all of CONTRACTOR's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
- 1.7. The Project Manager for this Contract is Joy M. Buenaflor, or such other designee as shall be designated in written notice to CONTRACTOR from time to time by the Rail and Transit Department Deputy Director of SBCTA or her designee. The Project Manager shall have authority to act on behalf of SBCTA in administering this Contract, including giving notices (including without limitation, notices of default and/or termination), technical directions and approvals, demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

## **ARTICLE 2. CONTRACT DOCUMENTS**

21. The complete Contract includes all of the following Contract Documents: (i) this Contract and the Exhibits; (ii) the Request for Proposals ("RFP") dated May 11, 2022; (iii) the CONTRACTOR'S Proposal dated July 21, 2022; (iv) the Cost Proposal and Equipment Rental Rates in effect on the date the Work is accomplished; (vi) Addenda Nos. 1-6; and (vii) Performance and Payment Bonds
22. This Contract, including all of the Contract Documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the agreement between SBCTA and CONTRACTOR and it supersedes all prior representations, understandings and communications. The invalidity in whole or in part of any term or condition of this Contract shall not affect the validity of other terms or conditions.
23. SBCTA's failure to insist in any one or more instances upon the performance of any terms or conditions of this Contract shall not be construed as a waiver or relinquishment of SBCTA's right to such performance by CONTRACTOR or to future performance of such terms or conditions and CONTRACTOR's obligation in respect thereto shall continue in full force and effect. CONTRACTOR shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the Work, and the general and local conditions, which can affect the Work or the cost thereof. Any failure by CONTRACTOR to do so will not relieve it from responsibility for successfully performing the Work without additional expense to SBCTA.
24. SBCTA assumes no responsibility for any understanding or representations concerning conditions made by any of its officers, employees or agents prior to the execution of this Contract, unless such understanding or representations by SBCTA are expressly stated in this Contract.
25. Time shall be of the essence hereunder; but CONTRACTOR shall perform Work hereunder only to the minimum extent consistent with requirements herein.

26. Changes to any portion of this Contract shall not be binding upon SBCTA except when specifically confirmed in writing by an authorized representative of SBCTA and issued in accordance with the provisions of this Contract.

### **ARTICLE 3. BONDS**

31. CONTRACTOR will furnish a Payment bond, in the form provided by SBCTA in the RFP, in an amount equal to one hundred percent (100%) of the Contract Price, as well as a bond securing faithful performance of all of CONTRACTOR's obligations under the Contract, in an amount equal to one hundred percent (100%) of the Contract Price; said bonds to be secured from a surety company and in a form satisfactory to SBCTA within ten (10) working days of the date of SBCTA's delivery to CONTRACTOR the Notice of Award this Contract and prior to the commencement of Work under this Contract. Notwithstanding any other provision set forth in this Contract, performance by a Surety or Guarantor of any obligation of CONTRACTOR shall not relieve CONTRACTOR of any of its obligations thereunder.
32. If the Contract Price is increased in connection with a change order, SBCTA may, in its sole discretion, require a corresponding increase in the amount of the performance and payment bonds or new bonds covering the change order.

### **ARTICLE 4. CONTRACTOR'S REPORTS OR MEETINGS**

- 4.1. CONTRACTOR shall submit progress reports at least once a month. The report should be sufficiently detailed for SBCTA to determine if CONTRACTOR 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.
- 4.2. CONTRACTOR's Project Manager shall meet with SBCTA, as needed, to discuss progress on the Contract.

### **ARTICLE 5. PROMPT PAYMENT/RETENTION**

CONTRACTOR is required to pay all subcontractors for satisfactory performance of their Work no later than seven (7) days from the date CONTRACTOR receives payment from SBCTA. SBCTA shall hold retainage from CONTRACTOR of five percent (5%) from each Milestone payment invoice and shall make prompt acceptances, as determined by SBCTA, of the Work and pay retainage to the CONTRACTOR based on these acceptances. The CONTRACTOR or subcontractor(s) shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for Work satisfactorily completed and accepted including incremental acceptances of portions of the contract Work. Any delay or postponement of payment may take place only for good cause and with SBCTA's prior written approval. Any violation of these provisions shall subject CONTRACTOR 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 CONTRACTOR or subcontractor in the event of: a dispute involving late payment or nonpayment by the CONTRACTOR; deficient subcontractor performance; and/or non-

compliance by a subcontractor. This Article applies to DBE and non-DBE sub-contractors.

## **ARTICLE 6. COMPENSATION**

61. SBCTA agrees to pay, and CONTRACTOR agrees to accept as full payment for the Work outlined in the Contract documents, an amount not to exceed the sum of eight million, four hundred six thousand, four hundred seventy five dollars (\$8,406,475.00), the breakdown of which, six million, three hundred thousand dollars (\$6,300,000.00) is for design and construction/installation, and two million, one hundred six thousand, four hundred seventy five dollars (\$2,106,475.00) for the initial three (3)-years maintenance and fuel delivery (the “Contract Price”), including without limitation any compensation due for unit price work which shall be calculated as the actual number of such units performed multiplied by the unit price, subject to additions and deductions, in accordance with said documents, including, for certainty, increases to Contract Price if SBCTA elects to exercise the optional term extensions provided for during the Maintenance and Fuel Delivery Period.
62. Progress payments shall be made in accordance with the Milestone Payment Schedule, Attachment B to the Special Provision. Milestone payment amounts shall not exceed ninety-five percent (95%) of either the pro-rata amount of Work completed as of the Milestone payment date, or of the full payment amount at time of completion. Payment requests shall not be deemed properly completed unless certified payrolls and any other mandatory submittals have been properly completed and submitted for each week worked during the time period covered by said payment request. Final payment to be made after acceptance of the Project.
63. Pursuant to California Public Contract Code section 22300, CONTRACTOR has the option to deposit securities with an Escrow Agent acceptable to SBCTA as a substitute for retention earnings required to be withheld. Alternatively, CONTRACTOR may submit a written request to SBCTA, who shall make payments of the retention amount directly to the Escrow Agent. The market value of the securities deposited at the time of substitution shall be at least equal to the cash amount required to be withheld as retention under this Contract. CONTRACTOR shall be responsible for paying all fees incurred by the Escrow Agent in administering the Escrow Account. Securities eligible for investment under this section shall include those listed in section 16430 of the Government Code.
- In addition, on any partial payment made after 95 percent of the Work has been completed, SBCTA may reduce the amount withheld from payment pursuant to the requirements of this Article to such lesser amount as SBCTA determines is adequate security for the fulfillment of the balance of the Work and other requirements of the contract, but in no event will that amount be reduced to less than 125 percent of the estimated value of the Work yet to be completed as determined by the Engineer. A reduction in retention will only be made upon the written request of the CONTRACTOR and shall be approved in writing by the

surety on the performance bond and by the surety on the payment bond. The approval of the surety shall be submitted to SBCTA and the signature of the person executing the approval for the surety shall be properly acknowledged and the power of attorney authorizing the person to give that consent must either accompany the document or be on file with SBCTA.

64. Failure by SBCTA to pay amount in dispute shall not alleviate, diminish or modify in any respect the CONTRACTOR's obligation to achieve final acceptance of and all work in accordance with the contract documents, and CONTRACTOR shall not cease or slow down its performance under this Contract on account of any such amount in dispute. CONTRACTOR shall proceed as directed by SBCTA pending resolution of dispute. Upon resolution of dispute, each party shall promptly pay any amount owing.

#### **ARTICLE 7. TAXES, DUTIES AND FEES**

Except to the extent expressly provided elsewhere in this Contract, CONTRACTOR shall pay when due, and the compensation set forth in this Contract 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 CONTRACTOR; and d) all other governmental fees and taxes or charges of whatever nature applicable to CONTRACTOR to enable it to conduct business.

#### **ARTICLE 8. AVAILABILITY OF FUNDS**

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

#### **ARTICLE 9. PERMITS AND LICENSES**

CONTRACTOR agrees that he/she is currently the holder of a valid license as a CONTRACTOR in the State of California and that the license is the correct class of license for the Work described in the project plans and specifications. CONTRACTOR further agrees to maintain license through the entire duration of Contract without additional compensation from SBCTA. CONTRACTOR also agrees to keep current all permits required throughout the duration of the Project.

#### **ARTICLE 10. DOCUMENTATION AND RIGHT TO AUDIT**

CONTRACTOR shall provide SBCTA and its authorized representatives or agents access to CONTRACTOR's records which are directly related to this Contract for the purpose of inspection, auditing or copying. CONTRACTOR shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SBCTA, except in the event of litigation or settlement of claims arising out of this Contract, in which case CONTRACTOR agrees to maintain records through the conclusion of all such litigation, appeals

or claims related to this Contract. CONTRACTOR further agrees to maintain separate records for costs of Work performed by Change Order. CONTRACTOR shall allow SBCTA, its representatives and agents to reproduce any materials as reasonably necessary.

#### **ARTICLE 11. SCHEDULE**

- 11.1. CONTRACTOR agrees to complete the Work, including commissioning and training, within 300 calendar days from written Notice To Proceed (NTP) and as stipulated in the Special Provisions. CONTRACTOR shall incur no costs (excluding insurance and bonds) and shall not perform or furnish any Work, services or equipment under this Contract, unless and until SBCTA has issued a written NTP.
- 11.2. Conditions precedent to SBCTA issuing said NTP are CONTRACTOR furnishing the bonds as set forth in ARTICLE 3 and certificates of insurance as set forth in ARTICLE 22. CONTRACTOR shall furnish said documents within ten (10) calendar days (excluding Saturdays, Sundays and legal holidays) after notification of contract award from SBCTA.
- 11.3. Within ten (10) calendar days after receipt of written NTP, CONTRACTOR shall provide any construction schedules as required by SBCTA.
- 11.4. If at any time the critical path schedule reflects negative 30 or a greater negative number of days of total float, then CONTRACTOR, within five (5) days after CONTRACTOR first becomes aware of such schedule delay, shall prepare and submit to SBCTA for review and approval a Recovery Schedule demonstrating CONTRACTOR's proposed plan to regain lost schedule progress and to achieve the original Milestones in accordance with this Contract. SBCTA shall notify CONTRACTOR within ten (10) days after receipt of each such Recovery Schedule whether the schedule is deemed accepted or rejected. Within three (3) days after SBCTA's rejection of the schedule, CONTRACTOR will resubmit a revised Recovery Schedule incorporating SBCTA's comments. When SBCTA accepts CONTRACTOR's Recovery Schedule, CONTRACTOR shall, within five (5) days after SBCTA's acceptance, incorporate and fully include such schedule into the Project Schedule and deliver it to SBCTA.
- 11.5. All costs incurred by CONTRACTOR in preparing, implementing and achieving the Recovery Schedule shall be borne by CONTRACTOR and shall not result in a change to the Contract Price.
- 11.6. In the event that CONTRACTOR fails to provide an acceptable Recovery Schedule within thirty (30) days of CONTRACTOR's receipt of a notice to do so, CONTRACTOR shall have no right to receive progress payments until CONTRACTOR has prepared and SBCTA has approved such Recovery Schedule.



**ARTICLE 12. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

121. CONTRACTOR's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONTRACTOR has, unless exempt, complied with the nondiscrimination program requirements of Government Code Section 12990 and 2 California Code of Regulations Section 8103. CONTRACTOR agrees to comply with the Equal Employment Opportunity (EEO) provisions of this Article.
122. CONTRACTOR will work with SBCTA in carrying out EEO obligations and in SBCTA's review of CONTRACTOR'S activities under the Contract.
123. CONTRACTOR will accept as its operating policy the following statement:  
 "It is the policy of this company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."
124. EEO Officer: CONTRACTOR will designate and submit to SBCTA in writing the EEO Officer who will have the responsibility for, and must be capable of, effectively administering and promoting an active CONTRACTOR program of EEO, and who must be assigned adequate authority and responsibility to do so.
125. Dissemination of Policy: All employees of the CONTRACTOR who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the CONTRACTOR's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
- 12.5.1 Periodic meetings of supervisory and personnel office employees will be conducted before the start of Work and then not less often than once every six months, at which time the CONTRACTOR's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- 12.5.2 All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the CONTRACTOR's EEO obligations, within thirty days following their reporting for duty with the CONTRACTOR.
- 12.5.3 All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the CONTRACTOR's procedures for

locating and hiring minority group employees.

- 12.5.4 Notices and posters setting forth the CONTRACTOR's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- 12.5.5 CONTRACTOR's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
- 12.6. Recruitment: When advertising for employees, CONTRACTOR will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- 12.6.1 CONTRACTOR will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, CONTRACTOR will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to CONTRACTOR for employment consideration.
- 12.6.2 In the event CONTRACTOR has a valid bargaining agreement providing for exclusive hiring hall referrals, it is expected to observe the provisions of that agreement to the extent that the system permits CONTRACTOR's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the CONTRACTOR to do the same, such implementation violates Executive Order 11246, as amended.)
- 12.6.3 CONTRACTOR will encourage its present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.
127. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- 12.7.1 CONTRACTOR will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- 12.7.2 CONTRACTOR will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

- 12.7.3 CONTRACTOR will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the CONTRACTOR will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- 12.7.4 CONTRACTOR will promptly investigate all complaints of alleged discrimination made to the CONTRACTOR in connection with its obligations under this Contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the CONTRACTOR will inform every complainant of all avenues of appeal.
128. Training and Promotion: CONTRACTOR will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- 12.8.1 Consistent with CONTRACTOR's work force requirements and as permissible under Federal and State regulations, the CONTRACTOR shall make full use of training programs, i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- 12.8.2 CONTRACTOR will advise employees and applicants for employment of available training programs and entrance requirements for each.
- 12.8.3 CONTRACTOR will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.
129. Unions: If CONTRACTOR relies in whole or in part upon unions as a source of employees, CONTRACTOR will use its best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by CONTRACTOR either directly or through a CONTRACTOR's association acting as agent will include the procedures set forth below:
- 12.9.1 CONTRACTOR will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority

group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

- 12.9.2 CONTRACTOR will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
- 12.9.3 CONTRACTOR is to obtain information as to the referral practices and policies of the labor union, except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to CONTRACTOR, CONTRACTOR shall so certify to SBCTA and shall set forth what efforts have been made to obtain such information.
- 12.9.4 In the event the union is unable to provide CONTRACTOR with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, CONTRACTOR will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which CONTRACTOR has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents CONTRACTOR from meeting these obligations, such CONTRACTOR shall immediately notify SBCTA.
- 12.10. CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall notify all potential subcontractors and suppliers of the EEO obligations under this Contract. Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, shall have equal opportunity to compete for and perform subcontracts the CONTRACTOR enters into pursuant to this contract. CONTRACTOR will use its best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. CONTRACTOR shall obtain lists of DBE construction firms from SBCTA. CONTRACTOR will use its best efforts to ensure subcontractor compliance with their EEO obligations.
- 12.11. Records and Reports: CONTRACTOR shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three (3) years following completion of the contract Work and shall be available at reasonable times and places for inspection by authorized representatives of SBCTA. The records kept by the CONTRACTOR shall document the following: The number of minority and non-minority group members and women employed

in each work classification on the project; the progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and the progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

- 12.12. CONTRACTOR will submit an annual report to SBCTA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract Work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, CONTRACTOR will be required to collect and report training data.

### **ARTICLE 13. CONFLICT OF INTEREST**

CONTRACTOR agrees that it presently has no interest, financial or otherwise, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or to be contrary to the interests of SBCTA as to the Project. CONTRACTOR further agrees that in the performance of this Contract, no person having any such interest shall be employed. CONTRACTOR is obligated to fully disclose to SBCTA, in writing, conflict of interest issues as soon as they are known to CONTRACTOR.

### **ARTICLE 14. REPRESENTATIONS**

All Work supplied by CONTRACTOR under this Contract shall be supplied by personnel who are qualified, careful, skilled, experienced and competent in their respective trades or professions. CONTRACTOR agrees that the Work performed shall conform to all drawings, plans and specifications herein.

### **ARTICLE 15. CONFIDENTIALITY**

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

152. CONTRACTOR shall not use SBCTA's name or photographs of the Project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SBCTA.
153. All press releases relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by SBCTA unless otherwise agreed to in writing by the Parties.
154. CONTRACTOR, its employees, agents and subconsultants shall ensure that all Sensitive Security Information (“SSI”) is secured and only accessible to individuals with a true business need for access. CONTRACTOR shall destroy all SSI when it is no longer needed. The destruction method shall render the SSI unreadable. CONTRACTOR agrees that they will not release SSI to anyone but employees, agents and subcontractors, with a business need to access it, without the express written consent of SBCTA’s General Counsel.

## **ARTICLE 16. TERMINATION**

### **16.1. Termination for Convenience**

- 16.1.1 SBCTA shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONTRACTOR specifying the date of termination. On the date of such termination stated in said notice, CONTRACTOR shall promptly discontinue performance of the 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.
- 16.1.2 CONTRACTOR shall deliver to SBCTA all deliverables prepared by CONTRACTOR or its subcontractors or furnished to CONTRACTOR by SBCTA. Upon such delivery, CONTRACTOR may then invoice SBCTA for payment in accordance with the terms herein.
- 16.1.3 If CONTRACTOR has fully and completely performed all obligations under this Contract up to the date of termination, CONTRACTOR shall be entitled to receive from SBCTA as complete and full settlement for such termination a pro rata share of the contract cost and a pro rata share of any fixed fee, for such work as defined in Exhibit A, Attachment A, Scope of Work satisfactorily executed to the date of termination.

16.14 CONTRACTOR shall be entitled to receive the actual cost incurred by CONTRACTOR to return CONTRACTOR's field 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.

16.2. Termination for Cause

16.21 In the event CONTRACTOR shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONTRACTOR or a receiver shall be appointed on account of its solvency, or if CONTRACTOR 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) business days following written notice, SBCTA may, without prejudice to any other rights or remedies SBCTA may have: (a) hold in abeyance further payments to CONTRACTOR; (b) stop any Work of CONTRACTOR or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONTRACTOR specifying the date of termination. In the event of such termination by SBCTA, SBCTA may take possession of the deliverables and finish Services by whatever method SBCTA may deem expedient. A waiver by SBCTA of one default of CONTRACTOR shall not be considered to be a waiver of any subsequent default of CONTRACTOR, nor be deemed to waive, amend, or modify any term of this Contract.

16.22 CONTRACTOR shall deliver to SBCTA all finished and unfinished products prepared under this Contract by CONTRACTOR or its subcontractors or furnished to CONTRACTOR by SBCTA within ten (10) working days of said notice.

16.3. 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 CONTRACTOR be entitled to any prospective profits or any damages because of such termination.

**ARTICLE 17. STOP WORK ORDER**

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

## ARTICLE 18. CHANGE IN TERMS

- 18.1. This Contract may be amended or modified only by mutual written agreement of the Parties.
- 18.2. CONTRACTOR shall only commence Work covered by an amendment after the amendment is executed and the NTP has been provided by SBCTA's Procurement Manager.
- 18.3. There shall be no change in CONTRACTOR's Project Manager or members of the project team, as listed in the approved cost proposal, which is part of this Contract without prior written approval of SBCTA 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.

## ARTICLE 19. 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 CONTRACTOR for any claim asserted by CONTRACTOR after final payment has been made under this Contract.

Per Public Contract Code (PCC) §9204:

*(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.*

*(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.*

*(c) For purposes of this section:*

*(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:*

*(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.*

*(B) Payment by the public entity of money or damages arising from Work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.*

*(C) Payment of an amount that is disputed by the public entity.*

*(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions*



*Code who has entered into a direct contract with a public entity for a public works project.*

(3)

(A) *“Public entity” means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.*

(B) *“Public entity” shall not include the following:*

- (i) *The Department of Water Resources as to any project under the jurisdiction of that department.*
- (ii) *The Department of Transportation as to any project under the jurisdiction of that department.*
- (iii) *The Department of Parks and Recreation as to any project under the jurisdiction of that department.*
- (iv) *The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.*
- (v) *The Military Department as to any project under the jurisdiction of that department.*
- (vi) *The Department of General Services as to all other projects.*
- (vii) *The High-Speed Rail Authority.*

(4) *“Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.*

(5) *“Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.*

(d)

(1)

(A) *Upon receipt of a claim pursuant to this section, the public entity to*

*which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.*

*(B) The claimant shall furnish reasonable documentation to support the claim.*

*(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.*

*(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.*

(2)

*(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.*

*(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs*

*charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.*

*(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.*

*(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.*

*(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.*

*(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.*

*(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.*

*(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for Work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.*

(e) *The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.*

(f) *A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.*

(g) *This section applies to contracts entered into on or after January 1, 2017.*

(h) *Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.*

(i) *This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.*

## **ARTICLE 20. DISPUTES**

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

20.2. During resolution of the dispute, CONTRACTOR shall proceed with performance of the Contract with due diligence.

## **ARTICLE 21. AUDIT REVIEW PROCEDURES**

21.1. 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.

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

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

## ARTICLE 22. INSURANCE

### 22.1. General Insurance Obligations

#### 22.1.1 Policies and Coverage

- a. The CONTRACTOR will purchase and continuously maintain in full force and effect the insurance coverages specified in this ARTICLE 22. Except as otherwise set forth in this ARTICLE 22, coverage will be maintained from and after the Contract Date through the expiration of the statute of limitations periods, or such time as may be specifically by SBCTA in this agreement.
- b. All limits of liability set forth in this ARTICLE 22 in U.S. dollars. If policies are written by insurance carriers authorized and admitted to do business in the state of California, then the insurance carriers must have a current A.M. Best rating of A-VIII or better and if policies are written by insurance carriers that are non- admitted but authorized to conduct business in the state of California, then they must meet the current A.M. Best rating of A-X or better, unless otherwise approved in writing by SBCTA's Risk Manager, which approval will not be unreasonably withheld

#### 22.1.2 No Representations or Warranties

SBCTA makes no representation or warranty that the coverage, limits of liability, or other terms specified for the insurance policies required under this ARTICLE 22 are adequate to protect the CONTRACTOR against its undertakings under this Contract or its liability to any third party, nor will they preclude the SBCTA from taking any actions as are available to it under this Contract or otherwise at law.

#### 22.1.3 Non-Limitation of Insurance Requirements

- a. The insurance coverage provided and limits required under this Contract are minimum requirements and are not intended to limit the CONTRACTOR's indemnification obligations under the Contract, nor do the indemnity obligations limit the rights of the Indemnified Parties to the coverage afforded by their insured status.
- b. To the extent required by Law in connection with Work to be performed, the CONTRACTOR shall obtain and maintain, or cause to be obtained and maintained, in addition to the insurance coverage expressly required under this Contract, such other insurance policies for such amounts, for such periods of time and subject to such terms, as required by Law and any other agreements with which the CONTRACTOR is required to comply, including any Third-Party Agreements.

- c. With the exception of any railroad protective liability insurance (RRPL) liability insurance coverage will not be limited to the specific location designated as the Site, except that if the CONTRACTOR arranges project-specific general liability, excess liability, or workers' compensation coverage, limitations of coverage to the Site will be permitted subject to SBCTA approval and use of the broadest available site-specific endorsements. No liability policy will contain any provision or definition that would serve to eliminate so-called "third-party-over action" claims, including any exclusion for bodily injury to an employee of the insured or of any Subcontractor.
- d. The CONTRACTOR acknowledges and will at all times comply with the provisions of Labor Code Section 3700 which requires every employer in the State to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of that code.

#### 22.1.4 No Recourse

Except to the extent expressly provided otherwise in the Contract, CONTRACTOR shall have no recourse against the SBCTA for payment of premiums, deductibles, or other amounts with respect to the insurance the CONTRACTOR is required to provide under this Contract.

#### 22.1.5 Project-Specific Insurance

All insurance coverage required to be provided by CONTRACTOR, with the exception of automobile liability and worker's compensation, shall apply specifically and exclusively for the Project and extend to all aspects of the Work, with coverage limits dedicated solely to the Project. Use of other insurance programs is acceptable, provided that coverage under such programs provides dedicated Project-specific limits and identified premiums and meets all requirements described in this ARTICLE 22.

#### 22.1.6 Required Endorsements or Policy Provisions

All insurance policies that the CONTRACTOR is required to provide under this Contract will contain provisions or be endorsed to comply with the following requirements:

- All policies, except those for Workers' Compensation and Professional Liability insurance, shall be endorsed by ISO Form CG20 10 11 85, or if not available, then ISO Form CG 20 10 10 01,
- a. CG 20 37 10 01 and CG 20 38, to name San Bernardino County Transportation Authority, Southern California Regional Rail Authority, BNSF Railway Company, and their officers, directors, members, employees, and agents 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 CONTRACTOR 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.

- b. For claims and losses covered by the insurance required under this Contract, said insurance coverage shall be endorsed as the primary insurance with respect to the insureds, additional insureds, and their respective members, directors, officers, employees, agents, and consultants. Any insurance or self-insurance beyond that required in this Contract that is maintained by an Indemnified Party, their directors, officers, employees, agents, or consultants will be excess of such insurance and will not contribute with it.
- c. With the exception of professional liability, the insurance will apply separately to each insured and additional insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. Each insurance policy required under this Contract will be endorsed to state that coverage will not be canceled or non-renewed except after providing the SBCTA thirty (30) days' prior written notice (or ten (10) days' prior written notice in the case of cancellation for non-payment of premium), so long as such endorsement will not include any limitation of liability of the insurer for failure to provide such notice.
- e. All endorsements that add insureds to required "policies will provide additional insureds with coverage for 'completed operations'" or a separate endorsement providing such coverage must be added to the policy, where appropriate based on policy type.
- f. Each policy will provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of professional liability and pollution liability), and no policy issued on an occurrence basis will have any sunset clause requiring reporting within a specified period of time, except as specified for the pollution liability policies.
- g. All insurance policies except professional liability policies that are required to insure Persons (whether as named or additional insureds) in addition to the CONTRACTOR will be written or endorsed so that no acts or omissions of an insured will vitiate coverage of the other insureds, including any additional insureds.
- h. Without limiting the foregoing, any failure on the part of a named

insured to comply with reporting provisions or other conditions of the insurance policies, any breach of warranty, any action or inaction of a named insured or others, any misrepresentation, act or omission of the named insured, or any change in ownership of all or any portion of the Project will not affect coverage provided to the other named insureds or additional insureds (and their respective members, directors, officers, employees, agents and consultants).

- i. Policies shall not contain any provision or exclusion (including any so-called “insured versus insured” exclusion or “cross-liability” exclusion) the effect of which would be to prevent, bar, or otherwise preclude any additional insured under the policy from making a claim which would otherwise be covered by such policy.
- j. Regardless of the allowance of exclusions or deductibles by SBCTA, CONTRACTOR shall be responsible for any deductible or self-insured retention (SIR) amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONTRACTOR will pay, and shall require its sub-contractors to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. Any deductibles or self-insured retentions must be declared to and approved in writing by SBCTA’s Risk Manager. Without SBCTA's Risk Manager's expressed written approval, no deductibles or SIR will be allowed. At the option of SBCTA, if the deductible or SIR is approved and it is greater than \$10,000 or one (1) percent of the amount of coverage required under this Contract, whichever is less, the CONTRACTOR shall guarantee that either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to SBCTA, its directors, officials, officers, employees and agents; or, (2) the CONTRACTOR shall procure a bond guaranteeing the amount of the deductible or self-insured retention. SBCTA shall have the right to review any and all financial records that SBCTA, in its sole discretion, deems necessary to approve any deductible or SIR. SBCTA will have the right, but not the obligation, to pay any deductible or SIR due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due to CONTRACTOR. The CONTRACTOR’s policies will neither obligate nor prohibit SBCTA, or any other Additional Insured, from paying any portion of any CONTRACTOR’s deductible or SIR.

#### 22.1.7 Waivers

- a. To the fullest extent permitted by law, CONTRACTOR hereby waives all rights of recovery under subrogation (Waiver of Subrogation) against the Additional Insureds named herein, and any



other contractor, subcontractor or sub-subcontractor 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, CONTRACTOR shall require similar written express waivers and insurance clauses from each of its subcontractors of every tier. CONTRACTOR shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds (ISO Form CG 24 04 05 09). Such insurance and coverages provided shall not prohibit CONTRACTOR from waiving the right of subrogation prior to a loss or claim.

- b. The CONTRACTOR agrees to pay for the repair or restoration of the Project caused by “Acts of God” (as defined pursuant to California Public Contract Code Section 7105) and waives the limitation on CONTRACTOR’s responsibility of such costs set forth in California Public Contract Code 7105, and hereby agrees to (i) obtain insurance to indemnify the SBCTA for any and all costs of repairing and restoring the Project, up to full contract value, which coverage shall insure against “Acts of God” (as defined pursuant to California Public Contract Code Section 7105); and (ii) furnish evidence of satisfactory insurance coverage to the SBCTA as provided for in this Contract. The CONTRACTOR may satisfy the coverages required under this section through the builder’s risk coverage required to be provided under this ARTICLE 22.

#### 22.1.8 Verification of Coverage

##### a CONTRACTOR Policies

Prior to its commencement of the issuance of any Notice to Proceed (NTP) by SBCTA, the CONTRACTOR will:

- i. Provide evidence of insurance in a form acceptable to SBCTA’s Risk Manager, including declarations pages of each policy, certificates of insurance and the required additional insured endorsements, and these 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, CONTRACTOR shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SBCTA.

- ii. cause each Subcontractor to provide certificates of insurance and amendatory endorsements affecting coverage required by this ARTICLE 22 and maintain such evidence until the fifth anniversary of the expiration of the conclusion of this contract, at which time the CONTRACTOR will forward to the SBCTA all collected evidence of insurance relating to the Project, or copies thereof; and
- iii. permit, and cause each Subcontractor to permit, SBCTA to inspect any insurance policies that have not been delivered to SBCTA; except that this requirement will not apply to the corporate or practice professional liability insurance policies of design Subcontractors. SBCTA has no duty to pay or perform under this Contract until such evidence of insurance, in compliance with all requirements of this ARTICLE 22, has been provided.

b. Renewal Policies

22.1.9 The CONTRACTOR will promptly deliver to the SBCTA evidence of insurance with respect to each renewal policy as necessary to demonstrate the maintenance of the required insurance coverages for the terms specified in this Contract. Such evidence will be delivered to the SBCTA not less than fifteen (15) days prior to the expiration date of any policy, or such shorter period as approved in advance by the SBCTA. Review of Coverage

- a. SBCTA may at any time review the coverage, form, and amount of insurance required under this ARTICLE 22, and may require the CONTRACTOR to make changes in such insurance reasonably sufficient in coverage, form, and amount to provide adequate protection against the kind and extent of risk that exists at that time.
- b. SBCTA may change the insurance coverages and limits required under this ARTICLE 22 by notice to the CONTRACTOR, whereupon the CONTRACTOR will, within sixty (60) days of such notice date, procure the additional and/or modified insurance coverages. Upon such change any additional cost from such change will be paid by the SBCTA and any reduction in cost will reduce the Contract Price pursuant to a Change Order.

22.1.10 Notice of Prosecution of Claims

- a. SBCTA may submit the Indemnified Parties' claims and tenders of defense and indemnity under applicable insurance policies. Unless otherwise directed by the SBCTA by notice with respect to the Indemnified Parties' insurance claims, the CONTRACTOR will

report and process all potential claims by the Indemnified Parties or the CONTRACTOR against the insurance policies.

- b. The CONTRACTOR agrees to report timely to the insurer(s) under such policies any and all matters that may give rise to an insurance claim by the CONTRACTOR or the Indemnified Parties, and to promptly and diligently pursue such insurance claims in accordance with the claims procedures specified in such policies, whether for defense or indemnity or both.
- c. The CONTRACTOR will enforce all legal rights against the insurer under the applicable insurance policies and applicable Law in order to collect thereon, including pursuing necessary litigation and enforcement of judgments.
- d. The CONTRACTOR will immediately provide notice to SBCTA, and thereafter keep SBCTA fully informed, of any incident, claim, or other matter of which the CONTRACTOR becomes aware that involves or could conceivably involve an Indemnified Party as a defendant. The CONTRACTOR will cooperate with SBCTA and will require its liability insurers to agree in writing to work with SBCTA to assure compliance with all requirements of the California Government Claims Acts, Government Code Sections 910, 911, 912, 913, 945, and 946, regarding timely response to claims.
- e. SBCTA will promptly provide notice to the CONTRACTOR of SBCTA's incidents or potential claims against SBCTA or any Indemnified Party, of which SBCTA is actually aware, that may give rise to an Indemnified Party insurance claim or to a right of defense and indemnification. Delivery of any such notice will constitute a tender of such Indemnified Party's defense of the claim to the CONTRACTOR and the insurer under any applicable insurance policies.
- f. SBCTA will cooperate with the CONTRACTOR as necessary for the CONTRACTOR to fulfill its duties under this Contract, including providing the CONTRACTOR a copy of all written materials SBCTA receives asserting a claim against SBCTA that is subject to defense by an insurer under an insurance policy or by the CONTRACTOR.
- g. If an insurer providing any of the insurance policies required under this ARTICLE 22 becomes the subject of bankruptcy proceedings, becomes insolvent, or is the subject of an order or directive given by any Governmental Entity, including the State, limiting the insurer's business activities, the CONTRACTOR will promptly secure alternative coverage that complies with the insurance requirements in this ARTICLE 22, so as to avoid any lapse in insurance coverage.

#### 22.1.11 The CONTRACTOR's Failure to Comply

- a. If the CONTRACTOR fails to provide and maintain insurance as required in this Contract, then SBCTA may purchase such insurance or suspend the CONTRACTOR's right to proceed with the Work until proper evidence of insurance is provided, and any such purchase or suspension will not give rise to any CONTRACTOR right to make claims for increases to the Contract Price or extensions of the Contract deadlines.
- b. Any amounts paid by SBCTA (plus an administrative charge equal to ten percent (10%) of the cost) will, at SBCTA's sole option, be deducted from amounts payable to the CONTRACTOR or reimbursed by the CONTRACTOR upon demand.
- c. If on account of the CONTRACTOR's failure to comply with the provisions of this ARTICLE 22, SBCTA is adjudged to be responsible for all or any portion of a judgment, loss, or settlement (through admission or stipulation by the CONTRACTOR or court decision) that would have been covered by insurance but for non-compliance with this ARTICLE 22, then any loss or damage SBCTA sustains by reason thereof will be borne by the CONTRACTOR, and the CONTRACTOR will immediately pay the same to SBCTA, upon receipt of notice and evidence of such loss or damage.
- d. The CONTRACTOR acknowledges and agrees that any actual or alleged failure on the part of SBCTA to inform the CONTRACTOR of non-compliance with any requirement imposes no additional obligations on SBCTA nor does it waive any rights under this Contract.

#### 22.1.12 Subcontractor Insurance Requirements

- a. In circumstances where Subcontractor acts or omissions are not covered by the CONTRACTOR-provided insurance, including automobile liability, the CONTRACTOR will cause each Subcontractor to provide insurance that complies with the requirements for the CONTRACTOR-provided insurance in this ARTICLE 22.
- b. Except as otherwise specified in this ARTICLE 22, the CONTRACTOR has sole responsibility for determining the limits of coverage required to be obtained by Subcontractors, which determination will be made in accordance with reasonable and prudent business practices and appropriate for the work to be done.
- c. The CONTRACTOR will cause each such Subcontractor to include the Indemnified Parties as additional insureds under such

Subcontractor's general liability and umbrella liability insurance policies.

- d. If requested by SBCTA, the CONTRACTOR will promptly provide certificates of insurance evidencing coverage for each Subcontractor. SBCTA may directly contact Subcontractors of any tier in order to verify the coverages required to be provided under this section. The CONTRACTOR's determination of such insurance will not be interpreted as relieving the CONTRACTOR or its insurer of any liability otherwise imposed on the CONTRACTOR or its insurers under this Contract.

## 22.2. Insurance Required During the Design and Construction Period

CONTRACTOR shall obtain and keep in force, or cause to be obtained and kept in force, throughout the Design and Construction Period, the following insurance coverages:

### 22.2.1 Builder's Risk

- a. A builder's risk (course of construction) insurance policy, is required for any construction activities, covering all real and personal property related to the construction of the Project, including during testing and commissioning, whether on the Site, in transit, or at an off-site location, including all materials, supplies, machinery, fixtures and equipment intended to become a permanent part of the Project or for permanent use in the Project or incidental to the construction; foundations, including pilings, but excluding normal settling, shrinkage, or expansion; all temporary structures at the Sites that are to be used in or incidental to the fabrication, erection, testing, or completion of the Project to the extent the cost thereof is included in the Work, while on or about the Site awaiting or during construction. The policy may be a CONTRACTOR corporate policy or a stand-alone policy as long as the requirements of this ARTICLE 22 are met.
- b. The named insured shall be the CONTRACTOR and the additional insureds shall be all Subcontractors (excluding those solely responsible for design) of any tier, suppliers, SBCTA, and the Indemnified Parties. The status of the insureds under this requirement shall not be limited by the phrase "as their interests may appear" or similar language.
- c. The builder's risk policy shall:
  - i. be written on a replacement cost basis with no coinsurance clauses or penalties, insuring against "all risks" of direct physical loss or damage, including loss or damage by fire, collapse, lightning,

- windstorm, tornado, flood, earth movement, hail, explosion, riot, vandalism and malicious mischief, civil commotion, aircraft, vehicle impact, terrorism (both domestic and foreign acts of terrorism), smoke, and such other risks as are usual to a similarly situated project, with a minimum limit equal to the construction (including installation of equipment and tanks) activity value, plus 20%;
- ii. during any period of exposure to loss of property in transit, shall cover transit, including ocean marine (unless insured by the supplier or through a separate marine cargo policy), with sub-limits sufficient to insure the full replacement value of any key equipment item;
  - iii. cover physical damage arising because of faulty workmanship, nonconforming work, or materials;
  - iv. cover ensuing loss from design error not otherwise excluded (LEG 3);
  - v. cover water damage and flood, with a sublimit of no less than \$500,000;
  - vi. cover physical damage resulting from machinery accidents and operational testing but excluding normal and natural wear and tear, corrosion, erosion, inherent vice or latent defect in the machinery;
  - vii. cover demolition and debris removal coverage, with a sublimit of no less than twenty-five percent (25%) of the loss insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project;
  - viii. cover increased cost for repair, rebuilding or reconstruction of damaged property due to enforcement of any law or ordinance with a sublimit of no less than \$1,000,000, including professional fees with a sublimit of no less than \$100,000;

#### 22.2.2 Commercial General Liability.

- a. A commercial general liability policy written on an occurrence form that shall provide coverage at least as broad as the coverage provided by ISO form CG 00 01. The Indemnified Parties shall be named, by specific endorsement, as additional insureds using ISO form CG 20

10 10 01 and ISO form CG 20 37 10 01, or their respective equivalent forms, to include completed operations coverage.

- b. The commercial general liability policy shall:
- i. have a limit for any one occurrence or claim of not less than \$2,000,000 per occurrence and a \$4,000,000 annual general aggregate and completed operations aggregate, applicable solely to the construction of the Project;
  - ii. by endorsement or otherwise, provide a designated aggregate limit solely for the Project using ISO form CG 25 03 05 09 or equivalent form, unless a project-specific insurance policy is purchased.
  - iii. have no “contractor’s limitation” endorsements, as that term is defined, as of the date of this Agreement, in the Glossary of Insurance and Risk Management Terms published by the International Risk Management Institute, that have not been reviewed and approved by SBCTA, including endorsements that limit coverage for earth movement or subsidence.
  - iv. have no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under an insured contract;
  - v. have no exclusion for professional services except the latest ISO form CG 22 79 or CG 22 80 or both; and
  - vi. include products and completed operations liability coverage for a period of not less than 10 years following the final payment from SBCTA to the CONTRACTOR under this contract.
- c. Completed operations coverage shall extend for as long as there is any exposure to liability under a statute of repose or any other applicable statute, either through continuous maintenance of completed operations coverage in the CONTRACTOR’s corporate insurance program or by purchase of extended completed operations for a project-specific policy. If coverage is maintained by continuous renewal, each subsequent general liability insurance policy issued through the statute of repose period, commencing with Final Completion, shall be endorsed with ISO form CG 20 37 10 01, or the equivalent, with the Indemnified Parties scheduled as

additional insureds.

### 22.2.3 Commercial Umbrella/Excess Liability

- a. A policy or policies of commercial umbrella/excess liability insurance covering bodily injury, personal injury, property damage, and advertising injury liability coverage at least as broad as the primary coverages set forth above with limits of not less than \$5,000,000 per occurrence and general aggregate. There shall also be a project-specific products and completed operations aggregate of not less than \$5,000,000. Coverage may be arranged in any combination or structure so that total required limits of liability are met. The CONTRACTOR may use its corporate insurance program or a combination of corporate insurance and stand-alone policies to meet this requirement provided that the limits available for this Project are not subject to erosion by losses on other projects not related to this Project.
- b. The commercial umbrella/excess liability insurance policy shall:
  - i. follow form to all underlying primary policies, including coverage in the excess liability policies for insureds covered under the primary policies and the provision of completed operations coverage to the additional insured Indemnified Parties;
  - ii. have concurrency of effective dates with primary policies;
  - iii. include “pay on behalf of” wording as opposed to reimbursement;
  - iv. apply as excess over commercial general liability insurance, and may apply as excess over commercial automobile liability insurance and employer’s liability insurance; and
  - v. include a drop down feature requiring the policy to respond in the event that any primary insurance limits are exhausted or for occurrences covered by an umbrella policy but not covered in the underlying insurance.

### 22.2.4 Commercial Automobile Liability

- a. A commercial automobile liability policy with limits of liability of not less than \$5,000,000 combined single limit for the CONTRACTOR and Subcontractors. Each policy shall cover accidental death, bodily injury, and property damage liability arising from the ownership, maintenance, or use of all owned, non-owned,



and hired vehicles connected with performance of the Work, including loading and unloading. The CONTRACTOR's auto liability policies shall cover "any auto" ("symbol 1").

- b. For the CONTRACTOR and any Subcontractor of any tier that is or will be involved in any way with the transportation of Hazardous Materials using a covered vehicle(s), pollution liability coverage at least as broad as that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided and the automobile liability insurance policies shall be endorsed to include Motor Carrier Act Endorsement-Hazardous materials clean up (MCS-90).
- c. The policy shall be scheduled under the umbrella liability policies. Umbrella liability policies shall cover "any auto" ("symbol 1").

#### 22.2.5 Worker's Compensation and Employer's Liability.

Worker's compensation and employer's liability insurance for CONTRACTOR and Subcontractors as required by applicable Law, and employer's liability insurance having coverage limits of \$1,000,000 for each accident, \$1,000,000 for disease (each employee), and \$1,000,000 for disease (policy limit). The CONTRACTOR and/or Subcontractor, whichever is the applicable employer, shall be the named insured on these policies. The workers' compensation policies shall provide a provision extending coverage to all states operations on an "if any" basis.

#### 22.2.6 Professional Liability Insurance

Professional liability errors and omissions insurance, in one or more project-specific policies, at CONTRACTOR's discretion, which shall:

- a. cover claims for liability for providing professional services by the CONTRACTOR and any Subcontractor;
- b. be in an amount not less than \$5,000,000 per claim and in the aggregate;
- c. cover the performance of design work or other professional services in connection with the Project and shall be fully retroactive to the first date any such design work was performed, with no exclusion for prior acts applying to any pre-award professional services provided by any insured; and
- d. have an extended reporting period, or be renewed to be continuous for a period, of not less than five years after Final Completion.

#### 22.2.7 Pollution Liability

- a. A contractor's pollution liability insurance policy with a total limit of liability of no less than \$3,000,000 per claim, or per occurrence,

and \$3,000,000 in the aggregate per policy period. Each of the Indemnified Parties shall be an additional insured.

- b. If the CONTRACTOR's pollution liability policy is written on a "claims made" basis, the policy shall be continuously renewed for ten years after Final Completion, with a retroactive date on or before the first date of any Work performed under this Contract, or shall have an extended reporting period of no less than 10 years from Final Completion.
- c. The CONTRACTOR's pollution liability shall:
  - i. cover sums that the insured becomes legally obligated to pay to a third party or for the investigation, removal, remediation (including associated monitoring) or disposal of soil, surface water, groundwater or other contamination to the extent required by environmental laws (together "clean-up costs") caused by pollution conditions resulting from covered operations, including bodily injury, property damage (including natural resource damages), clean-up costs, and legal defense costs;
  - ii. cover claims related to pollution conditions to the extent such are caused (A) by the performance of Work, (B) by transportation, including loading and unloading, by owned and non-owned vehicles and/or (C) by other activities performed by or on behalf of CONTRACTOR that occur on the Project;
  - iii. have no exclusions or limitations for loss occurring over water including but not limited to a navigable waterway;
  - iv. apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants; and
  - v. contain a severability provision.

#### 22.2.8 Railroad Protective Liability

- a. The CONTRACTOR shall provide Rail Road Protective Liability and any additional RRPL coverage as may be required pursuant to any Third-Party Agreement or otherwise as a condition of the railroad's consent for entry into railroad facilities or property.
- b. Each such policy shall include railroad protective liability insurance naming Southern California Regional Rail Authority (SCRRA) operating as Metrolink as the insured party with limits of not less than \$2,000,000 per occurrence and \$6,000,000 in aggregate or, if

higher, such other limits as required by the railroad in connection with the Work and the Project.

- c. Such policy shall be effective during the period any Work is being performed within fifty (50) feet of any railroad right of way. The job location and work to be completed must be specifically defined in the declarations. Any policy exclusion from the railroad protective liability insurance must be accepted by the relevant railroad and otherwise covered through the CONTRACTOR's commercial general liability policy or in other appropriate policies and/or through other relevant policies.

#### 22.2.9 Cyber Liability

A cyber policy meeting the requirements of Section 22.3.5 from the date on which the CONTRACTOR commences testing and commission of fueling infrastructure.

### 22.3. Insurance Required During the Maintenance and Fuel Delivery Period

CONTRACTOR shall obtain and keep in force, or cause to be obtained and kept in force, throughout the Maintenance and Fuel Delivery Period the following insurance coverage:

#### 22.3.1 Commercial General Liability

- a. A Commercial general liability insurance policy insuring against liability of CONTRACTOR with respect to the Project or arising out of the Work, written on an occurrence basis. Coverage shall be at least as broad as the broadest available version of Insurance Services Office form CG 00 01.
- b. The commercial general liability policy shall:
  - i. apply separately for each insured against whom a claim is made or a lawsuit is brought, subject only to the insurance policy limits of liability; and
  - ii. have coverage for any one occurrence or claim of not less than \$7,000,000, which requirement may be met by any combination of primary and excess coverage so long as the excess coverage is written on a "follow form" basis. Exclusions are prohibited for work within 50 feet of a railroad.

#### 22.3.2 Commercial Umbrella/Excess Liability

If the CONTRACTOR elects to include an umbrella or excess policy to cover any of the total limits required beyond the primary commercial general liability policy limits and/or the primary commercial automobile liability policy limits, then the policy must include the following:

- a. The umbrella or excess policy shall follow form over the CONTRACTOR's primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
- b. The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
- c. 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.
- d. The umbrella or excess policy must also extend coverage over the automobile policy if it is to be used in combination with the primary automobile policy to meet the total insurance requirement limits.
- e. There shall be no statement limiting the coverage provided to the parties listed as additionally insureds or as indemnitees below.

#### 22.3.3 Commercial Automobile Liability

- a. A commercial automobile liability policy with limits of liability of not less than \$5,000,000 combined single limit for the CONTRACTOR and Subcontractors. Each policy shall cover accidental death, bodily injury, and property damage liability arising from the ownership, maintenance, or use of all owned, non-owned, and hired vehicles connected with performance of the Work, including loading and unloading. The CONTRACTOR's auto liability policies shall cover "any auto" ("symbol 1").
- b. The policy shall be scheduled under the umbrella liability policies. Umbrella liability policies shall cover "any auto" ("symbol 1").

#### 22.3.4 Worker's Compensation and Employer's Liability.

Worker's compensation and employer's liability insurance as required by applicable Law, and employer's liability insurance having coverage limits of \$1,000,000 for each accident, \$1,000,000 for disease (each employee), and \$1,000,000 for disease (policy limit).

#### 22.3.5 Cyber Liability

A cyber policy, which shall include:

\$2,000,000 limit with first party coverage for direct loss and out of pocket expenses incurred by the CONTRACTOR for business income/extra expense resulting from an interruption or suspension of computer systems due to a network security breach including other system failures; data recovery for costs to restore, recreate, or recollect data and other intangible assets that are corrupted or destroyed; data breach response and crisis management for costs resulting from a network security or privacy breach

including forensics, notification, credit monitoring, call center, and public relations; and cyber extortion and ransomware; and

- a. third party coverage for defense and liability incurred due to alleged harm caused to others by the CONTRACTOR and/or subcontractors, including privacy liability; security liability; privacy regulatory defense, awards, penalties and fines; media liability; and technology products and services errors and omissions, if not otherwise provided in the professional liability policy; and
- b. coverage for acts by foreign sponsored governments, organizations and/or entities.

#### 22.3.6 Railroad Protective Liability

- a. The CONTRACTOR shall provide Rail Road Protective Liability and any additional RRPL coverage as may be required pursuant to any Third-Party Agreement or otherwise as a condition of the railroad's consent for entry into railroad facilities or property.
- b. Each such policy shall include railroad protective liability insurance naming Southern California Regional Rail Authority (SCRRA) operating as Metrolink as the insured party with limits of not less than \$3,000,000 per occurrence and \$6,000,000 in aggregate or, if higher, such other limits as required by the railroad in connection with the Work and the Project.
- c. Such policy shall be effective during the period any Work is being performed within fifty (50) feet of any railroad right of way. The job location and work to be completed must be specifically defined in the declarations. Any policy exclusion from the railroad protective liability insurance must be accepted by the relevant railroad and otherwise covered through the CONTRACTOR's commercial general liability policy or in other appropriate policies and/or through other relevant policies.

#### 22.3.7 Professional Liability Insurance

Professional liability errors and omissions insurance, in one or more project-specific policies, covering loss resulting from errors and omissions in the rendering of or failure to render professional services which comprise part of the Work performed during the Maintenance and Fuel Delivery Period, in an amount not less than \$5,000,000 per claim and in the aggregate.

#### 22.3.8 Pollution Liability

- a. A contractor's pollution liability insurance policy with a total limit of liability of no less than \$3,000,000 per claim, or per occurrence, and \$3,000,000 in the aggregate per policy period. Each of the

Indemnified Parties shall be an additional insured.

- b. If the contractor's pollution liability policy is written on a “claims made” basis, the policy shall be continuously renewed for ten years after Final Completion, with a retroactive date on or before the first date of any Work performed under this Contract, or shall have an extended reporting period of no less than 10 years from Final Completion.
- c. The contractor's pollution liability shall:
  - i. cover sums that the insured becomes legally obligated to pay to a third party or for the investigation, removal, remediation (including associated monitoring) or disposal of soil, surface water, groundwater or other contamination to the extent required by environmental laws (together “clean-up costs”) caused by pollution conditions resulting from covered operations, including bodily injury, property damage (including natural resource damages), clean-up costs, and legal defense costs;
  - ii. cover claims related to pollution conditions to the extent such are caused (A) by the performance of Work, (B) by transportation, including loading and unloading, by owned and non-owned vehicles and/or (C) by other activities performed by or on behalf of CONTRACTOR that occur on the Project;
  - iii. have no exclusions or limitations for loss occurring over water including but not limited to a navigable waterway;
  - iv. apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants; and
  - v. contain a severability provision.

## **ARTICLE 23. INDEMNITY**

- 23.1. To the extent, but only to the extent, that CONTRACTOR’s Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:
- CONTRACTOR shall indemnify and defend (with legal counsel reasonably approved by SBCTA) San Bernardino County Transportation Authority, Southern California Regional Rail Authority, BNSF Railway Company, South Coast Air Quality Management District, and their officers, directors, members, employees, and agents (collectively, the “Indemnified Parties”) 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. In no event shall the cost to defend charged to CONTRACTOR exceed the CONTRACTOR's proportionate percentage of fault.

- 23.2. CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by SBCTA) and hold harmless the Indemnified Parties from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the Indemnified Parties on account of any claim except where such indemnification is prohibited by law or where such claim is caused solely by SBCTA's gross negligence or willful misconduct. To the extent permitted by law, CONTRACTOR's duties to defend and indemnify shall apply regardless of the existence or degree of fault of any of the Indemnified Parties. The duty of CONTRACTOR and its insurers to provide a defense shall be immediate upon receipt of a written tender of defense from any of the Indemnified Parties, notwithstanding any subsequent allocation of defense costs that may be required by law. CONTRACTOR's indemnification obligation applies to the "passive" negligence of any of the Indemnified Parties, but does not apply to the "sole" or "active" negligence or "willful misconduct" of any of the Indemnified Parties within the meaning of Civil Code section 2782.

#### **ARTICLE 24. OWNERSHIP OF DATA, DELIVERABLES AND OTHER DOCUMENTS**

- 24.1. All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONTRACTOR under this Contract shall become the property of SBCTA when prepared, whether delivered to SBCTA or not, and shall be furnished with unlimited rights and, as such, shall be free from proprietary restriction except as elsewhere authorized in this Contract. CONTRACTOR further agrees that it shall have no interest or claim to such finished, SBCTA-owned, technical data; furthermore, said data is subject to the provisions of the Public Records Act.
- 24.2. It is expressly understood that any title to preliminary technical data is not passed to SBCTA but is retained by CONTRACTOR. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by CONTRACTOR solely for the purpose of demonstrating an idea or message for SBCTA's acceptance before approval is given for preparation of finished artwork.
- 24.3. The originals of all letters, documents, reports and other products and data produced under this Contract shall be delivered to, and become the property of SBCTA. Copies may be made for CONTRACTOR's records but shall not be furnished to others without written authorization from SBCTA. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by SBCTA.

#### **ARTICLE 25. RECORD AND INSPECTION AND AUDITING**

- 25.1. SBCTA, or any of its designees, representatives or agents, shall at all times have access during normal business hours to CONTRACTOR's operations and products wherever they are in preparation or progress, as well as CONTRACTOR's books, records, data and documents, and CONTRACTOR shall provide sufficient, safe and proper facilities for such access and inspection thereof. Inspection or lack of inspection by SBCTA shall not be deemed to be a waiver of any of its rights to require CONTRACTOR to comply with the Contract or to subsequently reject any unsatisfactory Work or products.
- 25.2. CONTRACTOR shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONTRACTOR's performance hereunder and for a period of four (4) years from the date of final payment by SBCTA, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case CONTRACTOR agrees to maintain same until SBCTA, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. SBCTA's right to audit books and records directly related to this Contract shall also extend to all first-tier subcontractors. CONTRACTOR shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.
- 25.3. CONTRACTOR shall, without charge, replace any material or correct any workmanship found by SBCTA not to conform to the requirements of this Contract, unless in the public interest SBCTA consents to accept such material or workmanship with an appropriate adjustment in the price of this Contract. CONTRACTOR shall promptly segregate and remove rejected material from the premises.
- 25.4. CONTRACTOR shall furnish promptly, without additional charge, all facilities, labor, equipment and material reasonably needed for performing such safe and convenient inspection and test as may be required by SBCTA. All inspections and tests by SBCTA shall be performed in such manner as to not unnecessarily delay the Work. SBCTA reserves the right to charge to CONTRACTOR any additional cost of inspection or test when material or workmanship is not ready at the time specified by CONTRACTOR for inspection or test or when reinspection or retest is necessitated by prior rejection.
- 25.5. If CONTRACTOR does not promptly replace rejected material or correct rejected workmanship, SBCTA (1) may, by agreement or otherwise, replace such material or correct such workmanship and charge the cost thereof to CONTRACTOR, or (2) may terminate CONTRACTOR's right to proceed in accordance with ARTICLE 16.

Should it be considered necessary or advisable by SBCTA at any time before acceptance of the entire Work to make an examination of Work already completed, by removing or tearing out same, CONTRACTOR shall, on request, promptly



furnish all necessary facilities, labor and material. If such Work is found to be defective or nonconforming in any material respect, due to the fault of CONTRACTOR or its subcontractors, CONTRACTOR shall pay all costs of such examination and of satisfactory reconstruction. If, however, such Work is found to meet the requirements of this Contract, an equitable adjustment shall be made in the Contract Price to compensate CONTRACTOR for the additional services involved in such examination and reconstruction and, if completion of the Work has been delayed thereby, it shall in addition, be granted a suitable extension of time.

- 25.6. Unless otherwise provided in this Contract, acceptance by SBCTA shall be made as promptly as practicable after completion and inspection of all Work required by this Contract, or that portion of the Work that SBCTA determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud or as regards SBCTA's rights under the warranty provisions set forth herein.

#### **ARTICLE 26. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- 26.1. CONTRACTOR 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.
- 26.2. CONTRACTOR also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 26.3. Any costs for which payment has been made to CONTRACTOR that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONTRACTOR to SBCTA.
- 26.4. All subcontracts in excess of \$25,000 shall contain the above provision.

#### **ARTICLE 27. CONTINGENT FEE**

CONTRACTOR 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 CONTRACTOR for the purpose of securing business. For breach or violation of this warranty, SBCTA has the right to annul this Contract without liability; pay only for the value of the Work actually performed; or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### **ARTICLE 28. INDEPENDENT CONTRACTOR**

CONTRACTOR is and shall be at all times an independent contractor. Accordingly, all Work provided by CONTRACTOR shall be done and performed by CONTRACTOR under the sole supervision, direction and control of CONTRACTOR. SBCTA shall rely on CONTRACTOR for results only, and shall have no right at any time to direct or supervise CONTRACTOR or

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Arrow Maintenance Facility Hydrogen Fuel Upgrade  
Project: Hydrogen Fuel System

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CONTRACTOR's employees in the performance or as to the manner, means and methods by which Work is to be performed. All personnel furnished by CONTRACTOR pursuant to this Contract and all representatives of CONTRACTOR shall be and remain the employees or agents of CONTRACTOR or of CONTRACTOR's subcontractors at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SBCTA.

#### **ARTICLE 29. 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 attorney's fees. This Article shall not apply to those costs and attorney's fees directly arising from any third party legal action against a Party hereto and payable under the "Indemnity" provision of the Contract.

#### **ARTICLE 30. 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 31. FEDERAL, STATE AND LOCAL LAWS**

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

#### **ARTICLE 32. PRECEDENCE**

In case of a discrepancy among the Contract Documents, the order of precedence shall be as noted in the Special Provisions.

#### **ARTICLE 33. COMMUNICATIONS AND NOTICES**

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

To: Linde Engineering North America, LLC	To: SBCTA
1585 Sawdust Road, Suite 300	1170 W. 3 <sup>rd</sup> Street, 2 <sup>nd</sup> Floor
The Woodlands, TX 77380	San Bernardino, CA 92410-1715

Attn: Ty Koelker – <a href="mailto:ty.koelker@linde.com">ty.koelker@linde.com</a>	Attn: Joy M. Buenaflor – <a href="mailto:jbuenaflor@gosbcta.com">jbuenaflor@gosbcta.com</a>
2 <sup>nd</sup> Contact: Desira Rayburn	Cc: Shaneka Morris, Procurement Manager
Email: <a href="mailto:desira.rayburn@linde.com">desira.rayburn@linde.com</a>	Email: <a href="mailto:SMorris@gosbcta.com">SMorris@gosbcta.com</a>
Phone: (281) 465-6863	Phone: (909) 884-8276

#### **ARTICLE 34. LIQUIDATED DAMAGES**

Should CONTRACTOR fail to complete all Work required to achieve each of the Key Milestones (as defined below) by the target date specified in the Milestone Payment Schedule, Attachment B to the Special Provisions, including any written authorized changes, the actual damages to SBCTA for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, CONTRACTOR shall pay SBCTA the sum of **Two Thousand Eight Hundred Dollars (\$2,800.00)** per each calendar day of delay as identified in the weekly statement of working days issued by SBCTA. SBCTA shall not withhold liquidated damages if the delay is determined by SBCTA to be excusable under the force majeure provision of the Contract. SBCTA may extend the period of performance of this Contract when in its sole judgment, sufficient justification exists to do so. The “Key Milestones” shall include: (a) Completion of Equipment Drawings & Permit Pack (Item B.1.3 in Attachment B to the Special Provisions); (b) Completion of Construction (Item B.1.5 in Attachment B to the Special Provisions); and (c) Completion of Commissioning and Training (Item B.1.6 in Attachment B to the Special Provisions).

#### **ARTICLE 35. ASSIGNMENT**

CONTRACTOR agrees not to sell, transfer, or otherwise dispose of any contract part either voluntarily or by operation of law without prior written consent from SBCTA.

#### **ARTICLE 36. SUBCONTRACTS**

- 36.1. CONTRACTOR shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the Work in accordance with the Contract requirements, and is in charge of all construction operations (regardless of who performs the Work), and (b) such other of its own organizational resources (supervision, management, and engineering services) as SBCTA determines is necessary to assure the performance of the Contract.
- 36.2. No portion of the Contract shall be sublet, assigned or otherwise disposed of except with the prior written consent of SBCTA or authorized representative, and such consent when given shall not be construed to relieve CONTRACTOR of any responsibility for the fulfillment of the contract. Written consent will be given only after SBCTA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. CONTRACTOR does not have the right to make any substitutions of any subcontractor listed in its Bid, except in accordance with the State of California Public Contract Code, section 4100 et. seq. SBCTA’s consent to substitution shall

not be deemed to relieve CONTRACTOR of its obligation to fully comply with the requirements of this Contract. CONTRACTOR shall be responsible for all acts and omissions of its employees, subcontractors and their employees. CONTRACTOR is responsible for coordinating all Work performed by the subcontractors. SBCTA reserves the right, but not the obligation, to review the subcontractor agreements for this project and to require any modifications so as to conform to the requirements set forth in this Contract.

#### **ARTICLE 37. SUBCONTRACTING**

- 37.1. Nothing contained in this Contract or otherwise shall create any contractual relation between SBCTA and any subcontractor(s), and no subcontract shall relieve CONTRACTOR of its responsibilities and obligations hereunder. CONTRACTOR agrees to be fully responsible to SBCTA for the acts and omissions of its subcontractor(s) and of persons directly employed by CONTRACTOR. CONTRACTOR's obligation to pay its subcontractor(s) is independent of SBCTA's obligation to make payments to the CONTRACTOR.
- 37.2. CONTRACTOR 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 approved Cost Proposal.
- 37.3. CONTRACTOR shall pay its subcontractor(s) within ten (10) calendar days from receipt of each payment made to CONTRACTOR by SBCTA.
- 37.4. 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 subcontractors.
- 37.5. Any substitution of subconsultants must be approved in writing by SBCTA prior to the start of Work by the subcontractor.

#### **ARTICLE 38. EQUIPMENT PURCHASE**

- 38.1. Prior authorization in writing by SBCTA shall be required before CONTRACTOR enters into any unbudgeted purchase order or subcontract exceeding \$5,000 for supplies, equipment, or contractor services. CONTRACTOR shall provide an evaluation of the necessity or desirability of incurring such costs.
- 38.2. When seeking SBCTA's prior written authorization for purchase of any item, service or consulting work not covered in CONTRACTOR's Cost Proposal and exceeding \$5,000, CONTRACTOR must submit three competitive quotations with the request, or the absence of bidding must be adequately justified.
- 38.3. Any equipment purchased as a result of this Contract is subject to the following: "CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR elects to keep the equipment, fair market value shall be determined at CONTRACTOR'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 CONTRACTOR. If it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by SBCTA."

384. All subcontracts in excess of \$25,000 shall contain the above provisions.
385. Supply System and Supply System Site: For the Supply System, that will consist of a liquid storage tank, SBCTA, at its expense, will provide and maintain a suitable site free from any underground or overhead obstructions and with access either by road as mutually agreed by the parties and furnish utilities as required by CONTRACTOR, such as electric power, lighting, internet connections, water and the facilities to deliver such utilities to the point(s) on each Supply System site. CONTRACTOR shall have no liability or responsibility for any hazardous materials or toxic materials at the Supply System site, unless such occurs as a direct result of CONTRACTOR's performance pursuant to this Agreement. If any new or modified local, state or federal law, rule or regulation requires modification to any Supply System or Supply System site, or requires that any additional permits, licenses or rights be obtained, any costs associated with performing such modifications or obtaining such permits, licenses or rights will be borne by SBCTA. If SBCTA's use of any Supply System affects the safe or reliable operation thereof, or if any Supply System is damaged by SBCTA, its agents or employees, the cost of repairing such Supply System will be borne by SBCTA. SBCTA will prevent persons other than those authorized by CONTRACTOR from entering any Supply System site, delaying delivery of Product, or altering, repairing, adjusting or otherwise tampering with any Supply System. CONTRACTOR will have the right from time to time to shut down each Supply System for such period of time as may be necessary for repairs and maintenance consistent with proper operation. Each Supply System will remain the property of CONTRACTOR at all times.

### **ARTICLE 39. COORDINATION WITH OTHER CONTRACTS**

SBCTA may undertake or award other contracts for Work, and CONTRACTOR shall cooperate fully with the other CONTRACTOR's and SBCTA's employees or agents and carefully fit its own Work to such additional Work as may be directed by SBCTA. CONTRACTOR shall not commit or permit any act which will interfere with the performance of Work by any other contractor or by SBCTA.

### **ARTICLE 40. SELF-HELP**

- 40.1. Without limiting any other rights of SBCTA under this Contract, if SBCTA reasonably believes that it needs to take action as a result of: an emergency having

occurred, including as a result of a threat to the health or safety of any person, the environment or built improvements, the community or property; a CONTRACTOR default having occurred and not having been cured; the CONTRACTOR having failed to timely comply with its obligations to remedy defects or related to its maintenance and fuel delivery obligations; or any other failure by the CONTRACTOR to comply with a material term of this Contract then, subject to prior notice (to the extent reasonably practicable under the circumstances), SBCTA may but is not required to take any action, including through direct intervention in the work and the Project, as it deems reasonably necessary, and the CONTRACTOR will use reasonable efforts to give all necessary assistance to SBCTA while it is taking such action.

402. If SBCTA takes any such self-help action, other than as a result of an emergency, any costs and expenses of SBCTA incurred in taking, or as a result of taking, such action will be payable by the CONTRACTOR to SBCTA upon request.

#### **ARTICLE 41. SET-OFF**

41.1. SBCTA will have the right to retain, out of any payment due to CONTRACTOR under this Contract, an amount sufficient to satisfy any amount due and owing to SBCTA by the CONTRACTOR on this Contract or any other agreement between the CONTRACTOR and SBCTA. SBCTA may also withhold payment on any invoice in accordance with the liquidated damages provision, if any, or in the amount of its actual damages when the CONTRACTOR is in default under any provision of this Contract, or when SBCTA determines that the schedule cannot be met and an extension of time is not warranted.

#### **ARTICLE 42. PREVAILING WAGE REQUIREMENTS**

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

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

#### **ARTICLE 43. SAFETY**

43.1. In the performance of this Contract, CONTRACTOR shall comply with all applicable federal, State, and local laws governing safety, health, and sanitation. CONTRACTOR shall provide all safeguards, safety devices and protective equipment and take any other needed actions, according to established industry standards, or as SBCTA may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the Work covered by the contract. It is a condition of this Contract, and shall be made a condition of each subcontract which the CONTRACTOR enters into pursuant to this Contract, that CONTRACTOR and any subcontractor shall not permit any employee, in

performance of this Contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under California Occupational Safety and Health Act of 1973.

432. It is a condition of this Contract that the Director of Industrial Relations or authorized representative thereof shall have right of entry to any site of Contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under California Occupational Safety and Health Act of 1973.

#### **ARTICLE 44. DISADVANTAGED BUSINESS ENTERPRISE**

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

#### **ARTICLE 45. NONSEGREGATED FACILITIES**

- 45.1. CONTRACTOR, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. CONTRACTOR agrees that a breach of this certification is a violation of the EEO provisions of this Contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.
- 45.2. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time-clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g., disabled parking).
- 45.3. CONTRACTOR agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

#### **ARTICLE 46. GRATUITIES**

CONTRACTOR, its employees, agents or representatives shall not offer or give to an officer, official or employee of SBCTA, gifts, entertainment, payments, loans or other gratuities to influence the award of a contract or obtain favorable treatment under a contract.

#### **ARTICLE 47. CONVICT LABOR**

In connection with the performance of Work under this Contract, CONTRACTOR agrees not to employ any person undergoing sentence of imprisonment at hard labor. This Article does not include convicts who are on parole or probation.

#### **ARTICLE 48. INSPECTION OF SITE**

CONTRACTOR acknowledges that it has investigated and satisfied itself as to the conditions affecting the Work including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electricity and roads, and uncertainties of weather, river stages, tides or similar conditions at the site, the conformation and conditions of the ground, and the character of equipment and facilities needed preliminary to and during prosecution of the Work. CONTRACTOR fully acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by SBCTA, as well as from information presented by the drawings and specifications made a part of this Contract. Any failure by CONTRACTOR to acquaint itself with the available information from SBCTA will not relieve the CONTRACTOR from responsibility.

#### **ARTICLE 49. CLEAN WATER REQUIREMENTS**

CONTRACTOR shall comply with all applicable standards, orders, or regulations issued pursuant to the Porter-Cologne Water Quality Control Act (California Water Code §§13000 et seq.) and the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et. seq. CONTRACTOR shall report each violation to SBCTA and understands and agrees that SBCTA will in turn report each violation as required to assure notification to the Regional Water Quality Control Board. CONTRACTOR shall include this requirement in every subcontract.

#### **ARTICLE 50. DRUG FREE WORKPLACE**

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

#### **ARTICLE 51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, CONTRACTOR 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 CONTRACTOR within the immediately preceding two-year period, because of CONTRACTOR's failure to comply with an order of a federal court that orders CONTRACTOR to comply with an order of the National Labor Relations Board.

#### **ARTICLE 52. EVALUATION OF CONTRACTOR**

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

#### **ARTICLE 53. RESPONSIBILITY OF CONTRACTOR**



- 53.1. CONTRACTOR 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 CONTRACTOR under the Contract. The Contract includes reference to the appropriate standards for design or other standards for Work performance stipulated in the Contract.
- 53.2. In addition to any other requirements of this Contract or duties and obligations imposed on CONTRACTOR by law, CONTRACTOR 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 CONTRACTOR within the areas of CONTRACTOR'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 CONTRACTOR observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk to SBCTA or the Project, CONTRACTOR shall immediately document such matters and notify SBCTA in writing. CONTRACTOR shall also similarly notify SBCTA as 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 enables SBCTA to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.
- 53.3. When a modification to a construction contract is required because of an error or deficiency in the design Work provided under this Contract, CONTRACTOR shall be responsible for any and all additional costs associated with the construction contract or the construction of the Project.
- 53.4. SBCTA shall advise CONTRACTOR 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 CONTRACTOR.
- 53.5. CONTRACTOR 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.
- 53.6. 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. CONTRACTOR, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not

permit its employees to perform their services at any location under its control where segregated facilities are maintained. CONTRACTOR agrees that a breach of this certification is a violation of the EEO provisions of this Contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

#### **ARTICLE 54. TECHNICAL DIRECTION**

- 54.1. Performance of Work under this Contract shall be subject to the technical direction of SBCTA's Project Manager, identified in Section 1.7 of this Contract. The term "Technical Direction" is defined to include, without limitation:
- 54.1.1 Directions to CONTRACTOR 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;
  - 54.1.2 Provision of written information to CONTRACTOR which assists in the interpretation of drawings, reports, or technical portions of the Scope of Work described herein;
  - 54.1.3 Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by CONTRACTOR to SBCTA under the Contract;
  - 54.1.4 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 CONTRACTOR. All administrative modifications shall be documented in writing between the Parties.
- 54.2. Technical Direction must be within the Scope of Work under this Contract. SBCTA's Project Manager does not have the authority to, and may not, issue any Technical Direction which:
- 54.2.1 Increases or decreases the Scope of Work;
  - 54.2.2 Directs CONTRACTOR to perform Work outside the original intent of the Scope of Work;
  - 54.2.3 In any manner causes an increase or decrease in the Contract price as identified in this Contract, or the time required for Contract performance unless expressly authorized by SBCTA policy;
  - 54.2.4 Changes any of the expressed terms, conditions or specifications of the Contract, unless identified herein;

- 54.2.5 Interferes with the CONTRACTOR's right to perform the terms and conditions of the Contract; or;
- 54.2.6 Approves any demand or claim for additional payment.
- 54.3. Failure of CONTRACTOR 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.
- 54.4. All Technical Direction shall be issued in writing by SBCTA's Project Manager..
- 54.5. CONTRACTOR shall proceed promptly with the performance of Technical Direction issued by SBCTA's Project Manager, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONTRACTOR, any instruction or direction by SBCTA's Project Manager falls within one of the categories defined in 27.2.1 through 27.2.6, CONTRACTOR 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 CONTRACTOR, SBCTA shall:
- 54.5.1 Advise CONTRACTOR in writing within thirty (30) calendar days after receipt of the CONTRACTOR's letter that the Technical Direction is or is not within the scope of this Contract.
- 54.5.2 Advise CONTRACTOR within a reasonable time whether SBCTA will or will not issue a written amendment.

## **ARTICLE 55. KEY PERSONNEL**

The personnel specified below are considered to be essential to the Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects or reallocating any tasks or hours of Work that are the responsibility of Key Personnel to other personnel, CONTRACTOR 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. CONTRACTOR shall not substitute any Key Personnel without the prior written consent of SBCTA. In the event that the Parties cannot agree as to the substitution of Key Personnel, SBCTA may terminate the Contract. Key Personnel are:

<b>Name</b>	<b>Job Classification/Function</b>
Project Manager	Ty Koelker
Process Engineer	Daniel Wenig
Health and Safety	Mateen Shaikh
Training Manager and Customer Service	Julian Podobnig
Product Development	Tobias Kederer

Product Development	Thomas Archer
Hydrogen Sales	Jeff Williams
Hydrogen Supply Plant Manager	Angelo Simoes
Customer Service and Maintenance	Ryan Robertson

**ARTICLE 56. REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATION**

CONTRACTOR 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 57. ERRORS AND OMISSIONS**

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

**ARTICLE 58. WARRANTY**

CONTRACTOR 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, CONTRACTOR shall take the necessary actions to correct the breach at CONTRACTOR's sole expense. If CONTRACTOR 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 CONTRACTOR shall promptly reimburse SBCTA for all expenses and costs incurred.

**ARTICLE 59. SEVERABILITY**

The partial or complete invalidity of any one or more of the provisions of this Contract shall not affect the validity or continuing force and effect of any other provision.

**ARTICLE 60. FORCE MAJEURE**

CONTRACTOR shall not be in default under this Contract in the event that the Work performed by CONTRACTOR 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, natural disasters such as floods, earthquakes, landslides and fires, or other catastrophic events, which are beyond the reasonable control of CONTRACTOR and which CONTRACTOR could not reasonably be expected to have prevented or controlled. "Other catastrophic events" does not include the financial inability of the CONTRACTOR to perform or failure of the CONTRACTOR to obtain 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 the CONTRACTOR.

**ARTICLE 61. INCORPORATION OF RECITALS**

The Recitals stated above are true and correct and are hereby incorporated into this Contract.

**ARTICLE 62. ENTIRE DOCUMENT**

- 621. This Contract constitutes the sole and only agreement governing the Work and supersedes any prior or contemporaneous 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.
- 622. 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 CONTRACTOR hereby stipulates that it has not relied, and will not rely, on same.
- 623. 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 63. CONTRACT**

This Contract constitutes the entire agreement which is made and concluded in duplicate between the two Parties. Each Party, for and in consideration of the payments to be made, conditions mentioned, and work to be performed, agrees to diligently perform in accordance with the terms and conditions of this Contract as evidenced by the signatures below.

**ARTICLE 64. EFFECTIVE DATE**

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

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

IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

**CONTRACTOR**

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

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

By: \_\_\_\_\_  
Art Bishop  
President, Board of Directors

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

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

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

APPROVED AS TO FORM

\_\_\_\_\_  
License Number

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

\_\_\_\_\_  
Federal Employer Identification  
Number

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

CONCURRENCE

By: \_\_\_\_\_  
Shaneka M. Morris  
Procurement Manager

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

## **EXHIBIT A: SPECIAL PROVISIONS**

### **ARTICLE 1. SCOPE OF WORK**

The scope of the Work is set out in Attachment A to these Special Provisions and is incorporated herein by this reference.

CONTRACTOR agrees to perform the work and services set forth in Exhibit A “Scope of Work”, (“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 CONTRACTOR of all obligations, duties, tasks, and Work imposed upon or assumed by CONTRACTOR hereunder; and the Work performed hereunder shall be completed to the satisfaction of SBCTA, with their satisfaction being based on prevailing applicable professional standards.

### **ARTICLE 2. AUTHORIZED DESIGNEE**

The Executive Director of SBCTA, or designee, shall have the authority to act for and exercise any of the rights of SBCTA as set forth in this Contract

### **ARTICLE 3. TERM OF CONTRACT**

- 3.1. This Contract shall commence upon the effective date of this Contract, and shall continue in full force and effect through the hydrogen fuel station commissioning to the date of Substantial Completion, unless earlier terminated or extended as provide in the Contract Documents. A three-year initial term for maintenance and hydrogen fuel delivery service shall commence on the date of Substantial Completion and shall continue in full force and effect through to the third anniversary of the date of Substantial Completion (the “ Maintenance and Fuel Delivery Period”), unless earlier terminated or extended as provided in the Contract Documents.
- 3.2. SBCTA, at its sole discretion, may elect to extend the initial term of the Maintenance and Fuel Delivery Period up to an additional twelve (12) months, commencing on the completion of the initial Maintenance and Fuel Delivery Period, or the third anniversary of the date of Substantial Completion, and continuing through to the first anniversary of completion of the initial Maintenance and Fuel Delivery Period (the “First Option Term”), and thereupon require CONTRACTOR to continue to provide services, and otherwise perform, in accordance with the Contract Documents.
- 3.3. SBCTA, at its sole discretion, may elect to extend the term of the Maintenance and Fuel Delivery Period up to an additional twelve (12) months, commencing on the

completion of the First Option Term, and continuing through to the first anniversary of the First Option Term (“Second Option Term”), and thereupon require CONTRACTOR to continue to provide services, and otherwise perform, in accordance with the Contract Documents.

- 3.4. SBCTA’s election to extend the Contract beyond the initial term shall not diminish its right to terminate the Contract for SBCTA’s convenience or CONTRACTOR’s default as provided elsewhere in this Contract. The “maximum term” of this Contract for maintenance and hydrogen fuel delivery services shall be the period extending from the date of Substantial Completion through to the fifth anniversary of the date of Substantial Completion.

#### **ARTICLE 4. ORDER OF PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of the Contract, excluding its exhibits; (2) Exhibit A to the Contract Articles – these Special Provisions, including Attachments A and B; (3) Exhibit B to the Contract – the General Provisions; (4) Exhibit C to the Contract – the Technical Provisions; (5) the provisions of RFP 22-1002700 issued by SBCTA and dated May 11, 2022; (6) CONTRACTOR’s Proposal dated July 21, 2022; (7) any other documents, cited herein or incorporated by reference.

#### **ARTICLE 5. CONTRACT TIME**

- 5.1. Upon receipt of the NTP, the CONTRACTOR shall proceed promptly with the Work, subject to compliance with all requirements of the Contract Documents. The CONTRACTOR shall prosecute the Work so that it is performed within the times set forth in Section 5.2.
- 5.2. The Milestones under this Contract are set out in Attachment B to these Special Provisions – Payment Schedule, which is incorporated herein by this reference.
- 5.3. SBCTA will determine completion of the Milestones as follows:
- 5.3.1 the CONTRACTOR may submit a notice to SBCTA requesting that SBCTA inspect the Milestone Work to determine whether the Milestone has been completed;
  - 5.3.2 the CONTRACTOR shall only submit such notice when it believes, in good faith, that it has completed the Milestone; and
  - 5.3.3 upon such request, SBCTA shall respond to the CONTRACTOR either by: (i) issuing written acknowledgement of completion; or (ii) providing notice to the CONTRACTOR that the Milestone has not yet been completed, identifying deficiencies that require resolution. No



Milestone shall be considered complete until SBCTA has provided subsequent notice to the CONTRACTOR that all deficiencies have been resolved.

- 5.4. Substantial Completion, to be determined in SBCTA's discretion, shall mean that the Work is sufficiently complete and in accordance with the Contract, that it can be utilized by SBCTA for the purpose for which it was intended. A determination of Substantial Completion does not waive, but may not require, the prior completion of minor items as part of the Punch List work which do not impair SBCTA's ability to safely occupy and utilize the Work for its intended purpose.
- 5.5. The Maintenance and Fuel Delivery Period shall commence upon SBCTA's certification of Substantial Completion.
- 5.6. The project term shall end and this Project shall terminate upon the completion of all services required (i) through Substantial Completion of the Project, (ii) during the initial Maintenance and Fuel Delivery Period and, (iii) subject to SBCTA exercising its right under Section 3.2, the First Option Term and, (iv) subject to SBCTA exercising its right under Section 3.3, the Second Option Term.

## **ARTICLE 6. PAYMENTS**

- 6.1. Payments will be made to CONTRACTOR by SBCTA in accordance with Attachment B to these Special Provisions - Payment Schedule.
- 6.2. On or before the twenty-fifth (25th) day of each month during the performance of the Work, the CONTRACTOR will deliver to SBCTA:
  - 6.2.1 an executed Prompt Payment Certification in a form to be provided by SBCTA from Subcontractors with respect to the prior months progress payment to their subcontractors; and
  - 6.2.2 affidavits of payment, conditional and unconditional waivers of Liens and claims from Subcontractors at any tier, for each payment the Subcontractor receives. Subcontractor payment releases shall be in the form set forth in Civil Code sections 8132 through 8138.
- 6.3. All certifications, affidavits and waivers required pursuant to Section 6.1 be made available for review by SBCTA within ten (10) business days of request.
- 6.4. SBCTA shall pay the CONTRACTOR the amount of any invoice approved for payment within thirty (30) days after SBCTA's approval of such invoice, less any permitted retainage and any amounts that SBCTA is otherwise entitled to withhold or

deduct under this Contract.

## **ARTICLE 7. AVAILABILITY**

- 7.1. Payments made to the CONTRACTOR shall be subject to adjustment by subtraction of the assessed Availability Deduction.
- 7.2. The “Availability Deduction” is:
- 7.2.1 For months where availability criteria, determined pursuant to Section 7.3, are met on every day fueling is requested, the Availability Deduction is zero dollars (\$0).
  - 7.2.2 For months where the availability criteria are not met on one or more day when fueling is requested, the Availability Deduction is as follows:
    - 1 day unavailable = 1.00% of payment for month
    - 2 days unavailable = 5.00% of payment for month
    - 3 or more days unavailable = 10.00% payment for month
- 7.3. Availability shall be calculated based upon the number of days in each calendar month fueling is requested. The system shall be considered "available" for purposes of a calendar day on which fueling is requested if all of the following conditions are satisfied:
- 7.3.1 Gaseous renewable hydrogen fueling is available immediately upon request in both the full quantity (up to 300 kilograms per day, plus a minimum 65% additional spare usable capacity) and at the quality required to meet daily hydrogen demand of the ZEMU Vehicle;
  - 7.3.2 The fueling system is clean and in good working order, and both hydrogen dispensers are functional allowing for concurrent dual fueling in both ZEMU vehicle receptacles at a delivery pressure of at least 350 bar (5076 psi) within the maximum allotted 30 minute fueling time; and
  - 7.3.3 The fueling system meets all safety requirements, including, but not limited to, having a fully functional leak detection and monitoring system.
- 7.4. In order to ensure rail service is not impacted, in the event the availability criteria are not fully met on any day in three consecutive months, the CONTRACTOR shall make available a temporary alternative source of trackside fueling until such time that the issues leading to failure to consistently meet the availability criteria are solved to

Southern California Regional Rail Authority(SCRRA)'s reasonable satisfaction.

## **ARTICLE 8. CHANGES**

- 8.1. By written notice or order, SBCTA may, from time to time, order Work suspension and/or make any change in the general scope of this Contract, including, but not limited to, changes in the drawings, specifications, schedules (either deceleratory or acceleratory) or any other particular of the specifications or provisions of this Contract. If any such Work suspension or change causes an increase or decrease in the price or time required for performance, CONTRACTOR shall promptly notify SBCTA thereof and assert its claim for adjustment within ten (10) calendar days after the change or Work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONTRACTOR from proceeding immediately with the Contract as changed. Changes will be made in accordance with the terms as set forth in Section 6 of the General Provisions by written change order.
- 8.2. No claims by CONTRACTOR for equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.
- 8.3. Any work done beyond the Technical Provisions specified in this Contract, or any extra work done without SBCTA's prior written authorization, will be considered unauthorized work and will not be paid
- 8.4. Upon order of SBCTA, unauthorized work shall be remedied, removed or replaced at CONTRACTOR's expense.
- 8.5. CONTRACTOR, in connection with any proposal it makes for a modification to the Contract, shall furnish a price breakdown, itemized as required by SBCTA. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract and overhead costs, as well as profit, and shall cover all Work involved in the modification, whether such Work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by SBCTA.

## **ARTICLE 9. LOBBYING**

CONTRACTOR and all subcontractors performing Work under this Contract shall be prohibited from concurrently representing or lobbying for any other party competing for a contract with SBCTA, either as a prime contractor or subcontractor. Failure to refrain from such representation may result in termination of this Contract.

## **ARTICLE 10. PRIVACY ACT**

CONTRACTOR shall comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. §552a. Among other things, CONTRACTOR agrees to obtain the express consent of the Federal Government before CONTRACTOR, or its employees operate a system of records on behalf of the Federal Government. CONTRACTOR understands the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.

## **ARTICLE 11. MATERIAL AND WORKMANSHIP**

- 11.1. Unless otherwise specifically provided in this Contract, all equipment, material, and articles incorporated in the Work covered by this Contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this Contract, reference to any equipment, material, article or patented process, by trade name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and CONTRACTOR may, at its option, use any equipment, material, article or process which, in the judgment of SBCTA, is equal to that named. CONTRACTOR shall furnish to SBCTA for its approval the name of the manufacturer, the model number and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment, which CONTRACTOR contemplates incorporating in the Work. When required by this Contract or when called for by SBCTA, CONTRACTOR shall furnish SBCTA, for approval, full information concerning the material or articles which it contemplates incorporating in the Work. When so directed, samples shall be submitted for approval at CONTRACTOR's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without required approval shall be at the risk of subsequent rejection.
- 11.2. All Work under this Contract shall be performed in a skillful and workmanlike manner. SBCTA may, in writing, require CONTRACTOR to remove from the Work any employee SBCTA deems incompetent, careless or otherwise objectionable.

## **ARTICLE 12. WARRANTY**

- 12.1. In addition to any other warranties set forth in this Contract, whether expressed or implied, CONTRACTOR warrants that (1) all Work performed and all equipment and material provided under this Contract by CONTRACTOR or any of its subcontractors or suppliers, at any tier, conforms to the requirements herein and is free of any defects;

- (2) equipment furnished by CONTRACTOR or any of its subcontractors or suppliers, at any tier, shall be of modern design, in good working condition and fit for use of its intended purpose; and (3) all Work shall meet all of the requirements of this Contract.
- 12.2. Under this warranty, CONTRACTOR shall remedy at its own expense any such failure to conform or correct any defect. In addition, CONTRACTOR shall remedy at its own expense any damage to SBCTA or SCRRA owned or controlled real or personal property, when that damage is the result of CONTRACTOR's failure to conform to Contract requirements or any such defect of equipment, material, workmanship or design. CONTRACTOR shall also restore any Work damaged in fulfilling the terms of this clause.
- 12.3. Such warranty shall continue for as follows:
- 12.3.1 New Equipment: As to new equipment, CONTRACTOR's sole warranty is to replace or repair, at its option and free of charge, manufacturing defects in material and workmanship in the Equipment for a period of thirty-six (36) months after Substantial Completion. Warranty applies only to major components and does not include wear parts. CONTRACTOR assumes no obligation, liability, cost or responsibility for any repair or replacement unless performed by CONTRACTOR or its subcontractors or with CONTRACTOR's prior written consent.
- 12.3.2 Assignment: CONTRACTOR shall assign any and all manufacturer warranties for new equipment to SBCTA, its designated assignee, or SCRRA, at the conclusion of the end of the Contract term.
- 12.3.3 Parts:
- A. As to parts purchased separately from the equipment and as to spare parts packages, CONTRACTOR's sole warranty is to replace or repair all defective parts.
- B. As to the parts that become defective within one year following the end of the Contract term, CONTRACTOR's sole warranty is to replace or repair all defective parts, provided that (1) SBCTA notifies CONTRACTOR in writing prior to the expiration of the applicable warranty period; (2) SBCTA has conducted periodic maintenance and service as specified in any maintenance manuals provided by CONTRACTOR; and (3) SBCTA has used, operated, installed, and stored the parts properly. SBCTA must return to CONTRACTOR the defective part(s) within thirty (30) days of arrival of the replacement part. This parts warranty includes labor costs

for removing defective parts and for installing repaired or replaced parts. The warranty with respect to any repaired or replaced part shall expire at the expiration of the original applicable warranty period of the part.

- 12.4. SBCTA, its designated assignee, or SCRRA, shall notify CONTRACTOR in writing within a reasonable time after the discovery of any failure, defect or damage. CONTRACTOR has seven days from receipt of notice from SBCTA/SCRRA to respond to the notification and indicate how CONTRACTOR will remedy the failure, defect, or damage. If SBCTA/SCRRA is not satisfied with the remedy proposed by CONTRACTOR, CONTRACTOR and SBCTA shall meet and mutually agree when and how CONTRACTOR shall remedy such violation. In the case of an emergency requiring immediate corrective action, CONTRACTOR shall implement such action as it deems necessary and shall notify SBCTA in writing of the urgency of a decision and action taken. CONTRACTOR and SBCTA shall then promptly meet in order to agree on a remedy. If CONTRACTOR and SBCTA fail to agree on the remedy within a five-day period, SBCTA, after notice to CONTRACTOR, shall have the right to perform or have performed by third parties the necessary remedy, and the costs thereof shall be borne by CONTRACTOR.
- 12.5. Should CONTRACTOR fail to remedy any failure, defect or damage above within a reasonable time after receipt of notice thereof, SBCTA shall have the right to replace, repair or otherwise remedy such failure, defect or damage at CONTRACTOR's expense and CONTRACTOR shall be liable for all damages, including, but not limited to, actual or consequential damages and cost of any suit to enforce SBCTA's rights hereunder, including reasonable attorney's fees.
- 12.6. In addition to the other rights and remedies provided by this clause, all subcontractors, manufacturers, and suppliers' warranties, expressed or implied, respecting any Work and materials furnished hereunder, shall, at the direction of SBCTA, be enforced by CONTRACTOR for the benefit of SBCTA. In such case if CONTRACTOR's warranty has expired, any suit directed by SBCTA shall be at the expense of SBCTA. CONTRACTOR shall obtain any warranties which the subcontractors, manufacturers or suppliers would give in normal commercial practice and shall cause all subcontractor or supplier warranties to be extend to SBCTA.
- 12.7. If directed by SBCTA, CONTRACTOR shall require any such warranties to be executed in writing to SBCTA.
- 12.8. Notwithstanding any other provision of this clause, unless such a defect is caused by the negligence of CONTRACTOR or its subcontractors or suppliers at any tier, CONTRACTOR shall not be liable for the repair of any defects of material or design furnished by SBCTA nor for the repair of any damage which results from any such

defect in SBCTA furnished material or design.

- 12.9. The warranty specified herein shall not limit SBCTA's rights under the inspection and acceptance provisions of this Contract with respect to latent defects, gross mistakes or fraud.
- 12.10. Defects in design or manufacture of equipment specified by SBCTA on a "brand name and model" basis shall not be included in this warranty. CONTRACTOR shall require any subcontractors, manufacturers or suppliers thereof to execute their warranties in writing directly to SBCTA.

### **ARTICLE 13. NON-CONFORMING WORK**

- 13.1. Nonconforming Work rejected by SBCTA shall be removed and replaced so as to conform to the requirements of this Contract, at CONTRACTOR's cost and without a time extension; and CONTRACTOR shall promptly take all action necessary to prevent similar deficiencies from occurring in the future. The fact that SBCTA may not have discovered the nonconforming Work shall not constitute an acceptance of such nonconforming Work. If CONTRACTOR fails to correct any nonconforming Work within ten days of receipt of notice from SBCTA requesting correction, or if such nonconforming Work cannot be corrected within ten (10) days, and CONTRACTOR fails to (1) provide to SBCTA a schedule for correcting any such nonconforming Work acceptable to SBCTA within such ten-day period, (2) commence such corrective Work within such ten-day period and (3) thereafter diligently prosecute such correction in accordance with such approved schedule to completion, then SBCTA may cause the nonconforming Work to be remedied or removed and replaced and may deduct the cost of doing so from any moneys due or to become due CONTRACTOR and/or obtain reimbursement from CONTRACTOR for such cost.
- 13.2. If SBCTA agrees to accept any nonconforming Work without requiring it to be fully corrected, SBCTA shall be entitled to reimbursement of a portion of the Contract Price in an amount equal to the greater of the amount deemed appropriate by SBCTA to provide compensation for future maintenance and/or other costs relating to the nonconforming Work, or 100% of CONTRACTOR's cost savings associated with its failure to perform the Work in accordance with Contract requirements. Such reimbursement shall be payable to SBCTA within ten (10) days after CONTRACTOR's receipt of an invoice thereof. CONTRACTOR acknowledges and agrees that SBCTA shall have sole discretion regarding acceptance or rejection of nonconforming Work and that SBCTA shall have sole discretion with regard to the amount payable in connection therewith.

#### **ARTICLE 14. CONTRACTOR INSPECTION SYSTEMS**

CONTRACTOR shall maintain an adequate inspection system and perform such inspections as will assure that the Work performed under this Contract conforms to the specified requirements, and shall maintain and make available to SBCTA adequate records of such inspections.

#### **ARTICLE 15. OPERATIONS AND STORAGE AREAS**

- 15.1. All operations of CONTRACTOR (including storage of materials and equipment) on the site shall be confined to areas authorized or approved by SBCTA. CONTRACTOR shall hold SBCTA and its officers and agents free and harmless from liability of any nature occasioned by CONTRACTOR's operations.
- 15.2. Temporary buildings (storage sheds, shops, offices, etc.) may be erected by CONTRACTOR with the written consent of SBCTA, and shall be built with labor and materials furnished by CONTRACTOR without expense to SBCTA. Such temporary buildings and utilities shall remain the property of CONTRACTOR and shall be removed by CONTRACTOR at its expense upon the completion of the Work. With the written consent of SBCTA, such buildings and utilities may be abandoned and need not be removed.
- 15.3. CONTRACTOR shall, under regulations prescribed by SBCTA, use only established roadways or construct and use such temporary roadways as may be authorized by SBCTA. Where materials are transported in the prosecution of Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state or local law or regulation. When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by CONTRACTOR and any damaged roads, curbing or sidewalks shall be repaired by, or at the expense of, CONTRACTOR.

#### **ARTICLE 16. PROTECTION OF VEGETATION, UTILITIES AND IMPROVEMENTS**

- 16.1. CONTRACTOR shall preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site of Work which is not to be removed and which does not unreasonably interfere with the construction Work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment, or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound as directed by SBCTA.
- 16.2. CONTRACTOR shall protect from damage all existing improvements or utilities at or near the site of the Work, the location of which is made known to it, and will repair or



restore any damage to such facilities resulting from failure to comply with the requirements of this Contract or the failure to exercise reasonable care in the performance of the Work. If CONTRACTOR fails or refuses to repair any such damage promptly, SBCTA may have the necessary Work performed and charge the cost to CONTRACTOR.

#### **ARTICLE 17. CLEANING UP**

- 17.1. CONTRACTOR shall at all times keep the construction area, including storage areas used by it, free from accumulations of waste material or rubbish, and prior to completion of the Work remove any rubbish from SBCTA owned premises and all tools, scaffolding, equipment and materials not the property of SBCTA. Upon completion of the construction and during all subsequent Work, CONTRACTOR shall leave the Work and premises in a clean, neat and workmanlike condition satisfactory to SBCTA.
- 17.2. After completion of all Work on the project, and before making application for acceptance of the Work, CONTRACTOR shall clean the site, including all areas under the control of SBCTA, that have been used by CONTRACTOR in connection with the Work on the project and remove all debris, surplus material and equipment, and all temporary construction or facilities of whatever nature, unless otherwise approved by SBCTA. Final payment will be withheld by SBCTA until CONTRACTOR has satisfactorily complied with the foregoing requirements for final cleanup of the project site.
- 17.3. Full compensation for conforming to the provisions in this Article, not otherwise provided for, shall be considered as included in price of this Contract and no additional compensation will be allowed therefore.

#### **ARTICLE 18. DIFFERING SITE CONDITIONS**

- 18.1. CONTRACTOR shall immediately, and before such conditions are disturbed, notify SBCTA in writing of: (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this Contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. SBCTA will investigate the conditions within three business days of receipt of notification, and if it finds that such conditions do materially so differ and cause an increase or decrease in CONTRACTOR's cost of, or the time required for, performance of any part of the Work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the

Contract modified in writing accordingly.

- 18.2. No claim of CONTRACTOR under this Article shall be allowed unless CONTRACTOR has given the written notice required above.

## **ARTICLE 19. OWNERSHIP**

- 19.1. With respect to any part of any element that is to be affixed to any area within the project site (or any infrastructure already affixed thereto) as part of the project, ownership of and title to each such part shall automatically vest in SBCTA or in such other name to the extent expressly provided for in this Contract, or in such other name(s) as SBCTA may otherwise determine in its discretion, free from all encumbrances immediately upon such part being affixed thereto.
- 19.2. The Contractor shall not do any act or thing that shall create any encumbrance against any part of the project or area within the project site, and shall remove any encumbrance, unless the encumbrance came into existence as a result of an act of or omission by SBCTA.
- 19.3. Notwithstanding the foregoing:
- 19.3.1 the passage of ownership of and title to any part of any element shall not in itself imply acceptance of the same by SBCTA as to the compliance with this Contract; and
  - 19.3.2 the risk of loss or damage to all elements shall remain with the CONTRACTOR until the earlier of the end of the term or the date on which such element is handed over to SBCTA and is thereafter expressly excluded from the project and the CONTRACTOR'S continuing scope of Work.

**ATTACHMENT A: SCOPE OF WORK**

**Attachment: Exhibit A Special Provisions (8765 : Award Contract No. 22-1002700 for AMF Hydrogen Fuel Upgrade Project)**

## 1. GENERAL SCOPE OF SERVICES

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

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

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

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

Contractor shall provide a narrative in its Proposal of its general approach to management oversight of the Project during the Design & Construction (D&C) and Maintenance and Fuel Delivery Period. In addition, the Contractor shall prepare and submit with its Proposal an anticipated schedule for design

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phase activities, including design development, drawing submittal, equipment sizing and specifications, and purchase and delivery of all major components and significant bulk materials. Contractor shall also prepare and submit with its proposal a construction/installation schedule, including anticipated manpower loading. Upon award of the Project, the Contractor's schedule will be reviewed and commented upon by SBCTA before approval. Throughout the Project's phases, the Contractor will be expected to provide routine project management and schedule reporting.

## 2. MATERIALS AND SERVICES TO BE FURNISHED BY THE CONTRACTOR

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

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

### 2.1 100% Design of Hydrogen Fueling System (HFS)

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

### 2.2 Construction, Testing and Commissioning

The Contractor shall be responsible for construction of the new HFS, as well as any site improvements required for the installation of the system. Once the installation is complete, the Contractor shall be

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responsible for all testing, commissioning, and signoffs of the system in order to achieve substantial completion, as mutually agreed to at time of contract, prior to turnover to SBCTA.

### 2.3 Hydrogen Delivery

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

### 2.4 Permitting and Approvals

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

### 2.5 Maintenance and Fuel Delivery Period

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

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

Contractor shall hold and maintain adequate spare parts and consumables to maintain specified operational performance of the HFS. The maintenance portion of the work will include replacement of any parts or consumables as they are used in the work such that no delays cause unnecessary downtime of the system. The target availability of the HFS shall be 98% and a monetary penalty shall be assessed on a monthly basis if the availability is below 98%. Availability will be calculated by days in service (e.g., 30 days - day out of service) / (30 days) on a monthly basis. Should the HFS fail to meet the availability San Bernardino County Transportation Authority Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System – Attachment A Scope of Work

criteria on a consistent basis (i.e., two months in a row), trackside fueling shall be available to SCRRA’s contractor as an alternative for fueling (while the issues with the primary HFS are resolved) to ensure service is not impacted.

Contractor must be prepared to respond to unanticipated technical support needs within two (2) hours of notification. Notification shall be automated so that on-call personnel are notified as soon as a defective parameter, emergency stop, or unplanned shutdown has been identified that will impair regular fueling operations.

2.6 Hazardous Materials Business Plan

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

2.7 Progress Review Meetings

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

3. ENVIRONMENTAL CONDITIONS

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

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

Condition	Maximum	Minimum
Ambient Temperature	120° F (49 C)	20° F (-15° C)

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Relative Humidity	100%	5%	
Wind:	-		
Operating - 1-min wind	40 mph (64 km/h)		-
Operating - 3-sec gust	70 mph (113 km/h)		-
Storage - 3-sec gust	100 mph (161 km/h)		-

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

Average High and Low Temperature at San Bernardino International Airport

Source: Weather Spark

#### 4. PROJECT TECHNICAL REQUIREMENTS

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

##### 4.1 General Requirements

a. The Contractor will be responsible for providing an onsite hydrogen storage and transfer system which meets the operating conditions outlined in this RFP. This includes other applicable ambient concerns of the site like adjacent infrastructure (active rail yard and diesel fueling) and designing to meet relevant California earthquake codes and standards.

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b. A defueling station shall also be designed and constructed as part of the overall scope of work. The system should be located adjacent to or close to the refueling area for efficiency of operations. It should allow for safe and controlled defueling of the rail vehicle into the atmosphere based on the specifications provided from the vehicle provider. The defueling station should be considered in the Contractor's overall HAZOP.

#### 4.2 Daily Demand of Hydrogen for One ZEMU Vehicle

a. The Contractor will be responsible for providing onsite hydrogen storage at the AMF. The hydrogen storage can be mobile or semi-permanent as dictated by their proposed HFS and equipment.

b. Per the specifications of the ZEMU vehicle and the anticipated duty cycles for the Arrow service, the daily demand of hydrogen is expected to be up to 300 kilograms per day (2100 kilograms per week) of gaseous hydrogen during planned revenue service.

c. The Contractor shall be responsible for ensuring the supply and onsite storage meet the daily demand of the single ZEMU vehicle (300kg), in addition to having a minimum of 65% additional spare usable capacity of hydrogen. Where possible, the Contractor shall seek to maximize onsite storage to reduce the frequency of hydrogen deliveries while considering efficiencies in storage costs and energy usage.

d. It is anticipated that during testing and commissioning of the ZEMU vehicle, the daily demand of Hydrogen will be less than or equal to 300 kilograms per day. The anticipated period for testing and commissioning is six (6) months from the start of testing. The expectation is that the Contractor will consider the increase in H2 demand following the testing and commissioning in the overall annual cost per kg.

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

#### 4.3 Target Fill Rate and Fueling Protocol

a. SBCTA's target fueling time for the ZEMU vehicle is 30 minutes to fill all tanks from the minimum tank pressure of 15 bar to a full fill state considered as 350 bar at 20°C (68°F) tank temperature, under normal operating/ambient conditions. For the purpose of the 30 minute fueling time for this RFP, normal ambient condition will be defined as 95°F. Proposers shall assume that fueling will primarily occur in the evenings after the daily Arrow service is complete, however, it is possible that fueling could occur at any time of day. Proposers shall assume that the target refueling time needs to be achieved for an ambient temperature range between 20°F to 95°F (-15°C to 35°C).

b. This target fueling rate assumes that fueling is occurring in both receptacles on the vehicle simultaneously (dual fueling) and that fueling is occurring in Fueling Location A at dispensing Location A.1 or A.2 (refer to Section 13.6).

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c. Based on a preliminary analysis of the HFS, it is anticipated that cooling/compression equipment may be required to achieve this fueling rate. The Contractor will be responsible for selection and sizing of any vaporizing, cooling or compression equipment as needed to meet the target refueling times identified above. Similar to the storage capacity, the Contractor shall size the equipment accordingly to meet the demand of one ZEMU vehicle while considering provisions for future scalability to four ZEMU vehicles. The Contractor should provide information pertaining to the ease of future expansion or ability to accommodate subsequent fueling of the additional three ZEMU vehicles. If there are significant costs associated with meeting the demand of more ZEMU vehicles, this should be noted in the RFP response.

d. The Contractor shall propose a cost and energy efficient solution that will meet the fueling targets for one ZEMU vehicle. SBCTA may consider accepting longer fueling times if it can be demonstrated to provide significant cost and/or energy savings (e.g., above 20% savings).

e. Contractor shall describe at a high-level their recommended approach to fueling protocol, to be further developed after award in collaboration with the vehicle supplier. This protocol will be developed in close collaboration with the vehicle supplier and shall, at a minimum, comply with SAE J2601/2\_201409 'Fueling Protocol for Gaseous Hydrogen Powered Heavy Duty Vehicles' and shall prevent over-pressurization, overheating, density discrepancies, or other damage to the on-board hydrogen storage system components as described in Section Error! Reference source not found..

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

#### 4.4 ZEMU Vehicle Technical Specifications and Interface

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

#### 4.5 Hydrogen Source Requirements

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

a. Hydrogen Purity (SAE Standards): Hydrogen must be fuel cell grade and meet ISO SO14687:2019, grade D (EC) / SAEJ2719\_201511. Contractor shall provide a hydrogen quality assurance plan meeting the requirements of the latest version of ISO 19880-8 for the fueling process.

b. Percentage Renewable: Hydrogen must initially be a minimum of 33.3% renewable in order to comply with California SB662, and increasing thereafter to maintain compliance with SB662. Proposer shall provide options to achieve 100% renewable upon commencing operations, if available from Proposer's supply, should SBCTA choose.

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- c. **Delivery Distance and Delivery Method:** It is anticipated that hydrogen will be delivered to the site via West 3rd Street. Refer to the AMF Site Plan included in Part I: Exhibits for additional information on site access and delivery to site. The distance between the AMF site and the hydrogen source(s), as well as the delivery distance, should be minimized wherever possible to reduce travel time and the risk of delays. Information on the hydrogen production site(s)/source(s) and delivery route/source should be provided as part of the Proposal.
- d. **Delivery Vehicle Constraints Per Existing Site:** Initial analyses suggest that a maximum allowable delivery vehicle size will be restricted to a WB40 truck. Refer to the conceptual truck turning templates included in Part I: Exhibits for more details on the delivery vehicle routing within the AMF property. Larger vehicles may be considered if the Contractor can demonstrate that this is technically feasible and safe for daily operations and fuel delivery.
- e. **Frequency of Delivery:** Hydrogen fuel deliveries to the AMF site will be limited and strictly regulated for safety reasons. The delivery window for hydrogen fuel will be dictated by SCRRRA operations within the AMF property. The Contractor or Contractor's fuel delivery provider shall coordinate and schedule all deliveries with SCRRRA operations and provide a minimum 1-hour notice prior to arrival at the AMF.
- f. **Backup Supply:** The Contractor should have access to a reliable back-up hydrogen source in the event the primary source is not available. Information regarding the back-up source and supply distance should be provided in the Proposal. The back-up supply should adhere to the same hydrogen standards as the primary source as indicated above.

#### 4.6 Site Layout and Logistics

##### a. Hydrogen Storage and Transfer System Location

i. One location within the southern portion of the AMF site has been identified as a potential location to accommodate the hydrogen storage and transfer system during preliminary site layout evaluations. The location is identified in Part I: Exhibits and labeled as Hydrogen Storage Location A.

ii. Location A has been identified due to ease of accessibility, limited impact to existing infrastructure and operations within the site, large square footage and flexibility with dispensing locations. The Contractor may propose a solution at an alternate location within the AMF site as long as the proposed layout is feasible, meets required codes and standards, and is safely and easily accessible for regular hydrogen delivery.

##### b. Hydrogen Dispensing and Fueling Track Location

i. Fuel dispensing into the ZEMU vehicle should occur while the vehicle is parked on a track which is near the HFS under normal fueling operations.

ii. Two potential dispensing locations have been identified within the AMF site adjacent to Hydrogen Storage Location A (A.1 and A.2). These locations are identified in Part I: Exhibits and are labeled as Hydrogen Dispensing Locations. Contractor will be required to submit site arrangement drawings to SBCTA in electronic format for review, comment, coordination and approval during the detailed design process.

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- iii. SBCTA requires flexibility in the dispensing location because the tracks provide access to the maintenance facility, wash bay and storage areas. Based on preliminary conceptual planning and engagement with SCRRA, dispensing location A.2 has been identified as the primary dispensing location as it provides the best operational flexibility and can accommodate a longer fueling time, if necessary. SBCTA also requires the option to fuel in Location A.1 as an alternate location, given the close proximity to Hydrogen Storage Location A.
- iv. The Contractor shall supply interconnecting piping and tubing between the HFS and the dispenser for fueling operations. Interconnecting piping/tubing shall be supplied by Contractor and routed underground/overhead to eliminate crossing the rail tracks with hoses to reach dispensing Location A.2. The routing of underground piping/tubing shall be determined by Contractor to avoid clashes with existing underground utilities.
- v. Contractor will provide additional site infrastructure as appropriate based on-site conditions and to meet NFPA 2 requirements. This may include a canopy, fencing, fire barrier walls, bollards, lighting upgrades, etc. Refer to Section 13.9 for additional site civil requirements.

#### 4.7 Materials and Equipment

- a. All materials and equipment delivered by the Contractor shall be new and all workmanship, materials and equipment used in all portions of the work shall be of the best quality and shall be free of all defects which would affect the performance or service life of the equipment, or which would cause unsightly or unworkmanlike appearance. Materials are also required to be compatible with hydrogen and not susceptible to hydrogen embrittlement. Contractor shall submit data sheets for all major equipment and drawings of components to SBCTA in electronic format for review, comment, coordination and approval. Materials should meet all applicable hydrogen standards as specified by the National Renewable Energy Laboratory. Applicable codes and standards are also indicated in Section 13.10.
- b. Material delivered or installed that is not in accordance with the drawings and specifications shall be removed and replaced at Contractor's expense. If the progress of the work is such that removal is impractical, SBCTA shall have the right to deduct from the final payment/contract value, the amount of money it considers equivalent to the difference in value received.
- c. The Contractor shall, if requested to do so, furnish satisfactory evidence as to the kind and quality of all materials furnished by it as well as compatibility of materials with hydrogen. This includes evidence of pressure retaining capacity of piping and fittings by mill certifications identifying the heat and lot of the metal and relating the part to any fabrication tests used to document safety at high pressures.
- d. Shop testing of all major components shall be witnessed by the Contractor and an SBCTA representative in the fabrication facility of origin. Shop test plans describing the procedures to be followed, the activities to be witnessed, and the form of documentation of acceptance shall be submitted to SBCTA for approval at least two (2) weeks prior to any witnessed shop tests.
- e. Contractor shall select equipment and components that are code compliant, and meet the following requirements:

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- i. Cabinets: Each dispenser cabinet shall be free standing and include sufficient support to remain fully functional in typical weather for the Inland Empire Region. The Gas Management Panel (GMP) cabinet may be attached to a wall with Contractor specified attachments. All components and cabinets shall be suitable to withstand seismic events without physical damage in the Seismic Design Category E area where it will be installed. Each dispenser shall include a pit frame to simplify installation by a general Contractor who may not have experience with hydrogen dispensers.
- ii. Gas Management Panel: All onboard electronics in the GMP shall be suitable for installation and use in a Class I Division II Group B environment. Contractor shall clearly state in their proposal if fail-safe solenoid or ball valves are used for hydrogen isolation and/or flow control. A ground lug shall be provided inside the cabinet for connection to the site ground system. This ground shall be permanently tied to the ground connection that also connects to the vehicle as a permissive prior to fueling.
- iii. Piping and Tubing: Piping and tubing materials selected shall be compatible with the hydrogen fluid in either the gaseous or liquid state, depending on the stage in the process. All pressurized hydrogen piping shall be designed and installed per B31.12, Hydrogen Piping. Piping shall be designed for a minimum 30-year life. Compression connections shall not be used; cone and threaded connection may be accepted; however, welded connections are preferred wherever possible to minimize potential for leakage. Connection details are subject to approval by SBCTA.
- iv. Valves: Process valves shall be ball-type, non-lubricated with materials compatible with hydrogen fluid in either the gaseous or liquid state, as well as other petroleum products. Valves shall be of fire-safe design meeting the requirements of API 607.
- v. Pressure Relief and Gauges: Pressure relief devices and all pressurized hydrogen piping shall be designed and installed per B31.12, Hydrogen Piping. Relief valve vent piping height and separation distance shall comply with the IFC NFPA 2 and CGA G-5.5. All gauges shall comply with ANSI/UL 404 – Gauges Indicating Pressure for Compressed Gas Service. Gauges shall be liquid filled, a minimum of 2.5 inches in diameter, and have a blowout back panel.
- vi. Storage Tanks: Hydrogen storage tanks shall be designed to meet the seismic conditions at the site and be ASME code-stamped pressure vessels meeting the requirements of ASME Section VIII Division 1 or 2. All tanks must include relief valves per ASME Section VIII and CGA (for gaseous hydrogen storage). The total recommended storage volume of any tanks shall be determined by Contractor based on daily fueling rates, hydrogen state for delivery, and planned delivery schedule. The Contractor is responsible for the ongoing maintenance and inspection requirements for the tanks for the duration of the maintenance and fuel delivery period. The Contractor must also specify the anticipated lifecycle of the storage tanks in their proposal.
- vii. Compression: If required for Contractor's proposed design, compressor design shall be coordinated with the overall HFS proposed operating philosophy, including flow rates and pressures to properly fuel the ZEMU vehicle in 30 minutes, while also not exceeding the maximum allowable working pressure of any storage tanks in Contractor's design. Each compressor shall be skid-mounted, electric-motor-driven, fully suitable for the temperature extremes of the site, and enclosed or containerized with interior lighting and HVAC, lubrication, interstage and aftercooling, leak monitoring, and fire safety suitable for mounting on an equipment pad designed for the seismic conditions at the site. Compressors may be diaphragm, reciprocating, ionic fluid or other hydrogen compression technology that meets the San Bernardino County Transportation Authority Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System – Attachment A Scope of Work

technical requirements for fuel delivery to the ZEMU vehicle. All controls, including interface and wiring connections to allow for remote monitoring and control, shall be included.

#### 4.8 Inspection and Acceptance

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

#### 4.9 Site Civil and Electrical Infrastructure

- a. Contractor to design and construct any site re-grading and paving as well as curb alterations as required to accommodate the HFS, fuel delivery and fueling operations.
- b. Contractor will be required to design and construct any mitigations identified as part of the recent CEQA process.
- c. Protective infrastructure: Contractor shall determine if the HFS layout requires additional protective infrastructure to be installed (i.e., canopies, bollards and/or fire barrier walls) based on NFPA, fire marshal, federal, state and other local requirements. Contractor shall take into account the on-site storage volumes and proximity to other equipment, buildings, vehicles or electrical utilities when making this determination.
- d. Site Lighting: The Contractor shall be responsible for any lighting modifications required for the HFS location and dispensing locations. This includes extending cable and conduit runs for any new light fixtures required. All new light fixtures and accessories shall be rated for a class 1, division 2 installation. The hydrogen fueling equipment shall be illuminated to a minimum of 5 ft.-candles and 50 lux for the permanent working area for the hydrogen fueling equipment. Any additional lighting requirements at the interface location between the fueling system and the ZEMU vehicle for fueling operations will be the responsibility of others.
- e. Utilities: The drawings provided show the location of existing utilities based on information provided by the current AMF site civil constructor. This information may not reflect the latest as-built conditions and therefore, the Contractor shall be responsible for field verification and identification as required, in coordination with SBCTA's engineer. The Contractor shall detail as needed the required relocation of all utilities as part of the design phase work. Any utility connections required by the Contractor for mobilization or construction shall be the responsibility of the Contractor, but shall be coordinated with SBCTA. During the construction phase of the work, final connection of utilities to Contractor-supplied equipment shall be made by Contractor.

f. **Power Requirements:** As part of the upgrade of the AMF maintenance facility and installation of the new hydrogen storage and transfer system, SBCTA will be replacing the existing transformer or installing a separate second service to the site to provide increased electrical capacity. Coordination with the local electrical utility (Southern California Edison) is already underway. For the pilot phase of the facility operations, Contractor shall assume a 480 V three-phase power feed with a maximum connected electrical load of 665 kVA has been allocated for the HFS. The final allocated electrical capacity shall be confirmed by Southern California Edison. An upgrade to the onsite emergency generator is also planned based on the same loading assumptions for the HFS. For any 208 VAC and 120 VAC electrical loads, Contractor shall include a stepdown transformer. Contractor shall include with the proposal a preliminary electrical load list for all anticipated loads and indicate whether these are continuous or intermittent loads to assist with coordination with Southern California Edison.

g. **Grounding:** Contractor shall include grounding reels or other means for grounding the hydrogen delivery trucks when parked in the offloading areas. All other equipment that is a part of the HFS shall include ground tabs or lugs for connecting to an existing ground grid within the AMF facility.

h. **Operator Communications:** SCRRA's current fueling operations implements FuelForce (Product of Multiforce Systems) as a centralized SCADA to automatically monitor Diesel dispensing transactions from terminals at two existing maintenance facility locations. The Contractor will be required to pursue installation of FuelForce-compatible terminal at the AMF to allow for integrated data to automatically capture hydrogen fueling. The Contractor shall prepare an I/O list as part of the detailed design of the HFS that includes the recommended signals and alarms to be communicated in real-time to SCRRA's FuelForce SCADA system.

The fuel dispenser shall communicate the following data:

- i. Vehicle ID
- ii. Grounding confirmation
- iii. Initial pressure at ZEMU fueling interface point
- iv. Initial temperature of supplied hydrogen gas
- v. Ambient temperature
- vi. Fill rate (kg/min) or pulse counter
- vii. Real-time data and final pressure of onboard hydrogen gas storage tanks
- viii. Real-time data and final temperature of supplied hydrogen gas

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

- i. Date
- ii. Time of day
- iii. Time – start of fueling event and end of fueling event

San Bernardino County Transportation Authority Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System –Attachment A Scope of Work

- iv. Pressure ramp rate (data sampled every 1/10 seconds)
- v. Tank temperature (data sampled every 1/10 seconds)
- vi. Inlet gas temperature (data sampled every 1/10 seconds)

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

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

#### 4.10 Codes and Standards

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

- a. Applicable Federal, State and Local laws, ordinances, and codes for the equipment being provided and installed.
  - i. For example – California Building (Part 1 & 2), Electrical (Part 3), Energy (Part 6), and Fire Codes (Part 9) - Title 24
- b. American Society of Mechanical Engineers (ASME) B31.3 and B31.12
- c. American Society for Testing Materials (ASTM)
  - i. ASTM A-53 – Material Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless
  - ii. ASTM 106 – Specification for Seamless Carbon Steel Pipe for High-Temperature Service
  - iii. ASTM A269- Seamless and Welded Austenitic Stainless-Steel Tubing for General Service
  - iv. ASTM A 312 – Seamless and Welded Austenitic Stainless-Steel pipe
- d. American National Standard Institute (ANSI)
  - i. ANSI B16.11 - Forged Steel Fittings, Socket - Welding and Threaded

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- ii. ANSI B16.5 – Pipe Flanges and Flanged Fittings
- iii. ANSI B16.42 – Ductile Iron Pipe Flanges and Flanged Fittings, Class 150 and 300
- iv. ANSI NGV 4.1-2018 – Natural Gas Vehicle (or updated equivalent)
- v. ANSI HGV 4.1-2020 – Hydrogen-Dispensing Systems
- e. Institute of Electrical and Electronics Engineers (IEEE)
- f. Certified Welding Inspectors (CWI)
- g. American Welding Society Standard for Qualification and Certification of Welding Inspectors (AWS – QC1)
- h. National Fire Protection Association (NFPA)
  - i. NFPA 2 – Hydrogen Technologies Code
  - ii. NFPA 70 (Chapter 5) – National Electric Code
- i. Society of Automotive Engineers (SAE)
  - i. SAE J2601-1 - Fueling Protocols for Light Duty Gaseous Hydrogen Surface Vehicles
  - ii. SAE J2601-2/3 - Fueling Protocols for Heavy Duty Gaseous Hydrogen Surface Vehicles
  - iii. (Optional) SAE J2799 - Hydrogen Surface Vehicle to Station Communications Hardware and Software
- j. National Renewable Energy Laboratory: Hydrogen Vehicle and Infrastructure Codes and Standards
- k. Occupational Safety and Health Standards (OSHA)
- l. Tubular Exchangers Manufacturing Association (TEMA) Standards
- m. International Standards Organization 14687: 2019 Hydrogen Fuel Quality – Product Specification
- n. International Standards Organization 19880-8: 2019 Gaseous Hydrogen – Fueling Stations – Part 8: Fuel Quality Control
- o. Standard under development for hydrogen rail vehicle fueling
  - i. Technical Committee TC 9/PT 63341-2
  - ii. IEC 63341-2

Contractor shall include specific identification of compliance for individual components or subassemblies when specific design, fabrication or installation standards are applicable. Contractor shall identify working group documents and/or ANSI Hydrogen Vehicle standards that have been met to show knowledge of, and likely conformance with, standards that are yet to be issued final in the U.S. Similarly,

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the fill rates specified herein will dictate and may result in eliminating some of the requirements of otherwise applicable standards. Please confirm by a narrative in the proposal that the designs will conform to all applicable U.S. and California Codes and Standards. Codes and standards from other jurisdictions are not acceptable.

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

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

#### 4.11 Health and Safety Requirements

- a. Contractor shall provide an overarching safety plan: Submit two (2) detailed safety plans (Construction Safety Plan and O&M Safety Plan), after award, including a fire and hydrogen leak detection plan, describing the operation of alarms, the evacuation plan, and any training materials that may be necessary. Contractor shall fully describe the operation and capabilities of its response to incidents, including hydrogen alarms, integration with fire alarms, and coordination with the local fire department. The intent of the Safety Plan is also to ensure that necessary safety issues have been considered by all participants across the entirety of the Project (design, construction, operation and maintenance).
- b. Hazard and Operability (HAZOP) Review: Safe practices in the production, storage, distribution, and use of hydrogen are essential to protect people, equipment, and the environment. The Contractor shall prepare and lead a HAZOP review early in the design stage, followed by a final HAZOP once the design has been substantially completed to validate safe practices. This will be a Contractor facilitated meeting in which the design will be analyzed by a qualified board of experts to identify possible failure modes that could result in unacceptable damage to equipment, people or facilities. Following the HAZOP review, a code compliance assessment should be completed by the Contractor in the early or mid-stage of the design phase to ensure all necessary code requirements have been met. This should also include a variety of code checklists to verify NFPA 2 siting requirements, HAZOP safeguard action items, and operational readiness inspections (ORI), among many others. These are used to ensure vulnerabilities have been identified and corrective action items are completed prior to startup. The HAZOP compliance checklists will be owned by the Contractor's Project Engineer who ensures their completion for the HFS. Finally, an Operational and Readiness Inspection is completed prior to startup and owned by the Contractor to verify all checklist items are completed before startup.
- c. Hydrogen Safety Panel (HSP) Coordination: The HSP provides support to SBCTA with a review of the Contractor's proposed design and fueling protocol. The HSP will participate in some project meetings as a stakeholder to further contribute safety inputs from the hydrogen industry, including HAZOP meetings (as appropriate). The HSP will also participate in the review of the HAZOP. The Contractor should not assume any additional meetings or interface with the HSP for purposes of the bid.
- d. Leak and Flame Detection: Consultant shall consider monitoring of internal HFS piping pressure and flows as a means to achieve leak detection. In addition, the HFS must include provisions for a safe shutdown of hydrogen handling equipment by untrained site personnel in the case of a hydrogen leak. An integrated UV/IR detector or multiband IR detector and hydrogen leak detections shall be provided

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to fully monitor enclosed spaces where hydrogen may leak, including where transfer operations take place, outside spaces and/or equipment producing or containing hydrogen. The Contractor is allowed to propose a preferred method of leak and flame detection if the system meets code requirements and fueling protocol safety standards. The Contractor will need to coordinate with Stadler on any integrated detection systems and to ensure that monitoring during fueling is coordinated between the infrastructure side and vehicle side.

e. Contractor will be responsible for ensuring that the HFS and fueling areas meet code requirements for ventilation and clearances. Should overhead canopies be added for weather protection, Contractor will need to consider the potential for pooling of H<sub>2</sub> in these areas.

f. Maintenance and Vehicle Access: The Contractor shall be fully capable of responding to unanticipated equipment problems over the life of the contract and discuss in their Proposal how emergency hydrogen supplies can be brought online quickly if the system experiences a problem. Notifications of unanticipated maintenance needs shall be automated so that on-call personnel are notified as soon as a defective parameter, Emergency Stop (ESTOP) or unplanned shutdown occurs that impacts regular fueling of the ZEMU. In addition, all notifications of a leak, fire, or other event requiring an emergency response shall be communicated to local workers on-site, including audible and visual notification devices at strategic on-site locations. The Contractor shall discuss emergency response times (two (2) hours or less) and how this will be accomplished with consideration of access and egress of emergency response vehicles at both the HFS and within the AMF site. For additional information about the AMF site, refer to Section 1.2 in this RFP.

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

#### 4.12 Other Site-Specific Requirements

a. The Contractor shall be responsible for all health and safety requirements and coordination during equipment installation and construction. The Contractor will be required to submit a site-specific Health and Safety plan to SBCTA for review and approval prior to commencing construction. Coordination on the construction safety requirements with SCRRRA will also be required to ensure safe installation and construction of equipment during regular Arrow service operations.

b. The Contractor should be prepared to install and construct equipment within an active operating rail yard. Specific training will be required for personnel to facilitate installation, construction, operations and maintenance and hydrogen delivery; this should be included as part of the overall proposal.

c. Site Access: The Contractor shall coordinate site access for Contractor personnel and deliveries with SBCTA and/or SCRRRA security and maintenance staff. Contractor shall be responsible for maintaining access for Contractor personnel, including providing shuttles for off-site employee parking, if necessary.

d. Work Schedule: Work may be conducted on-site at hours established by SBCTA and coordinated with SCRRRA. Currently rail operations are most active at the site before and after service periods. Contractor will be encouraged to work hours that minimize congestion and interference with rail operations at the site during construction and maximize overlap with SCRRRA operations during the San Bernardino County Transportation Authority Arrow Maintenance Facility Hydrogen Fuel Upgrade Project: Hydrogen Fuel System – Attachment A Scope of Work

maintenance and delivery period. Changes in work schedule must be approved by SBCTA in writing at least 48 hours in advance of any change.

e. Environmental Protection: Contractor shall provide protective measures to control pollution during construction and remedial activities. Construction activities must avoid polluting surface water and groundwater, in accordance with all applicable regulations. Contractor shall drain, collect, transport and properly dispose of any liquids contained in pipelines, conduits or any other components supplied by the Contractor. In addition, Contractor must comply with the mitigation measures outlined in the Arrow Maintenance Facility Hydrogen Fuel Upgrade Project's Final EIR. The Final EIR is accessible electronically at <https://www.gosbcta.com/wp-content/uploads/2019/09/Arrow-Maintenance-Facility-Hydrogen-Fuel-Upgrade-Project-%E2%80%93-Draft-Environmental-Impact-Report-05.05.2021.pdf>.

**ATTACHMENT B: PAYMENT SCHEDULE**

**B1. MILESTONE PAYMENTS**

**THE MILESTONES SUBJECT TO THIS CONTRACT, AND THE PRICE, ARE AS FOLLOWS:**

**Attachment: Exhibit A Special Provisions (8765 : Award Contract No. 22-1002700 for AMF Hydrogen Fuel Upgrade Project)**

<u>Item</u> <sup>1</sup>	<u>Milestone Description</u>	<u>Deliverables</u>	<u>Price</u> <sup>2</sup>	<u>Target Date</u>
B.1.1	Notice to Proceed (NTP)	N/A	N/A	-
B.1.2	Site and Station Design Plans and Construction Safety Plan and O&M Safety Plan	Basic engineering completed and Safety process and plans. Deliverables: Preliminary P&IDs, basic site drawings, summary of initial safety reviews, construction and O&M safety plans	15% of initial capital costs \$945,000.00	60 days following NTP
B.1.3*	Completed Equipment Drawings & Permit Pack	Receive Equipment Drawings. Deliverables: Transmittals of drawings from OEM and supplier invoice	10% of initial capital costs \$630,000.00	120 days following NTP
B.1.4	Equipment Manufactured	Equipment has been manufactured. Deliverables: Photographs of completed units showing evidence that equipment has been completed and is ready for shipping.	30% of initial capital costs \$1,890,000.00	180 days following NTP
B.1.5*	Construction Complete	HFS equipment has been installed and all power, gas and telecommunications have been completed. Deliverables: Construction completion report.	25% of initial capital costs \$1,575,000.00	280 days following NTP

<sup>1</sup> Items identified with a (\*) denote Key Milestones that are subject to Liquidated Damages for failure to timely complete in accordance with the Contract documents.

<sup>2</sup> Further price reductions may be realized if official scope changes are made by SBCTA, such as the reduction of required dispensers from 4 to 2, which would reduce the price an additional \$250,000.

<u>Item</u> <sup>1</sup>	<u>Milestone Description</u>	<u>Deliverables</u>	<u>Price</u> <sup>2</sup>	<u>Target Date</u>
B.1.6*	Commissioning and Training Complete	Deliverables: Commissioning completion report; training curriculum, agendas and rosters; HFS acceptance sign-off by SCRRA and AHJ issued permits.	20% of initial capital costs \$1,260,000.00	300 days following NTP
B.1.7	<i>Subtotal (Initial Capital Costs)</i>		<b>\$6,300,000.00</b>	
B.2.1	Hydrogen Fuel Charges for Deliveries During the Maintenance and Fuel Delivery Period (Maximum Not to Exceed Price for usage of fuel, including all other operational and maintenance costs.)		\$2,106,475 <sup>3</sup>	
B.2.2	<i>Subtotal (Initial Maintenance and Fuel Delivery Period, Years 1-3)</i>		<b>\$2,106,475</b>	
	<b>TOTAL (CONTRACT PRICE)</b>		<b>\$8,406,475</b>	
	<i>OPTION TERMS</i>			
B.2.3	Hydrogen Fuel Charges for Deliveries and Maintenance During the First Option Term, Year 4		\$760,895 <sup>4</sup>	
B.2.4	Hydrogen Fuel Charges for Deliveries and Maintenance During the Second Option Term, Year 5		\$792,730 <sup>5</sup>	
	<b>TOTAL (CONTRACT PRICE w/ OPTIONS)</b>		<b>\$9,960,100</b>	

<sup>3</sup> Initial Maintenance and Fuel Delivery Period, Years 1-3 amount shown is the total amount for the 3 years; payment for hydrogen fuel will be on a monthly basis based on actual fuel dispensed.

<sup>4</sup> First Option Term, Year 4 amount shown is the total amount for the year, payment will be on a monthly basis based on actual fuel dispensed; payment for hydrogen fuel will be on a monthly basis based on actual fuel dispensed.

<sup>5</sup> Second Option Term, Year 5 amount shown is the total amount for the year, payment will be on a monthly basis based on actual fuel dispensed; payment for hydrogen fuel will be on a monthly basis based on actual fuel dispensed.

**Fuel Charges**

<b>FUEL CHARGES - Maximum Not to Exceed Price for Usage</b>		<b>INITIAL TERM - BEGINS WITH COMMISSIONING OF STATION</b>			<b>OPTION TERM ONE</b>	<b>OPTION TERM TWO</b>
<b>Fuel Price<sup>1)</sup></b>		<b>YEAR ONE</b>	<b>YEAR TWO</b>	<b>YEAR THREE</b>	<b>YEAR FOUR</b>	<b>YEAR FIVE</b>
	<b>Price/Kg</b> (including taxes and delivery)	\$8.95	\$9.31	\$9.68	\$10.07	\$10.47
	<b>Approximate Hydrogen Dispensed (kg)</b>	61,453	62,043	62,640	63,242	63,850
<b>Approximate Fuel Cost</b>		<b>\$550,000.00</b>	<b>\$577,500.00</b>	<b>\$606,375.00</b>	<b>\$636,695.00</b>	<b>\$668,530.00</b>

**Annual Fees**

<b>Annual Fees - Firm Fixed Price</b>		<b>INITIAL TERM</b>			<b>OPTION TERM</b>	
<b>Equipment Lease</b>		<b>YEAR ONE</b>	<b>YEAR TWO</b>	<b>YEAR THREE</b>	<b>YEAR FOUR</b>	<b>YEAR FIVE</b>
	<b>Liquid Tank</b>	\$79,200.00	\$79,200.00	\$79,200.00	\$79,200.00	\$79,200.00
<b>Operation &amp; Maintenance</b>						
	<b>Planned Maintenance<sup>2)</sup></b>	\$45,000.00	\$45,000.00	\$45,000.00	\$45,000.00	\$45,000.00
<b>TOTAL Annual Fees</b>		<b>\$124,200.00</b>	<b>\$124,200.00</b>	<b>\$124,200.00</b>	<b>\$124,200.00</b>	<b>\$124,200.00</b>

<sup>1)</sup> Firm-fixed price/maximum price per Kg dispensed  
<sup>2)</sup> Maintenance performed outside of normal planned maintenance will be charged at \$180 per hour plus materials.



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## 1. COST BREAKDOWN

Within fifteen (15) calendar days after "Notice to Proceed," the Contractor shall, upon request by SBCTA, submit a cost breakdown of the Milestone payments, listed in Attachment A to the Special Provisions, for all construction work. This cost breakdown will form the basis for Milestone payments in accordance with these Specifications and shall show all of the major categories and subcategories of work and equipment requested by SBCTA. Additionally, all costs shall be segregated between off-site and on-site costs. Mobilization costs shall not exceed ten percent (10%) of total construction costs. Bonds and insurance costs will be identified as a separate line item. Such cost breakdown shall not be required if SBCTA, at its sole discretion, elects to pay the Contractor in lump sum within thirty (30) calendar days of receipt of proper invoice following the Contractor's satisfactory completion and SBCTA's acceptance of all work.

## 2. MILESTONE PAYMENTS

- a. Payments will be made to CONTRACTOR by SBCTA in accordance with Attachment A to the Special Provisions, for all construction work.
- b. SBCTA will pay only ninety-five percent (95%) of amount as determined above, retaining 5% as part security for the fulfillment of this Contract by the Contractor.
- c. The amount retained in accordance with paragraph 2.b., above, from the payment total will be paid in full to the Contractor as part of the payment upon Contractor's achievement of Substantial Completion, except that ½ of 1% of the total Contract Price shall be retained for one (1) year beyond the date of Substantial Completion as partial security for fulfillment of the Punch List obligations by the Contractor and paid in full upon Final Acceptance.
- d. No payments will be made for materials not installed.
- e. Milestone payments made by SBCTA in no way shall be deemed or construed as acceptance by SBCTA of work or waiver by SBCTA of any rights hereunder.
- f. The Contractor shall pay subcontractors, promptly upon receipt of each SBCTA Milestone payment, the respective amounts allowed the Contractor on account of the work performed by subcontractors, to the extent of each such subcontractor's interest therein. Such payments to subcontractors shall be based on estimates made pursuant to this Contract. Any diversion by the Contractor of payments received for prosecution of a contract, or failure to reasonably account for the application or use of such payments, constitutes ground for termination of the Contractor's control

over the work and for taking over the work, in addition to disciplinary action by the Contractor's State License Board. The subcontractor shall notify, in writing, the Contractor's State License Board and SBCTA of any payment less than the amount or percentage approved for the class or item of work as set forth in this Contract.

- g. In addition to other amounts properly withheld under this Contract, SBCTA shall withhold all legally required sums for, but not necessarily limited to, stop notices, labor and tax liens, etc.

### 3. FINAL INSPECTION AND ACCEPTANCE

- a. Substantial Completion is defined herein as, in the opinion of SBCTA, that Work or portion thereof that is sufficiently complete and in accordance with the Contract, that it can be utilized by SBCTA for the purpose for which it was intended. A determination of Substantial Completion does not waive, but may not require, the prior completion of minor items which do not impair SBCTA's ability to safely occupy and utilize the Work for its intended purpose.
- b. Promptly after Substantial Completion has occurred, Contractor shall perform all Punch List Work, if any, which was deferred for purposes of Project Completion, and shall satisfy all of its other contractual obligations under the contract documents.
- c. When the Contractor determines that the work is fully completed, including satisfactory completion of all inspections, tests, and required documentation, Punch List and clean-up items, Contractor shall give SBCTA a written request for Final Acceptance within ten (10) days thereafter, specifying that the work is completed and the date on which it was completed.
- d. Within thirty (30) days after receipt of the request for Final Acceptance from Contractor, SBCTA will make a final inspection of the work and will either:
  - i. Reject the request for Final Acceptance, specifying the defective or uncompleted work; or
  - ii. Issue a written Final Acceptance and record Notice of Completion with County Recorder.
- e. At the expiration of the Term, the Contractor shall hand over the Project in accordance with the requirements set out in Section 60.

### 4. CLAIMS

- a. Contractor is required to submit a written claim within ten (10) days after the event or occurrence first giving rise to the potential claim, or in the event of a denial of a

request for change by SBCTA. All claims shall include a detailed factual statement; including names, dates and specific events that took place. In addition, all claims shall include supporting documents in support of the claim, a detailed analysis of a request for a time extension, if applicable, and a detailed breakdown of a request for additional compensation. A revised construction schedule shall also be included identifying the impact of the delays, including proposals to minimize any of the impacts.

- b. SBCTA shall respond in writing to a claim within forty-five (45) days of receipt of claim. Within thirty (30) days of receipt of claim, SBCTA, if necessary, may request additional documentation in support of said claim. If additional documentation is requested, SBCTA shall respond in writing to the claim within fifteen (15) days after receipt of additional documentation.
- c. Claims filed by the Contractor shall be in sufficient detail to enable SBCTA to ascertain the basis and amount of said claims. SBCTA will consider and determine the Contractor's claims, and it will be the responsibility of the Contractor to furnish within a reasonable time such further information and details as may be required by SBCTA to determine the facts or contentions involved in its claims. Failure to submit such information and details will be sufficient cause for denying the claim.
- d. Claims submitted by the Contractor shall be accompanied by a notarized certificate containing the language listed in Attachment B1 to this Exhibit B. Failure to submit the notarized certificate will be cause for denying the claim.

## 5. FINAL PAYMENT

- a. After the filing of the Notice of Completion, SBCTA will make a proposed final estimate, in writing, of the total amount payable to the Contractor, including therein an itemization of said amount, segregated as to contract item quantities, extra work and any other basis for payment, and shall also show therein all deductions made or to be made for prior payments and amounts to be kept or retained under the provisions of the contract. All prior estimates and payments shall be subject to correction in the proposed final estimate. Within 15 days after proposed final estimate has been submitted, Contractor shall submit to SBCTA written approval of proposed final estimate and/or a written statement of all claims of the contract. No claim will be considered that was not included in written statement of claims, nor will any claim be allowed unless the Contractor has previously complied with the notice and protest requirements.
- b. On the Contractor's approval, or if no claim is filed within the stated period, SBCTA will issue a final written estimate, in accordance with the proposed final

estimate submitted to the Contractor; and 35 days after the date of filing the Notice of Completion, SBCTA will pay the entire sum found to be due. Such final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.

- c. If the Contractor within said period of 15 days files claims, SBCTA will issue a semi-final estimate in lieu of the final estimate submitted to the Contractor; and 35 days after the date of filing of the Notice of Completion, SBCTA will pay the sum found to be due. Such semi-final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except insofar as affected by the claims filed within the time and in the manner required hereunder and except as otherwise provided.
- d. Upon final determination of any outstanding claims, SBCTA shall then make and issue a final estimate in writing and within 30 days thereafter, SBCTA will pay the entire sum, if any, found due. Such final estimate shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.

## 6. EXTRA WORK AND CHANGES

- a. New and unforeseen work, which in the judgment of SBCTA is found necessary or desirable for the satisfactory completion of the work, will be classified as extra work, as well as work specifically designated as such in the plans or specifications. The Contractor shall do such extra work and furnish material and equipment therefore as directed by SBCTA in writing by a change order. No extra work will be paid for or allowed unless the same was done upon written change order and after all legal requirements have been complied with. The Contractor agrees that he will accept as full compensation for extra work, so ordered, an amount to be determined by one of the following methods:
  - i. A price mutually agreed upon in writing by SBCTA and Contractor (hereafter Agreed Price).
  - ii. Force Account as hereafter provided.
- b. It is mutually agreed that on the agreed price, the Contractor and subcontractor(s) shall add not more than a total markup of 20% to be divided between the Contractor and subcontractor(s) as full compensation for all other expenses including

overhead, profit, bond, superintendence, insurance, and small tools.

- c. When extra work is to be paid for on a force account basis, compensation will be determined as follows:
- i. Materials
    - A. A sum equal to the actual cost to the Contractor of the materials furnished by him, as shown by paid receipts, plus not more than fifteen percent (15%). Only installed materials shall be paid for.
  - ii. Labor
    - A. The actual wages paid, as shown on the certified copies of Contractor's payroll, for all labor directly engaged in the work and including the cost of any compensation insurance paid for by the Contractor, subsistence and travel allowance aid to such workmen as required by collective bargaining agreements plus not more than twenty percent (20%).
    - B. To the actual wages as described in 1 above will be added a labor surcharge of not more than seventeen percent (17%), and shall constitute full compensation for all other payments, including payments imposed by State and Federal laws.
  - iii. Equipment
    - A. Equipment will be paid for as a rental charge whether owned by the Contractor or not, and said rental rates prevailing in the area for comparable equipment will be paid. To the direct costs of "Equipment Rental" will be added a not more than fifteen percent (15%) markup.
    - B. All extra work at Force Account shall be adjusted daily upon report sheets prepared by SBCTA, furnished to the Contractor and signed by both parties. Said daily reports shall thereafter be considered the true record of all extra work done. The decision of SBCTA as to whether extra work has in fact been performed shall be conclusive and binding upon both parties to the contract.
- d. A contract change order approved by SBCTA may be issued to the Contractor at any time. Should the Contractor disagree with any terms or conditions set forth in the contract change order, the Contractor shall submit a written protest to SBCTA within fifteen (15) days after the receipt of the contract change order. The protest shall state the points of disagreement and, if possible, the contract specification



references, quantities and costs involved. If a written protest is not submitted within the above period, payment will be made as set forth in the approved contract change order and such payment shall constitute full compensation for all work included therein or required thereby. Such unprotested approved contract change orders will be considered as executed contract change orders.

- e. Contractor shall promptly notify SBCTA in writing when it receives direction, instruction, interpretation or determination from any source other than SBCTA or its designated representatives that may lead to or cause change in the work. Such written notification shall be given to SBCTA before the Contractor acts on said direction, instruction, interpretation or determination.

## 7. EXTENDED FIELD OFFICE OVERHEAD COSTS

- a. Within thirty (30) days after receipt of the Notice to Proceed, the Contractor shall submit a written statement to SBCTA detailing its field office overhead costs which are time related. SBCTA will review this cost submittal and reach a written agreement with the Contractor on a daily field office overhead cost rate which shall be issued as an agreed upon change order. The daily rate agreed to in this change order will be applicable throughout the duration of the Contract. No field office costs will be paid until such agreement is reached between SBCTA and the Contractor and the change order concerning this daily rate is executed by both parties.
- b. The individual cost components of the daily field office overhead rate shall represent costs which increase as a direct result of any time extension caused solely and exclusively by an act of SBCTA. This listing may include such cost items as on-site project management, supervision, engineering and clerical salaries; on-site office utilities and rent; on-site company vehicles and their operating expenses; and site maintenance and security expenses. Field office overhead costs which are unaffected by increased time shall not be allowable costs in calculating the daily field office overhead rate. These non-time related costs include, but are not limited to, acquisition and installation of stationary equipment; temporary construction facilities; utilities and office furnishings (unless such items are rented or leased); the preparation of the site including clearing, grubbing, grading and fencing; mobilization and demobilization costs; and the costs of permits, bonds and insurance coverage for the project.
- c. The individual wage cost components used to calculate the daily field office overhead rate shall be supported by actual employee payroll records, not salary ranges or estimates. Hourly rates for management, supervisory, engineering and

clerical employees shall be based upon 2,080 works hours per year and shall not include allowances for holidays, vacation or sick time.

- d. The daily field office overhead rate shall be multiplied by the number of days the Contract is delayed or extended by change order and shall be added to the agreed upon change order cost. The days of delay shall be those caused solely by action of SBCTA and documented by a time impact analysis prepared and submitted by the Contractor. In the event a deductive change order is issued which reduces time under the Contract, the daily field office overhead rate shall be added to the deductive amount. No allowance for overhead costs and no profit allowance shall be added to the extended field office overhead cost.

## 8. ACCELERATION

- a. SBCTA reserves the right to accelerate the work of the Contract at any time during its performance. In the event that SBCTA directs acceleration, such directive will be given to the Contractor in writing. The Contractor shall keep cost and other Project records related to the acceleration directive separately from normal Project cost records and shall provide a written record of acceleration costs to SBCTA on a daily basis.
- b. In the event that the Contractor believes that some action or inaction on the part of SBCTA constitutes an acceleration directive, the Contractor shall immediately notify SBCTA in writing that the Contractor considers the actions or inactions an acceleration directive. This written notification shall detail the circumstances of the acceleration directive. The Contractor shall not accelerate their work efforts until SBCTA responds to the written notification. If acceleration is then directed or required by SBCTA, all cost records referred to above shall be maintained by the Contractor and provided to SBCTA on a daily basis.
- c. In order to recover additional costs due to acceleration, the Contractor must document that additional expenses were incurred and paid by the Contractor. Labor costs recoverable will only be overtime or shift premium costs or the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will only be the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

## 9. VALUE ENGINEERING

- a. SBCTA encourages the Contractor to submit Value Engineering Proposals (VEPs) whenever it identifies areas and/or instances in which improvements can be made, in order to avail SBCTA of potential cost savings. Contractor and SBCTA will

share any savings in the manner described below.

- b. A VEP applies to a Contractor developed and documented VEP that:
  - i. Requires a change to the contract.
  - ii. Reduces the total Contract Price without impairing essential functions or characteristics of the work.
  - iii. Results in an estimated total net savings to SBCTA equal to or greater than \$1,000.
- c. At a minimum, a VEP should include the following information:
  - i. A description of the existing contract requirements that are involved in the proposed change.
  - ii. A description of the proposed change, and all specifications and/or plans necessary for the complete evaluation of the proposed change. Include a discussion of the differences between existing requirements and the proposed change, together with advantages and disadvantages of each changed item. All relevant back up documentation needs to be included to support proposed changes.
  - iii. Cost estimate for existing contract requirements correlated to the Contractor's lump sum breakdown and the proposed changes in those requirements, including costs of development and implementation by the Contractor.
- d. Contractor shall submit the VEP to SBCTA. At its sole discretion, SBCTA may accept, in whole or in part and by change order, any VEP submitted pursuant to this section. Until a change order is issued on a VEP, Contractor shall remain obligated to perform in accordance with the contract. The decision of SBCTA as to the rejection or acceptance of a VEP shall be at the sole discretion of SBCTA.
- e. If SBCTA accepts a VEP submitted by the Contractor pursuant to this section, the total Contract Price shall be adjusted based upon a sharing of the net savings by the Contractor and SBCTA (50% SBCTA, 50% Contractor). Contractor's profit shall not be reduced by application of the VEP.
- f. Net savings are defined as gross savings less the Contractor's costs and less SBCTA's costs.
  - i. Contractor's costs means reasonable costs incurred by the Contractor in preparing the VEP and making the change.
  - ii. SBCTA's costs means reasonable costs incurred by SBCTA for evaluating

and implementing the VEP.

iii. Contractor is not entitled to share in either concurrent, collateral or future contract savings. Collateral savings are those measurable net reductions in SBCTA's costs of operation that result from the VEP. Concurrent savings cover the reductions in the cost of performance of other contracts.

g. Contractor shall include appropriate VEP provisions in all subcontracts greater than \$25,000.

## 10. STOP PAYMENT NOTICES

The Authority, at its sole discretion, may, at any time, retain out of any amounts due the Contractor, sums sufficient to cover claims filed pursuant to Section 9358 et. seq. of the California Civil Code.

## 11. LABOR PROVISIONS

### a. Prevailing Wages

Contractor shall comply with all applicable requirements of Division 2, Part 7, Chapter 1 of the Labor Code and all applicable federal requirements respecting prevailing wages. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the wage rates determined by the Director of the Department of Industrial Relations (DIR) for similar classifications of labor, the Contractor and subcontractors shall not pay less than the higher wage rate. The DIR will not accept lower state wage rates not specifically included in the Federal minimum wage determination.

### b. Minimum Wages

i. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally, and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts due at time of payment computed at wage rates not less than those specified in the General Wage Determinations referenced in this section regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics; and the wage determination decision shall be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or cost reasonably anticipated under the Labor Code of the State of California on behalf of laborers or mechanics are considered wages paid by such Laborers or mechanics. Also, for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds or programs, but covering the

particular weekly period, are deemed to be constructively made or incurred during such weekly period.

ii. SBCTA shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the General Wage Determinations and which is to be employed under this Contract, shall be classified conformably to such wage determinations. In the event SBCTA does not concur in the Contractor's proposed classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question, accompanied by the recommendation of SBCTA, shall be referred to the State Director of Industrial Relations for determination.

iii. SBCTA shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon cash equivalent of the fringe benefit, the questions, accompanied by the recommendation of SBCTA, shall be referred to the State Director of Industrial Relations for determination.

iv. All disputes concerning the payment of wages or the classification of workers under this Contract shall be promptly reported to SBCTA.

c. Deductions

SBCTA may deduct from each Milestone payment and the Final Payment the following:

i. Any SBCTA or third party claims or losses for which Contractor is responsible hereunder or any Liquidated Damages which have accrued as of the date of the application for payment;

ii. If a notice to stop payment is filed with SBCTA, due to the Contractor's failure to pay for labor or materials used in the work, money due for such labor or materials, plus the 25% prescribed by law, will be withheld from payment to the Contractor. In accordance with Section 9358 of the Civil Code, SBCTA may accept a bond by a corporate surety in lieu of withholding payment;

iii. Any sums expended by or owing to SBCTA as a result of Contractor's failure to maintain the as-built drawings;

iv. Any sums expended by SBCTA in performing any of the Contractor's obligations under the Contract which Contractor has failed to perform; and

v. Any other sums which SBCTA is entitled to recover from Contractor under

the terms of the Contract.

vi. The failure by SBCTA to deduct any of these sums from a payment shall not constitute a waiver of SBCTA's right to such sums. All amounts owing by Contractor to SBCTA under the Contract shall earn interest from the date on which such amount is owing at the lesser of (i) 10% per annum or (ii) the maximum rate allowable under applicable Governmental Rules.

#### 4. Payrolls and Basic Records

vii. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name, address and social security number of each such worker, the correct classification, rates of pay, daily and weekly number of hours worked, deductions made and actual wages paid.

viii. Contractor will submit weekly a copy of all payrolls to SBCTA as required in these "Labor Provisions." The copy shall be accompanied by a statement signed by the employer or its agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the State Director of Industrial Relations and that the classifications as set forth for each laborer or mechanic conform to the work performed. A submission of the "Weekly Statement of Compliance," which is required under this Contract, shall satisfy this requirement. The prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor will make the records required under the labor standard clauses of the contract available for the inspection by authorized representatives of SBCTA, and will permit such representatives to interview employees during working hours on the job.

#### d. Apprentices and Trainees

i. Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program as defined in section 1777.5 of the Labor Code of the State of California. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate who is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the State Director of Industrial Relations for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish to SBCTA or the State Director of Industrial Relations written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman's rate contained in the applicable wage

determination).

ii. Trainees: Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to or individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal Employment Opportunity: The utilization of apprentices and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, 29 CFR Part 30, and 41 CFR Part 60.

e. Compliance With Copeland Regulations (29 CFR Part 3)

The Contractor shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c). The Contractor shall also comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference.

f. Contract Termination; Debarment

A breach of item 1 through 6 may be grounds for termination of the contract, and for debarment as provided in 29 CFR Section 5.6.

g. Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any work week in which he is employed on such work to work in excess of 8 hours a day or 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half

times the basic rate of pay for all hours worked in excess of 8 hours a day or 40 hours in such work week.

h. Violation; Liability for Unpaid Wages

Pursuant to section 1775 of the Labor Code of the State of California, in the event that any workman employed on this public works project is paid less than the amount specified in the General Prevailing Wage Determinations or less than is required, relative to overtime, the Contractor and any subcontractor responsible therefore shall be liable to the affected workman for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the State of California or SBCTA for liquidated damages. Such liquidated damages shall be computed with respect to each individual workman found to be underpaid and shall be in the amount of \$50 per calendar day that a workman was underpaid.

i. Withholding for Liquidated Damages

SBCTA may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided under the Contract.

j. Final Labor Summary

The Contractor and each subcontractor shall furnish to SBCTA, upon the completion of the Contract, a summary of all employment, indicating for the completed project, the total hours worked and the total amount earned.

k. Final Certificate

Upon completion of the contract, the Contractor shall submit to SBCTA, with the voucher for a final payment for any work performed under the contract, a certification concerning wages and classifications for laborers and mechanics, including apprentices and trainees employed on the project, in the form provided in Attachment B2.

l. Notice to SBCTA of Labor Dispute

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to SBCTA.

m. Disputes Clause

i. All disputes concerning the payment of prevailing wage rates or



classifications shall be promptly reported to SBCTA for its referral to DOT for decision or, at the option of SBCTA, DOT referral to the Secretary of Labor. The decision of DOT or the Secretary of Labor, as the case may be, shall be final.

ii. All questions relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, the Davis-Bacon Act, or Section 13 of the Act shall be sent to the Federal Transit Administration (FTA) for referral to the Secretary of Labor for ruling or interpretation, and such ruling or interpretation shall be final.

n. **Convict Labor**

In connection with the performance of work under this Contract, the Contractor agrees not to employ any person-undergoing sentence of imprisonment at hard labor. This does not include convicts who are on parole or probation.

o. **Insertion in Subcontracts**

The Contractor shall ensure that all of the provisions of this Section will be inserted in all construction subcontracts of any tier, and such other clauses as the Government may by appropriate instructions require.

p. **Certified Payrolls**

i. SBCTA shall obtain from the Contractor and each subcontractor a certified copy of each weekly payroll within seven (7) days after the regular payroll date. Following a review by SBCTA for compliance with State and Federal labor laws, the payroll copy shall be retained at the project site for later review by FTA.

ii. Contractor may use the Department of Labor Form WH-347, "Optional Payroll Form," which provides for all the necessary payroll information and certifications.

iii. If, on or before the 20th of the month, the Contractor has not submitted satisfactory payrolls covering its work and the work of all subcontractors for all payroll periods ending on or before the 6th of that month, such payrolls will be considered to be delinquent. Regardless of the number of delinquent payrolls, an amount equal to 10% (but not less than \$1,000 or more than \$10,000) shall be deducted from the estimate. Deductions will be made separately for each estimate period in which a new delinquency appears and will be continued until payrolls have been submitted.

iv. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to SBCTA that their employment is pursuant to an approved program and shall identify the program.

## 12. **TIME EXTENSION/DELAYS**

a. Contractor may be granted an extension of time for any portion of a delay in

completion of the work due to force majeure, as described in Article 41 of the Contract, provided that: (1) the causes were not foreseeable and did not result from an act or omission by the Contractor; (2) Contractor has taken reasonable precautions to prevent further delays owing to such causes; and (3) Contractor notifies SBCTA in writing of the cause(s) for the delay within ten (10) days from the beginning of any such delay. No claims for additional compensation or damages for the foregoing delays shall be allowed to the Contractor, and the extension of time provided for herein shall be the sole remedy of the Contractor on account of any such delays.

- b. An extension of time will not be granted for a delay described in the above paragraph(s) caused by a shortage of materials, except if materials are furnished by SBCTA, unless the Contractor supplies SBCTA with documented proof that every effort to obtain the materials from all known sources has been attempted and such facts could not have been known or anticipated at the time the Notice To Proceed was issued. Contractor shall also submit proof that the inability to obtain such materials when originally planned did, in fact, cause a delay in completion of the work that could not be compensated for by revising the sequence of its operations. Only the physical shortage of material will be considered as a basis for an extension of time.
- c. An extension of time for weather more severe than normal shall be granted only to the extent the work is actually delayed as determined by SBCTA in its discretion. “Normal” is defined as the monthly average of the temperature, wind, and rainfall wherein the work was performed for the prior 20 years before the execution of the contract.
- d. In the event Contractor is actually and necessarily delayed by an act or omission on the part of SBCTA, as determined by SBCTA, the Contractor shall notify SBCTA in writing within five (5) days from the beginning of any such delay. The time for completion of the work may be extended at the sole discretion of SBCTA.
- e. Within 30 days after the last day of delay, Contractor shall provide SBCTA with detailed information concerning the circumstances of the delay, the number of days actually delayed, and the measures taken to minimize or prevent the delay. Failure to submit information shall be sufficient reason to deny the claim. SBCTA shall ascertain the facts and the extent of the delay, and provide the Contractor its written findings, which will be final and conclusive. Except for any additional compensation expressly provided for in these Contract documents or required under Public Contract Code Section 7102, Contractor shall have no claim for damages or

compensation for any delay or hindrance.

- f. No extension of time will be granted for any SBCTA-caused delay or delay as defined in which (a) the performance of work would have been concurrently delayed by Contractor-induced causes, including but not limited to an act or omission of the Contractor, or (b) remedies are included or excluded by any other contract provision. Only the actual delay necessarily resulting from the causes specified in this Article shall be grounds for extension of time. Should the Contractor be delayed at any time for any period by two or more of the causes specified in this article, Contractor shall only be entitled to one time extension for the entire delay.
- g. Any time extension granted to Contractor shall not release the Contractor or surety from its obligations. Work shall continue and be carried on in accordance with the contract provisions, unless formally suspended or terminated by the SBCTA.

### 13. NONDISCRIMINATION

During the performance of this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to employment; upgrading; demotion; transfer; recruitment or recruitment advertising; layoff; termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post, in conspicuous places available to the employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of Executive Order 11246 of

September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- e. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- f. The Contractor will include the provisions of this Paragraph ("Nondiscrimination") in every subcontract or purchase order entered into under this Contract unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- g. No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because that person has filed any complaints or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to the employer.

#### 14. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Contractor agrees to comply with and ensure compliance by all subcontractors with all requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d,

49 U.S.C. §5332 and Department of Transportation Regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act,” 49 CFR Part 21.

## 15. AFFIRMATIVE ACTION

- a. Contractors and subcontractors holding a value of work of \$10,000 or more must submit a Monthly Employment Utilization Report (Form 257) to SBCTA by the 5th of each month or sanctions shall be applied for late submittal, non-submittal and incomplete forms returned to the Contractor and resubmitted after the due date.
- b. The reporting period shall be for each calendar month.
- c. The report shall include the information requested for each Contractor's aggregate work force (for all workers on all projects within San Bernardino County) and not just for workers on this project.
- d. If the form is not received by the 5th of the month, a deduction of 10% (with a minimum of \$1,000 and a maximum of \$10,000) will be withheld from the monthly estimate at the option of the SBCTA.
- e. The Contractor shall designate an Equal Employment Officer for the project and notify SBCTA in writing whom that person is prior to beginning of work. All workers shall also be informed who the EEO Officer is.

## 16. EQUAL EMPLOYMENT OPPORTUNITY

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

## 17. CONFLICT OF INTEREST

The Contractor and all subcontractors shall avoid organizational conflicts of interest which would restrict full and open competition. An organizational conflict of interest means that due to other activities, relationships or contracts, a Contractor is unable, or potentially unable, to render impartial assistance or advice to SBCTA; a Contractor’s objectivity in

performing the work identified in the specifications is or might be otherwise impaired; or a Contractor has an unfair competitive advantage. Contractor is obligated to fully disclose to SBCTA in writing any conflict-of-interest issues as soon as they are known.

## 18. GOVERNMENT INSPECTIONS

SBCTA or federal government representatives shall have access to the construction site and shall have the right to inspect all project works.

## 19. LICENSING, PERMITS AND INSPECTION COSTS

- a. The Contractor warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, the County of San Bernardino, local jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Contract. Further, Contractor warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment, and ethical behavior throughout the duration of this Contract. Contractor further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. Contractor shall notify SBCTA immediately and in writing of its employees', agents', contractors', or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, and exemptions. Such inability shall be cause for termination of this Contract.
- b. Contractor shall procure all permits and licenses and pay all charges, assessments, and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

## 20. HAZARDOUS SUBSTANCES

- a. CAL-OSHA Requirements
 

All flammable, corrosive, toxic, or reactive materials being bid must have a complete CAL-OSHA Material Safety Data Sheet accompanying the submitted bid.
- b. South Coast Air Quality Management District (SCAQMD)
 

All materials (paints, coatings, inks, solvents, and adhesives) shall comply with the

volatile organic compounds (VOC) content requirements of the applicable SCAQMD rules.

c. Notice of Hazardous Substances

i. Title 8, California Code of Regulations, Section 5194 (e), states that the employer must inform any Contractor employers with employees working in the employer's workplace of the hazardous substances to which their employees may be exposed while performing their work. In compliance with this requirement, SBCTA hereby gives notice to all bidders that the following general categories of hazardous substances are present on SBCTA's premises:

- A. Adhesives, sealant, patching, and coating products
- B. Antifreezes, coolants
- C. Cleaners, detergents
- D. Paints, thinners, solvents
- E. Pesticides, petroleum products (diesel and unleaded fuel, oil products)
- F. Printing, photocopying materials
- G. Propane welding materials/compressed gases (e.g., acetylene, oxygen, nitrogen)

ii. More specific information may be obtained from Material Safety Data Sheets for individual products.

d. Hazardous Waste Labels

i. Containers containing hazardous substances must be labeled with the following information:

- A. Identity of hazardous substance--chemical name, not manufacturer or trade name.
- B. Appropriate health warning relative to health and physical hazard; and
- C. Name and address of manufacturer or other responsible party.

ii. All containers containing hazardous substances may be rejected unless containers are properly labeled. Containers of 55 gallons or larger must have either weather-resistant labels or the information should be painted directly on the containers.

## 21. CHANGES IN LAWS AND REGULATIONS

CONTRACTOR shall always comply with all applicable state and local regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in this Contract. CONTRACTOR's failure to so comply shall constitute a material breach of contract.

## 22. MEDIA AND THE PUBLIC

Contractor shall immediately refer all inquiries from the news media or other public sources to SBCTA's Project Manager, or designated representative, relating to this project.

## 23. COORDINATION AND ACCESS

The project site is an active maintenance facility and Contractor is responsible for coordinating its work with SCRRA/Metrolink. SBCTA and SCRRA/Metrolink may undertake or award other contracts for additional work at the project site. Contractor is responsible for coordinating its work with the work of other contractors as appropriate. The Contractor acknowledges that it does not have any exclusive access to the site or other work areas, and that SBCTA and SCRRA/Metrolink may require that certain facilities and areas be used concurrently by the Contractor and others. Contractor shall cooperate fully with others that may be performing work in the construction area.

## 24. UTILITIES RELATED DELAYS

- a. If, due to interruptions caused by undocumented utilities, Contractor sustains loss that could not have been avoided by the judicious handling of forces, equipment and plant, SBCTA shall pay to the Contractor the fair and reasonable compensation for the part of the Contractor's actual loss that, in the opinion of SBCTA, was unavoidable. Compensation for idle time of equipment will be determined in the same manner as determinations are made for equipment used in the performance of extra work paid for on a force account basis, as provided in these General Provisions with the following exceptions:
  - i. The utility related delay factor for each classification of equipment shown in the Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates will be applied to that equipment rental rate.
  - ii. The time for which the compensation will be paid will be the actual normal working time during which the delay condition exists, but in no case will exceed 8 hours in any one day.
  - iii. The days for which compensation will be paid will be the calendar days, excluding Saturdays, Sundays, and legal holidays, during the existence of the delay, except that when the rented equipment can be returned or used elsewhere on the project, then no



payment will be made for utilities related delays.

- b. “Actual loss” shall be understood to include no items of expense other than idle time of equipment and necessary payments for idle time of workers, and cost of extra moving of equipment. Compensation for idle time of equipment will be determined as provided in this Section and compensation for idle time of workers will be determined as provided in these General Provisions and no markup will be added in either case for overhead and profit. The cost of extra moving of equipment will be paid for as extra work and changes as provided in these General Provisions.
- c. If performance of the Contractor's work is delayed as the result of utility related delays, an extension of time determined pursuant to the provisions in Article 18 of these General Provisions will be granted.

## 25. UTILITIES AND SUBSURFACE STRUCTURES

- a. Contractor shall protect from damage utility and other subsurface structures that are to remain in place, be installed, relocated, or otherwise rearranged (as used herein, rearranged includes installation, relocation, alteration, or removal).
- b. The right is reserved to SBCTA and SCRRRA, or their authorized agents, to enter upon the site for the purpose of making those changes that are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. Contractor shall cooperate with forces engaged in this work and shall conduct operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by the other forces. Wherever necessary, the work of Contractor shall be coordinated with the rearrangement of utility or other non-highway facilities, and Contractor shall decide with the owner of those facilities for the coordination of the work.
- c. Attention is directed to the possible existence of underground main or trunk line facilities as indicated in the Arrow Maintenance Facility (AMF) utility drawings and to the possibility that underground main or trunk lines may be in a location different from that which is indicated on the plans. Contractor shall ascertain the exact location of underground main or trunk lines whose presence is indicated on the plans, the location of their service laterals or other appurtenances, and of existing service lateral or appurtenances of any other underground facilities which can be inferred from the presence of visible facilities such as buildings, meters and junction boxes prior to doing work that may damage any of the facilities or interfere with their service.
- d. If Contractor cannot locate an underground facility whose presence is indicated on the plans AMF utility drawings, the Contractor shall so notify SBCTA in writing.

If the facility for which the notice is given is in a substantially different location from that indicated on the AMF utility drawings, the additional cost of locating the facility will be paid for as extra work as provided in Section 6.

- e. If Contractor discovers underground main, trunk lines or other structures and utilities not indicated AMF utility drawings, Contractor shall immediately give SBCTA and the Utility Company written notification of the existence of those facilities. Such facilities shall be located and protected from damage as directed by SBCTA, and the cost of that work will be paid for as extra work as provided in Section 6. Contractor shall, if directed by SBCTA, repair any damage which may occur to the main or trunk lines. The cost of that repair work, not due to the failure of the Contractor to exercise reasonable care, will be paid for as extra work as provided in Section 6. Damage due to Contractor's failure to exercise reasonable care shall be repaired at the Contractor's cost and expense.
- f. Where it is determined by SBCTA that the rearrangement of an underground facility is essential to accommodate the project work and the plans and specifications do not provide that the facility is to be rearranged, SBCTA will provide for the rearrangement of the facility by other forces, or the rearrangement shall be performed by Contractor and will be paid for as extra work as provided in Section 6.
- g. When ordered by SBCTA in writing, Contractor shall rearrange any utility or other subsurface structures necessary to be rearranged as a part of the project work and that work will be paid for as extra work as provided in Section 6.
- h. Should Contractor desire to have any rearrangement made in any utility facility, or other improvement, for the Contractor's convenience in order to facilitate the Contractor's construction operations, which rearrangement is in addition to, or different from, the rearrangements indicated on the AMF utility drawings, the Contractor shall make whatever arrangements are necessary with the owners of the utility or other subsurface structure for the rearrangement and bear all expenses in connection therewith.
- i. Contractor shall immediately notify SBCTA of any delays to the Contractor's operations as a direct result of underground utilities or other structures which were not indicated on the plans or were located in a position substantially different from that indicated on the plans, (other than delays in connection with rearrangements made to facilitate the Contractor's construction operations or delays due to a strike or labor dispute). These delays will be considered utilities related delays within the meaning of Section 23 and compensation for the delay will be determined in conformance with the provisions in Section 24. Contractor shall be entitled to no

other compensation for that delay.

## 26. UNFORESEEN HAZARDOUS OR REGULATED MATERIALS

- a. All known hazardous or regulated materials are indicated in the contract documents. If material that is not indicated in the contract documents is encountered that may be dangerous to human health upon disturbance during construction operations, stop that portion of work and notify SBCTA immediately. Intent is to identify materials such as PCB, lead paint, mercury, petroleum products, and friable and non-friable asbestos. Within 14 calendar days, SBCTA will determine if the material is hazardous. If the material is not hazardous or poses no danger, SBCTA will direct Contractor to proceed without change. If the material is hazardous and handling of the material is necessary to accomplish the work, SBCTA will contract with a qualified environmental remediation/hazardous materials removal Contractor for such remediation or removal as may be necessary. The remediation or removal will be performed in compliance with applicable State, Federal, and local environmental laws, and regulations.
- b. Contractor shall immediately notify SBCTA of any delays to the Contractor's operations as a direct result of Unforeseen Hazardous and Regulated Materials. These delays will be considered utilities related delays within the meaning of Section 23 and compensation for the delay will be determined in conformance with the provisions in Section 24. Contractor shall be entitled to no other compensation for that delay.

## 27. REFERENCE MATERIAL

Reference specifications or standards referred to in the plans or specifications shall be the most recent version developed as of Contract award. Where referenced standards refer to the "specifications" or the "special conditions," this shall be understood by Contractor to mean the drawings and specifications of this contract. Contractor is responsible to obtain all reference material at its own expense and to make itself familiar with the requirements therein.

## 28. PROJECT ACCESS AND CONTRACT LIMITS

- a. Contractor shall submit a transportation plan outlining access to the job site and maintaining the facility operational at all times.
- b. Construction activity and work hours shall be coordinated with Arrow Service Operations to minimize disruption. Construction area shall be cordoned off using temporary barriers and chain link fencing. See project plans for additional

information on phasing and work windows.

## 29. RULES AND HOURS OF OPERATION

Contractor shall at all times:

- a. Comply with the provisions of applicable local, State, and Federal codes, specifications, standards, and recommended practices, and with SCRRA and SBCTA policy, including:
  - i. SSPWC: Public Works Standards, Inc., Standard Specifications for Public Works Construction.
  - ii. Caltrans: California Department of Transportation, Trenching and Shoring Manual, or AREMA requirements for railroad loading
  - iii. Cal/OSHA: California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) regulations.
  - iv. OSHA: Federal Occupational Safety and Health Administration regulations.
  - v. SCRRA Form 37 Rules and Requirements on SCRRA Right-of-Way
- b. Cooperate with SBCTA and SCRRA in all matters requiring coordination.
- c. Coordinate execution of the work with SBCTA to eliminate or minimize to the greatest extent possible interference with bus operations.
- d. Keep SBCTA fully informed regarding all work.
- e. Perform work in accordance with the contract and all applicable codes, ordinances, rules, regulations, orders, and other legal requirements of governmental bodies and public agencies having jurisdiction, including SBCTA.
- f. Damage caused by Contractor to third-party property, signal and communications equipment, or other facilities shall be repaired at Contractor's expense to a condition equal or better than the condition prior to Contractor entry and as accepted by SBCTA. At the sole discretion of SBCTA, SBCTA may direct repairs to be performed by other contractors. Charges for those repairs shall be deducted from Contractor's payment due under this Contract.
- g. Portions of the site that are to be protected in place shall be protected in place at no additional cost to SBCTA.

## 30. SITE SPECIFIC WORK PLAN

- a. Perform work within the operating envelope or which affects the operating system

- only after submitting a Site Specific Work Plan (SSWP) and receiving written approval of the SSWP from SBCTA and SCRRA.
- b. Furnish all labor, materials, and equipment as required to perform and complete the work within the work windows in accordance with the approved schedule in the SSWP.
  - c. SSWPs with potential to impact normal functioning of any part of the operating system shall include a detailed schedule of events indicating the expected hourly progress of each activity that has duration of one hour or longer. The schedule shall include a time at which each activity planned under the SSWP and the requested work window will be completed. The total duration of the construction activities shall be less than the approved work window. Contractor's failure to complete scheduled activities by the planned time or to put in place an approved contingency plan may adversely impact the operations of scheduled trains.
  - d. The SSWP shall be prepared by the Contractor and shall include the following information:
    - i. All activities necessary to perform construction activities.
    - ii. Conformance with all other requirements applicable under the Contract Documents.
    - iii. A schedule for the work showing each activity and where and how it affects normal operation. Each activity in the plan shall include all labor, materials, and equipment required to complete the activity within SBCTA allotted time period.
    - iv. List of approved proposed work plans to be performed under the SSWP, with names and phone numbers of Contractor's supervisors in charge of SSWP tasks.
  - e. SSWPs must be of sufficient detail, clarity, and organization to permit easy review and approval by SBCTA before the proposed work is performed. SSWPs shall be submitted to SBCTA as follows:
    - i. At least 14 calendar days prior to start of work.
  - f. SBCTA may request explanations and changes to the SSWP to conform the SSWP to the requirements of the Contract Documents. If the SSWP is not acceptable, Contractor shall revise the SSWP to make it acceptable. Contractor is responsible for submitting a revised SSWP that can be reviewed and approved by SBCTA at least seven days in advance of any work.
  - g. Contractor will be informed if the SSWP is acceptable not less than seven calendar days prior to the scheduled start of work within the operating envelope. Once the

SSWP is accepted, Contractor shall assemble the resources necessary to perform the work represented by the SSWP, so that necessary resources are available one day before the work is to be accomplished. At that time, SBCTA will make a final decision as to whether or not the work is to proceed as planned or will be canceled. The prime consideration will be the stage of readiness of Contractor, which Contractor shall demonstrate to SBCTA.

- h. Contractor shall provide sufficient personnel, equipment, materials, and all other resources necessary to return impacted facilities to full service upon the conclusion of the approved work window.
- i. Contractor shall perform the work expeditiously and continuously with no gaps or breaks in work activities or substantive reductions in the labor force, equipment, and materials necessary to construct, reconstruct, or repair the impacted facility to full service upon conclusion of the approved work window.
- j. In general, open excavation areas shall be protected per OSHA regulations.

### **31. WORK WINDOWS - GENERAL**

- a. Site-specific available work windows shall be as approved by SBCTA and SCRRA under established procedures.

### **32. COORDINATION WITH SBCTA AND LOCAL AGENCIES**

- a. Construction Interfacing and Coordination: Layout, Phasing, and Sequencing of Work shall be solely the Contractor's responsibility. Contractor shall bring together the various parts, components, systems and assemblies as required for the correct interfacing and integration of all elements of Work. Contractor shall coordinate Work to correctly and accurately connect abutting, adjoining, overlapping and related elements, including utilities, for a complete operational system to the satisfaction of SBCTA, agencies, and companies. Provide adequate access for SCRRA vehicles to pass through all areas at all times. Do not block non-construction areas.
- b. Contractor shall notify SBCTA a minimum of two working days before excavation begin. The work shall be construction in phases where indicated on the contract drawings or specifications. A phase shall be completed and operational before proceeding to the next phase.
- c. Contractor shall cooperate fully with all forces of SBCTA and SCRRA. Contractor should note that additional work is being conducted on site with other construction contracts, as well as live railroad maintenance activities, and work of this contract

must be coordinated among the trades and no additional compensation will be allowed for this coordination work.

- d. Unless otherwise directed, Contractor shall provide five (5) days' notice of all utility outages and shutdowns. Duration of outages and shutdowns shall not hinder normal operations and maintenance of the facility. In case of accidental damage to power or utility lines, repair power or utility line immediately. Provide alternate source of power to keep facility operation

### 33. STORM WATER MANAGEMENT

- a. Contractor is responsible for preventing and/or mitigating potential chemical releases, erosion and sedimentation impacts associated with storm water runoff. Contractor shall comply with the Statewide General Permit for Storm Water Discharges Associated with Industrial Activities (IGP) order number 2014-0057-DWQ or the latest order (See link below). Contractor shall submit a best management practices (BMP) plan for SBCTA's review and acceptance, and shall implement BMP plan and maintain the BMPs for the duration of the project.
- b. Contractor shall use best management practices (BMPs) Contractor proposes in connection with the execution of construction activity at the project site. Use BMPs included in the Construction Site Best Management Practices (BMP) Manual prepared by the California Stormwater Quality Association, [www.cabmphandbooks.com](http://www.cabmphandbooks.com).
- c. Copies of the Contractor's BMP plan shall be provided to subcontractors and copies kept available onsite at the project office. Contractor shall provide amendments to the BMP plan when there is a change in construction or operations, or where storm water runoff conditions may affect the discharge of significant quantities of pollutants to surface waters, groundwater, or separate municipal storm sewer systems. Submit the amended BMP plan to SBCTA for review and acceptance as soon as practicable, and retain the amended plan on site.
- d. Preparation and implementation of an SBCTA-accepted BMP plan does not relieve the Contractor or subcontractors of their responsibilities to comply with state, county, and local governmental requirements, including those for storm water management and non-point source runoff controls.

### 34. SAFETY DATA SHEETS (SDS)

- a. Safety Data Sheets (SDSs) are prepared by manufacturers and suppliers of products that contain hazardous materials. Hazardous material is defined as any substance which is a physical or health hazard, or is included in the Cal/OSHA Director's List

of Hazardous Substances, or is listed by the California EPA Office of Environmental Health Hazard Assessment under Title 27 of the California Code of Regulations, Section 27001, Chemicals Known to the State to Cause Cancer or Reproductive Toxicity.

- b. No hazardous materials shall be delivered, stored, or used at any work site or facility unless they are properly labeled, tagged, or marked and a copy of the MSDS has been provided to SBCTA. Provide a copy of any updated SDS to SBCTA immediately.
- c. Contractor shall maintain a file of SDSs at the work site. SDS files are to be kept current; add new or updated SDSs immediately and provide a copy to SBCTA.

### 35. CONTRACTOR USE OF WORK SITE

Contractor shall:

- a. Coordinate access, use, and preparation of facilities adjacent to project areas with authorities and agencies.
- b. Limit use of the site for staging and laydown to areas specified by SBCTA. Staging and laydown areas not identified in the Contract Documents shall be requested in writing and approved by SBCTA. SBCTA may or may not grant approval. No equipment may be operated or materials stored or placed for any period of time in unfenced areas. Contractor shall be responsible to provide a fence to enclose each laydown or staging area within the site. Contractor shall furnish SBCTA with photographs of all staging and laydown areas to document their condition prior to start of work.
- c. Submit construction staging plan as a part of SSWP for review and approval by SBCTA. The staging plan must be accepted by SBCTA prior to undertaking work in accordance with the staging plan.
- d. Prior to demobilization, restore to full serviceability fences, walls, signs, and gates affected by Contractor's access to the site.
- e. Confine work site operations to areas permitted by law, ordinances, permits, and the contract.
- f. Monitor and maintain a secure work area including through use of barriers where necessary and practicable.
- g. Consider the safety of the work, SCRRA employees and agents, and physical property on and adjacent to the work site when determining amount, location,



- movement, and use of materials and equipment on work site.
- h. Not load work site with excessive amounts of material, equipment, or other items which have the potential to interfere with the work or with bus base operations.
  - i. Protect products, equipment, and materials stored on work site.
  - j. Coordinate operations and secure, at no cost to SBCTA, additional storage or work areas as needed for proper execution of the work. Adhere to the noise levels and work hours of local ordinances.
  - k. Protect the general public from work-related activities, and do not unnecessarily inconvenience those persons by work activities.
  - l. Preserve drainage facilities throughout the duration of the work so that there is no ponding or accumulation of water in any work site area and no flow of water is diverted out of normal drainage channels. Maintain culvert inlets and outlets free of debris.
  - m. Preserve existing site fences and walls, and replace any fences or walls damaged during the work to the satisfaction of SBCTA and SCRRA.
  - n. Give attention to the effect of work operations upon the landscape, and take care to maintain natural surroundings undamaged. Disturbances of land or waters outside the limits of construction shall be rehabilitated by Contractor at its expense, when and as directed by SBCTA.

### **36. ENVIRONMENTAL RESOURCE PROTECTION**

Contractor shall:

- a. Avoid placement of construction equipment and personnel within environmentally sensitive habitat areas used by target species of concern. Activities that cannot be conducted without placement of construction equipment and personnel within sensitive habitats shall be timed to avoid the breeding season of the target species of concern. Coordinate such activities and their timing with SBCTA.
- b. Locate equipment storage, fueling and staging areas to minimize risks of direct drainage or runoff into riparian areas or other environmentally sensitive habitats. Take every precaution to prevent the release of toxic substances into surface waters. Report immediately all project spills of hazardous materials to SBCTA, US Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and Regional Water Quality Control Board (RWQCB). Immediately clean up hazardous materials and remove all contaminated soils; dispose of only at

- approved disposal sites.
- c. Limit stockpiling and staging of materials to disturbed areas without native vegetation, areas to be impacted by the project, or in non-sensitive habitats.
  - d. Establish no-fueling zones within a minimum of 33 feet from all drainages and fire-sensitive areas.
  - e. Maintain project areas clean of debris to avoid attracting predators of the target species of concern. Enclose all food related trash in sealed containers and regularly remove from site. Pets of construction personnel shall not be allowed on site.
  - f. If dead or injured listed species are located, notify the USFWS and the CDFW according to required protocols.
  - g. If evidence of an archaeological site or other suspected historical resource as defined by CEQA Guidelines Section 15064.5, including darkened soil representing past human activity, that could conceal material remains (e.g., worked stone, fired clay vessels, faunal bone, hearths, storage pits, or burials) are discovered during any project-related earth-disturbing activities (including projects that would not encounter undisturbed soils), all earth-disturbing activity within 100 feet of the find shall be halted and SBCTA shall be notified.
  - h. If paleontological resources (i.e., fossil remains) are identified at a particular site during project construction, the construction foreman shall cease construction within 100 feet of the find until a qualified professional can provide an evaluation.
  - i. In the event of the discovery of human remains during construction, procedures outlined in Section 15064.5(e) of the CEQA Guidelines shall be strictly followed. Upon discovery, all excavation at the site or any nearby area reasonably suspected to overlie human remains shall cease immediately. Notify SBCTA immediately. SBCTA will notify County Coroner who will determine if remains are Native American. If the remains are determined to be Native American, the coroner will contact the Native American Heritage Commission (NAHC). The NAHC will identify the Most Likely Descendent (MLD). The MLD will make recommendations for the appropriate treatment and disposition of the remains and any associated artifacts in accordance with Public Resources Code (PRC), Section 5097.98. Do not commence construction in the area until notified to do so by SBCTA.
  - j. In the event that previously unknown or unidentified soil and/or groundwater contamination that could present a threat to human health or the environment is encountered during construction of the proposed project, construction activities in the immediate vicinity of the contamination shall cease immediately. If contamination is encountered, a Risk Management Plan shall be prepared and

implemented that (1) identifies the contaminants of concern and the potential risk each contaminant would pose to human health and the environment during construction and post development and (2) describes measures to be taken to protect workers and the public from exposure to potential site hazards. Such measures could include a range of options, including, but not limited to, physical site controls during construction, remediation, long-term monitoring, post development maintenance or access limitations, or some combination thereof. Depending on the nature of contamination, if any, appropriate agencies shall be notified. If needed, a Site Health and Safety Plan that meets Occupational Safety and Health Administration requirements shall be prepared and in place prior to commencement of work in any contaminated area.

- k. Store fuel, hazardous materials, and chemicals of all types in a contained staging area.
- l. Conduct equipment refueling and maintenance in the contained staging area.
- m. Check vehicles daily for leaks.
- n. Provide berms or other secondary containment at fuel/chemical storage areas.
- o. Test storage tanks, valves, etc., for leaks.
- p. Submit a written commitment to provide labor, equipment, and materials to promptly clean up any leakage.
- q. Comply with the stormwater quality plan prepared before issuance of construction permits. The plan will incorporate the state's industrial best management practices and other techniques if more effective.
- r. Runoff from impervious areas is to be detained, treated to industrial standards, and released under control.

### 37. PREVENTION OF TRAFFIC IMPACTS

- a. Contractor shall prepare a Traffic Management Plan in conjunction with local jurisdictions addressing the following:
  - i. Detours.
  - ii. Coordination with any other construction projects.
  - iii. Length and timing of street closures.
  - iv. Coordination with police and fire departments regarding changes in

emergency access routes.

- v. Temporary access routes and signage for any affected commercial property.
  - vi. Contact information for SBCTA, contractors and their personnel.
- b. Contractor shall conform to all conditions required in the approved Traffic Management Plan. SBCTA shall be notified in advance of any construction activities that could potentially violate the requirements and conditions set forth in the plan.
- c. Construction parking shall be configured to minimize traffic interference during the construction period and, therefore, reduce idling of traffic.
- d. Temporary traffic controls are provided, such as a flag person, during all phases of construction to facilitate smooth traffic flow.
- e. Construction activities that affect traffic flow on the arterial system be scheduled to off-peak hours (10:00 A.M. to 4:00 P.M.).
- f. Dedicated on-site and off-site left-turn lanes on truck hauling routes be utilized for movement of construction trucks and equipment on site and off site to the extent feasible during construction activities.
- g. To ensure adequate access for emergency vehicles when construction activities would result in temporary lane or roadway closures, the contractor shall consult with the City Police and Fire Departments to disclose temporary lane or roadway closures and alternative travel routes. The Contractor shall be required to keep a minimum of one lane in each direction free from encumbrances at all times on perimeter streets accessing the project site. If construction activities require the complete closure of a roadway segment, the Contractor shall coordinate with the City Police and Fire Departments to designate proper detour routes and signage indicating alternative routes.

### **38. PREVENTION OF ROAD DAMAGE**

Contractor shall:

- a. Before and after offsite road and utility construction, videotape the affected roadway and its access roads.
- b. Temporarily repair roadway damage caused during construction.
- c. Permanently restore damaged roadway to its original condition immediately after offsite improvements are completed.
- d. Consult with local jurisdictions to coordinate offsite work with other projects in the

vicinity.

### 39. SCAQMD REQUIREMENTS

- a. All diesel-powered equipment used will be retrofitted with after-treatment products (e.g., engine catalysts).
- b. All heavy-duty diesel-powered equipment operating and refueling at the project site use low-NOX diesel fuel to the extent that it is readily available and cost effective (up to 125 percent of the cost of California Air Resources Board diesel) in the South Coast Air Basin (this does not apply to diesel powered trucks traveling to and from the project site).
- c. Construction equipment engines shall be maintained in good condition and in proper tune per manufacturer's specification for the duration of construction.
- d. Construction operations shall rely on the electricity infrastructure surrounding the construction site rather than electrical generators powered by internal combustion engines.
- e. As required by South Coast Air Quality Management District Rule 403—Fugitive Dust, all construction activities that are capable of generating fugitive dust are required to implement dust control measures during each phase of project development to reduce the amount of particulate matter entrained in the ambient air. These measures include the following:
  - i. Application of soil stabilizers to inactive construction areas.
  - ii. Quick replacement of ground cover in disturbed areas.
  - iii. Watering of exposed surfaces three times daily.
  - iv. Watering of all unpaved haul roads three times daily.
  - v. Covering all stock piles with tarp.
  - vi. Reduction of vehicle speed on unpaved roads.
  - vii. Post signs on-site limiting traffic to 15 miles per hour or less.
  - viii. Sweep streets adjacent to the project site at the end of the day or hourly if visible soil material is carried over to adjacent roads.
  - ix. Cover or have water applied to the exposed surface of all trucks, hauling dirt, sand, soil, or other loose materials prior to leaving the site to prevent dust from impacting the surrounding areas.

### 40. PREVENTION OF NOISE IMPACTS

- a. Contractor shall limit noise-producing activities to hours required by the local jurisdictions for construction activities.
- b. Construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, shall be turned off when not in use for more than 30 minutes. Diesel-fueled commercial motor vehicles with gross vehicular weight ratings of greater than 10,000 pounds shall be turned off when not in use for more than 5 minutes.
- c. Contractor shall require by contract specifications that the following construction best management practices (BMPs) be implemented by contractors to reduce construction noise levels:
  - i. As requested by SBCTA’s Project Manager and/or specified in Contract Document, two weeks prior to the commencement of construction, the Contractor shall provide notification to surrounding land uses within 300 feet of the project site disclosing the construction schedule, including the various types of activities that would be occurring throughout the duration of the construction period.
  - ii. Ensure that construction equipment is properly muffled according to industry standards and be in good working condition.
  - iii. Place noise-generating construction equipment and locate construction staging areas away from sensitive uses, where feasible.
  - iv. Schedule high noise-producing activities between the hours of 8:00 A.M. and 3:30 P.M. to minimize disruption on sensitive uses, Monday through Friday.
  - v. Implement noise attenuation measures, which may include, but are not limited to, temporary noise barriers or noise blankets around stationary construction noise sources.
  - vi. Use electric air compressors and similar power tools rather than diesel equipment, where feasible.
  - vii. Construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, shall be turned off when not in use for more than 10 minutes.
  - viii. Construction hours, allowable workdays, and the phone number of the job superintendent shall be clearly posted at all construction entrances to allow for surrounding owners and residents to contact the job superintendent. If the City or the job superintendent receives a complaint, the superintendent shall investigate, take appropriate corrective

action, and report the action taken to the reporting party.

- d. Heavily loaded trucks used during construction would be routed away from residential streets.

#### 41. KEY PERSONNEL

- a. Within 15 days of date of Notice to Proceed, Contractor shall submit a list of key personnel assignments, including superintendent and other personnel in attendance at project site.
- b. Contractor shall identify individuals and their duties and responsibilities; list addresses and telephone numbers, including home, office, and cellular telephone numbers and email addresses, as well as names, addresses, and telephone numbers of individuals assigned as standbys in the absence of individuals assigned to project.
- c. Copies of the Key Personnel contact list shall be posted in the project meeting room and in the temporary field office, as applicable, and shall be kept current at all times.
- d. A Construction Project Manager shall be provided who will manage and coordinate the overall aspects of the work. The Construction Project Manager's qualifications and experience shall include:
  - i. At least five years of progressively more responsible experience on public works construction projects that include coordination, scopes, types, and characters of work directly related to scope of work of this contract.
  - ii. Experience in managing construction/installation of hydrogen fueling system
  - iii. Demonstrated ability to work safely and supervise individuals in safe work.
  - iv. Previous positions and experience supervising and planning work activities of construction superintendents, project engineers, and support personnel foreman and crews.
  - v. Civil, structural, mechanical and electrical construction plans and specifications, and SSWPs.
  - vi. Ability to develop and work from construction schedules.
  - vii. Relevant experience working in an active rail yard.
  - viii. Must obtain Roadway Worker Protection (RWP) training.
- e. The Construction Project Manager must be:
  - i. Available at construction site during the normal working hours for the full

duration of the project.

- ii. On the job during the work week to manage and coordinate all aspects of work for the full duration of the project.
- iii. Able to respond immediately to emergency or problem calls, 24 hours a day, 7 days a week.
- f. The Construction Project Manager shall have the necessary authority to provide instructions and orders to his authorized representatives. The Construction Project Manager shall not be replaced without advance approval by SBCTA; SBCTA will have sole approval of the replacement.
- g. A Project Scheduler shall be available to manage and coordinate scheduling requirements as necessary.
- h. If Contractor fails to comply with requirements of this section, SBCTA reserves the right at its option to engage an independent scheduling consultant to fulfill those requirements and backcharge Contractor for actual costs incurred.
- i. The Site Safety Representative must be headquartered for the duration of the project at Contractor's construction field office. A Site Safety Representative may be required during the maintenance period of this contract.
- j. The Site Safety Representative will be required to train and test Contractor's employees as described in these General Provisions.
- k. Within five days after Notice to Proceed, submit to SBCTA resumes of personnel listed above in Part 1 above. Each resume shall provide sufficient detail to demonstrate compliance with requirements. Submit a schedule showing, for each employee classification, number of personnel to be assigned to the work and duration of their assignments.
- l. SBCTA will review resumes to determine acceptability of qualifications and experience. SBCTA's decision is final. Do not resubmit resumes of personnel deemed unacceptable by SBCTA.
- m. Substitutions: To replace any personnel identified in Part 1, follow this section's procedures for obtaining approval of the original personnel. This qualification process shall be completed before the vacancy occurs. Provision for substitutions does not relieve Contractor of the responsibility to provide personnel as provided in this section.

#### 42. INITIAL CONSTRUCTION MEETING

- a. SBCTA will schedule the Initial Construction Meeting (pre-construction meeting)



after the Contractor has been provided the written Notice to Proceed.

- b. SBCTA will distribute a notice of this meeting, along with an agenda of the subjects to be addressed, at least one (1) work day prior to the meeting.
- c. Contractor's Construction Project Manager and other Key Personnel shall attend the meeting.
- d. The following is a minimum agenda for the Initial Construction Meeting:
  - i. SBCTA will explain and discuss:
    - A. Insurance, laws, codes, maintenance of traffic, permits, quality control, inspection, and related items.
    - B. Preparation, submittal, and review of Site Specific Work Plans (SSWP).
    - C. Procedures for processing RFIs and Submittals.
    - D. Monthly estimate cutoff dates and procedures for processing Applications for Payment.
    - E. Distribution of the Contract Documents.
    - F. Preparation of record documents.
    - G. Use of the premises.
    - H. Work restrictions and permitted working hours.
    - I. SBCTA's occupancy requirements.
    - J. Responsibility for temporary facilities and controls.
    - K. Procedures for disruptions and shutdowns.
    - L. Construction waste management and recycling.
    - M. Parking availability.
    - N. Areas available for Contractor's Office, work, and storage areas.
    - O. First aid.
    - P. Security.
    - Q. Progress cleaning.
  - ii. The Contractor shall introduce, explain, and discuss the following:
    - A. Contractor's representatives and personnel, briefly describing each person's responsibilities, and furnishing complete contact

information for the Contractor's staff.

- B. Arrangements for safety, first aid, emergency actions, and security.
- C. A list of Subcontractors and suppliers.
- D. Sequence of critical Work, the construction schedule and the submittal schedule.
- E. Plan for construction sequencing of entire Contract, general worksite layout, temporary facilities, erosion and sedimentation control plans, haul routes, noise, air and water pollution control and temporary closure plans.
- F. Breakdown of lump sum and Unit Price items.
- G. Status of coordination and notification for utility Work.
- H. Locations and use of office, storage, parking and construction areas.
- I. Method of providing security to the Worksite.
- J. Construction methods and coordination of Work within the provisions of the Contract Documents.
- K. Coordination with the Work of Subcontractors and procedures for sharing access to the Worksite.
- L. Plan for deliveries of major construction equipment and deliveries of long lead-time materials and products needed in the construction of this Contract.

#### 43. PROGRESS MEETINGS

- a. Progress meetings will be scheduled on a weekly basis, and more often as necessary, by SBCTA. SBCTA will make every effort to accommodate the Contractor's availability in establishing the meeting schedule.
- b. Attendees: In addition to SBCTA and representatives of the Contractor, subcontractors, suppliers and other entities concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the meeting shall be familiar with project and authorized to conclude matters relating to the work.
- c. Meetings will focus on the competent and timely execution of the Work under the Contract. SBCTA will chair these meetings. Weekly site meetings will start when Contract Work commences. At the weekly meetings the Contractor shall present a

review of the following topics:

- i. Safety and accidents.
- ii. Contractor's Schedule status.
- iii. Progress according to the current approved CPM schedule.
- iv. Presentation of new 28-day schedule.
- v. Critical activities on the 28-day schedule.
- vi. SBCTA's needs and requests.
- vii. Specific late items of Work.
- viii. Overall Project schedule status.
- ix. Contract time.
- x. Public impacts, notifications, and contacts.
- xi. RFI, submittal and change order logs and status.
- xii. Contract Issues including:
  - A. Status of proposal requests.
  - B. Pending changes.
  - C. Status of change orders.
  - D. Pending claims and disputes.
  - E. Documentation of information for payment requests.

**44. PRE-INSTALLATION CONFERENCES:**

- a. Contractor shall conduct a pre-installation conference at Project site before each construction activity that requires coordination with other construction, as required in individual specification sections.
- b. Attendees: Installer and representatives of manufacturers and fabricators involved in or affected by the installation and its coordination or integration with other materials and installations that have preceded or will follow, shall attend the meeting. Advice SBCTA of scheduled meeting dates.
- c. Suggested Agenda: Review progress of other construction activities and preparations for the particular activity under consideration, including requirements

for the following:

- i. Contract Documents.
  - ii. Options.
  - iii. Related RFIs.
  - iv. Purchases.
  - v. Deliveries.
  - vi. Submittals.
  - vii. Review of any required mockups.
  - viii. Possible conflicts.
  - ix. Compatibility problems.
  - x. Time schedules.
  - xi. Weather limitations.
  - xii. Manufacturer's written recommendations.
  - xiii. Warranty requirements.
  - xiv. Compatibility of materials.
  - xv. Acceptability of substrates.
  - xvi. Installation procedures.
  - xvii. Coordination with other work.
  - xviii. Required performance results.
  - xix. Protection of adjacent work.
- d. Contractor shall record significant conference discussions, agreements, and disagreements, including required corrective measures and actions.
  - e. Reporting: Distribute minutes of the meeting to SBCTA, each party present and to other parties requiring information.
  - f. Do not proceed with installation if the conference cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to performance of the work and reconvene the conference at earliest feasible date.

**45. PROJECT CLOSEOUT MEETING:**

- a. SBCTA will schedule and conduct a project closeout conference, at a time

convenient to Contractor, but no later than 15 calendar days prior to the scheduled date of Substantial Completion. The conference will review requirements and responsibilities related to project closeout.

- b. Attendees: SBCTA, Contractor's Key Personnel, major subcontractors and other concerned parties shall attend the meeting. Participants at the meeting shall be familiar with project and authorized to conclude matters relating to the work.
- c. Agenda: SBCTA will introduce and discuss items of significance that could affect or delay Project closeout, including the following:
  - i. Preparation of record documents.
  - ii. Procedures required prior to inspection for Substantial Completion and for final inspection for acceptance.
  - iii. Submittal of written warranties.
  - iv. Requirements for preparing operations and maintenance data.
  - v. Requirements for demonstration and training.
  - vi. Preparation of Contractor's punch list.
  - vii. Procedures for processing Applications for Payment at Substantial Completion and for final payment.
  - viii. Final Submittal procedures.
  - ix. Coordination of separate contracts.
  - x. SBCTA's partial occupancy requirements.
  - xi. Installation of SBCTA's fixtures and equipment.
  - xii. Responsibility for removing temporary facilities and controls.

#### 46. CONTRACTOR'S CONSTRUCTION SCHEDULE (BASE SCHEDULE)

- a. Within ten (10) calendar days of the Notice to Proceed, the Contractor shall prepare and submit to SBCTA for approval a detailed schedule of work. This schedule shall indicate the areas in which the Contractor anticipates working and the date during which construction operations will be performed. All submittals by the Contractor shall be listed on the schedule as parts of construction activities. The Contractor shall submit three (3) hard copies and a PDF file of the schedule to SBCTA for approval.
- b. The detailed schedules shall be of the bar chart or critical path method, at the Contractor's option. The critical path method type schedule shall be in the form of

- a network diagram and activity listing. The schedule shall be comprehensive, covering activities at the site of the work, procurement, and construction.
- c. The schedule shall identify work items or Milestones that affect or are affected by SBCTA, other utilities, and other third parties including Subcontractors.
  - d. The work activities making up the schedule shall be of sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that, in the judgment of SBCTA, it provides an appropriate basis for monitoring and evaluating the progress of the Work. A work activity is defined as any activity requiring time and resources (manpower, equipment and/or material) to accomplish. Activity durations will be in workdays. Typical construction activity durations should be between 3 and 14 workdays. Exceptions may be reviewed by SBCTA where sub-schedules will be used to define critical portions of prime schedules, materials delivery, key submittals, etc. Activities shall include but not necessarily be limited to the following:
    - i. Project mobilization.
    - ii. Submittal and review of plans and procedures.
    - iii. Procurement of Materials.
    - iv. Each item of Work.
    - v. Final cleanup.
    - vi. Final inspection.
    - vii. All activities by Contractor, SBCTA, and others, which affect progress or required dates for completion, or both, for each part of the Work.
    - viii. Release of areas to SBCTA according to Milestone Dates.
  - e. Other requirements that shall be incorporated into the Contractor's schedule include:
    - i. Division of Work into major work areas (i.e., Areas 1, 2, etc.).
    - ii. Manpower required to perform the Work in total man-hours by craft for each activity.
    - iii. All activities that require unusual shift work, such as two shifts, 6-day workweek, etc., shall be clearly identified in the schedule.
    - iv. Each activity shall be labeled with an alphanumeric work breakdown

structure/sorting/selection code.

v. The sequence, duration in workdays, and interdependence of activities required for the complete performance of all work shall be shown.

vi. The schedule shall begin with the date of the Notice to Proceed and conclude with the date of Final Completion shown in the Contract.

vii. The schedule shall be comprised of a network diagram and shall include the following:

- A. Time scaled network diagrams based on working days and shall be critical path method (CPM) precedence format showing the sequence/interdependence of activities required for complete accomplishment of all items of work.
- B. Each activity shall be plotted so that the start/finish dates can be determined graphically (by comparison) with the calendar scale.
- C. All network diagrams shall be drawn legibly and accurately on 22" x 34" size media, or other size acceptable to SBCTA.
- D. Each activity shall be labeled with complete description, planned duration in workdays, and total float time.
- E. The schedules shall accurately indicate the sequence and interdependency of all work activities.
- F. A narrative shall be included that explains the basis for Contractor's determination of progress logic and estimated durations and required man-hours. It shall include estimated quantities and production rates; hours per shift; workdays per week; and types, numbers, and capacities of major construction equipment to be used.

#### 47. CONTRACTOR'S PROGRESS SCHEDULE

- a. The Contractor shall update the Progress Schedule monthly (the "Schedule Update") and submit to SBCTA for review by the 5th of the month following the month for which the progress is reflected on schedule.
- b. Payment to the Contractor will not be made until a schedule conforming to the requirements stated herein is submitted each month to SBCTA. A continued failure to supply such schedule data shall be grounds for declaring Contractor in default of

the Contract.

- c. Contractor's progress schedule shall:
  - i. Become an integral part of the Contract and will establish interim completion dates for the various activities under the Contract and shall reflect and be consistent with the Milestone Dates established by the Contract.
  - ii. Be used to determine if any activity is not completed by the Milestone date.
  - iii. Be combined with the Schedule of Values for use in the Contractor's submittal/application for and SBCTA's review and approval of monthly partial payments.

#### 48. PROGRESS REPORTING

- a. Contractor shall provide regular progress reports monthly along with progress schedule submittal to include as described herein.
- b. A statement that the approved Contractor's Progress Schedule has not changed or has been revised. Only the revisions described in this statement shall be made to the progress schedule.
- c. A 28-day schedule covering the past week, current week and two weeks ahead at each scheduled weekly meeting. The schedule shall be a bar chart schedule, divided into 28 calendar days, listing all activities for the four-week period. Scheduled and actual start and finish dates shall be shown. Each activity shall be identified by its approved activity number and a brief description. The bar chart schedule shall have in the heading the Project Title, Contract Number, Contractor's Name, Date, Contract Day Number and Remaining Contract Days.

#### 49. PROGRESS EVALUATION

- a. If at any time during the Project the Contractor fails to complete any activity by its latest scheduled completion date and which late completion of such activity will impact the end date of the work past the Contract Completion Date, Contractor shall, within five (5) working days, submit to SBCTA a written statement as to how and when Contractor will reorganize his work force to return to the current Contractor's construction schedule. Whenever it becomes apparent from progress evaluation and updated construction schedule data that any Milestone Date(s) or the Contract Completion Date will not be met, Contractor, at its sole cost, shall take some or all of the following actions:
  - i. Increase construction manpower in such quantities and crafts as shall substantially eliminate the backlog of work and meet the current Contract Completion



Date.

ii. Increase the number of working hours per shift, the number of shifts per day, the number of work days per week, the amount of construction equipment, or any combination of the foregoing sufficient to substantially eliminate the backlog of work.

iii. Reschedule work items to achieve concurrent accomplishment of work activities. Under no circumstances will the addition of equipment or construction forces, increasing work hours, or any other method, manner, or procedure required to return to the contractually required completion date be considered justification for a change order or treated as an acceleration.

b. The Contractor's Progress Schedule shall begin with the date of issuance of the Notice to Proceed (NTP) and conclude with the date of final completion of the project. Float or slack time within the Progress Schedule is not for the exclusive use or benefit of either SBCTA or the Contractor, but is a jointly owned expiring project resource available to both parties as needed to meet contract Milestones and the Contract completion date.

## 50. SUBMITTAL OF SCHEDULES

- a. The Contractor shall submit to SBCTA for review, two (2) copies of the construction schedule (base schedule) within time frame specified herein. Allow SBCTA a minimum of 2 weeks to review the construction schedule. Contractor shall address SBCTA's comments on schedule and resubmit within five (5) workdays from receipt of SBCTA's comments.
- b. The Contractor shall submit to SBCTA for review two (2) hard copies of the Contractor's Progress Schedule, one (1) copy of all schedule data, along with one electronic copy within the time frames specified herein. Updates of the Contractor's schedule shall be submitted monthly as part of the payment application submittal.
- c. SBCTA will have ten (10) workdays after receipt of the Contractor's Progress Schedule to respond. Upon receipt of SBCTA's comments, the Contractor shall confer with SBCTA on the appraisal and evaluation of the proposed Contractor's Progress Schedule. The Contractor shall make necessary changes resulting from this review, and the Contractor's Progress Schedule shall be resubmitted for review within three (3) workdays after the receipt of comments.
- d. The Contractor's construction schedule (base schedule), when reviewed and recognized by SBCTA, shall stand until updated schedules are submitted to reflect actual completed work, reviewed changes, or recognized delays.
- e. All updated or revised schedules submitted after the base schedule shall be in the

same detail as the base submittal unless modified in writing by SBCTA.

## 51. REVISIONS TO REVIEWED SCHEDULE

- a. The Contractor shall accomplish the Work in accordance with Contractor's construction schedule recognized by SBCTA. Changes made to Contractor's construction schedule for accomplishing the Work shall in all cases require prior approval by SBCTA.
- b. The Contractor shall reflect processed change orders that affect the schedule, and issuance of emergency change authorizations in the next schedule submittal.
- c. If Contractor desires to make a major change to Contractor's construction schedule, the Contractor shall submit to SBCTA a schedule change request in writing stating the reasons and justification for the change, for SBCTA's review and acceptance. Major changes are defined as follows:
  - i. Those that affect the time estimate for the accomplishment of an activity.
  - ii. Those that affect the sequence when varied from the original schedule to a degree that there is doubt that the agreed Contract Completion Date will be met.
  - iii. Changes to activities having adequate float to absorb the change shall be considered as minor changes, except that an accumulation of minor changes may be considered a major change when the effect of such changes impact the Project Milestones or the Contract Completion date.

## 52. SUBMITTAL PROCEDURES

- a. Submittals are categorized for convenience as follows:
  - i. Plans and Procedures: Include narrative descriptions, diagrams, equipment, procedures for excavation, demolition, site clearing, maintenance of traffic, etc.
  - ii. Certificates: Include certified material test reports, certification of proper disposal of demolition materials, or tickets demonstrating compliance with materials, tests or specifications indicated.
  - iii. Equipment: Include equipment specifications, manufacturer information and demonstration of suitability of equipment for intended use.
  - iv. Product Data: Standard published information ("catalog cuts") and specially prepared data for the Work of the Contract, including standard illustrations, schedules, brochures, diagrams, performance charts, instructions and other information to illustrate a portion of the Work. Include standard printed information on materials, products and

systems to be furnished by the Contractor for this Contract.

- A. Shop Drawings: Include detailed manufacturing and layout information, drawings, diagrams, schedules, and illustrations, demonstrating the contractor's approach to meeting the intent of the plans and specifications. Shop drawings shall be submitted to SBCTA for review and comment on the conformance of the submitted information to the general intent of the design.
  - B. Samples: Include physical examples of materials either for limited visual inspection or selection, or (where indicated) for confirmation, testing, and analysis by SBCTA.
  - C. Miscellaneous Submittals: Such submittals shall be related directly to the Work, not administration related. Include but do not limit to asphalt concrete mix design, work schedule, phasing plans, warranties, guarantees, maintenance agreements, workmanship bonds, survey data and reports, physical work records, quality testing and certifying reports, copies of industry standards, record drawings, field measurement data, operating and maintenance materials, overrun stock (and similar information), and devices and materials applicable to the Work but not processed as shop drawings, product data or samples. Beside the shop drawings required in the project plans or specifications, SBCTA may require additional shop drawings demonstrating the Contractor's approach to meeting the intent of the plans and specifications as a part of Quality Control/Quality Assurance.
- b. Product data, shop drawings, samples, and any other submittals are not Contract Documents.
  - c. It is the Contractor's responsibility to identify the submittals that will be required in each section of specifications and on the contract drawings and to determine the date on which each submittal will be made. The submittal schedule shall be submitted by the Contractor, at the time of the Initial Construction Meeting, to SBCTA for review and acceptance. Allow SBCTA a minimum of 14 calendar days to review Schedule of Submittal. After review and return by SBCTA, resubmit Schedule of Submittal within 7 calendar days.
  - d. Throughout the duration of the Contract, Contractor shall, at SBCTA's request, submit all product or procedure documentation for any activity in the Contract.
  - e. Administrative Requirements for Submittal: Submittals shall be made in

accordance with requirements specified herein and in Product Sections of the Specifications.

- f. Transmission of Submittals: Transmit all submittals through the Project Engineer, unless otherwise directed. Include all information specified below for identification of submittals and for monitoring of review process.
- g. Make submittal at time required per the Contract Documents and per the Submittal Schedule accepted by SBCTA. Allow three (3) weeks for SBCTA to review and accept submittals.
- h. SBCTA and Contractor shall discuss at the Initial Construction Meeting the exact procedure to be adopted for the processing of submittals. Generally, submittals shall be made at the time indicated in Contractor's approved submittal schedule. SBCTA will process submittals within 21 calendar days after receipt of each submittal including resubmittals from Contractor. After review and return by SBCTA, resubmit the submittals within 7 calendar days.
- i. Contractor shall be responsible for on time delivery and processing of submittals so as not to impede the progress of the Work. Contractor shall provide, unless otherwise indicated, five (5) hard copies of each submittal
- j. Contractor shall coordinate and sequence different categories of submittals for same work, and interface units of work, so that one will not be delayed for coordination with another.
- k. Contractor shall maintain a file of all approved submittal documents on work site.
- l. Where required by California law, or as specified in the Contract Documents, submittals shall be signed and sealed by a Professional Engineer licensed in the State of California, or Land Surveyor licensed in the State of California, as applicable.
- m. Submittals shall be consecutively and uniquely numbered using a document identifier including Contract number and the appropriate suffix, which will include specification section number and submittal number. Submittals under each specification section shall be in a separate package.
- n. Submittals Identification: Identify each submittal by Specification Section number followed by a number indicating sequential submittal for that Section. Re-submittals shall use same number as original submittal, followed by a letter R and a number indicating sequential re-submittal.
  - i. Title each submittal with Project name, SBCTA's Project number, Submittal

number, Sequence number of Submittal, Contractor's Project number and submission date.

- ii. Identify each element on submittal by reference to Drawing sheet number, detail, schedule, number, assembly or equipment number, Specifications article and paragraph, and other pertinent information to clearly correlate submittal with Contract Drawings. Identify field dimensions clearly and relationships to adjacent or critical features of Work, any deviations from the Contract Documents and applicable standards, ASTM, ACI, OSHA, etc.
- o. Contractor's review of submittals: Prior to submission to SBCTA for review, Contractor shall review each submittal for completeness and conformance to specified requirements. Contractor shall stamp each submittal with a review action stamp and sign each copy certifying that:
  - i. Field measurements have been determined and verified.
  - ii. Field construction criteria have been verified.
  - iii. Catalog numbers and similar data are correct.
  - iv. Conformance with requirements of Contract Drawings and Specifications is confirmed.
  - v. All deviations from requirements of Drawings and Specifications have been identified and noted, and product is available.
- p. Submittals which are received from sources other than through Contractor's office or which have not undergone Contractor's review, will be returned marked "Without Action."
- q. Contractor shall be responsible for timely delivery of submittals in the proper specified format for each submittal category.
- r. Except as otherwise indicated in individual work sections, the Contractor shall comply with requirements specified herein for each indicated category of submittal.
- s. The Contractor shall include an up-to-date log of submittals in each submittal package.
- t. Grouping of Submittals: Unless otherwise specifically permitted by SBCTA, make all submittals in groups containing all associated items. SBCTA may reject partial submittals as incomplete or hold them until related submittals are made. Submittals under a specification section shall be in one submittal package.
- u. Unsolicited Submittals: Unsolicited submittals will be returned un-reviewed.
- v. Record Submittals: When record submittals are specified, submit three hard copies or sets only. Record submittals will not be reviewed but will be retained for

historical and maintenance purposes.

- w. Shop drawings shall be prepared using AutoCAD. Unless otherwise approved by SBCTA or indicated in specific sections of the project specific specifications, shop drawings shall be scaled sufficiently large to accurately show all pertinent aspects of the item and its relationship to the work. Acceptable shop drawings hard copy sizes are: 22" x 34", 11" x 17" and 8½" x 11". The Contractor shall additionally submit the shop drawing on electronic media in PDF format and in AutoCAD format compatible with AutoCAD version 2012.
- x. Shop drawings shall be original drawings prepared for submittal review, fabrication and execution of Work. Direct copies and modified reproductions of Contract Drawings will not be accepted for review. Provide space for review action stamps. Contractor shall field verify all existing conditions and all measurements on site before preparing and submitting shop drawings.
- y. Detailed work drawings shall be submitted by Contractor for temporary structures and for such other temporary work as may be required for construction, but which does not become an integral part of the completed project. Submittals shall include back-up calculations or any information needed to explain the structure or system or its intended use.
- z. Where a submittal involves engineering computations or original design work is depicted, the submittal shall show the name, the State of California registration number, seal, and signature of the Professional Engineer certifying that such computations or design work are correct and in conformance with standards, codes, and acceptable engineering practice.
- aa. Contractor shall submit 5 hard copies and a PDF file of each shop drawing submittal. Distribution of submitted shop and working drawings by Contractor for SBCTA's use will be performed by SBCTA. Review comments of SBCTA, and other parties as may be required, will be shown on the reproducible set when it is returned to Contractor. Contractor shall make and distribute all copies required for his purposes.
- bb. Contractor shall collect required data into one submittal for each unit of work or system, and mark each copy to show which choices and options are applicable to the Project.
- cc. Contractor shall include the manufacturer's standard printed recommendations for application and use, certification of compliance with standards, notation of field measurements, which have been checked, and special coordination requirements.

- A Material Safety Data Sheet (MSDS) shall be submitted for each product.
- dd. Certificates of Compliance shall be submitted by Contractor to SBCTA for those materials and products for which no samples and test results are specified. The certificates shall:
- i. State that the product complies with the respective contract specification and contract drawing requirements.
  - ii. Be accompanied by a certified copy of test results pertaining to the product. All test equipment used shall be verified to be in calibration at the time of each test and test reports shall so indicate. No test shall be made without such verification. When required by the Contract Documents or by law, certified test results shall be sealed by a Professional Engineer licensed to practice in the State of California.
  - iii. Show product represented and its location in the Contract, producer's name, product trade name and catalog number as applicable, place of product origin, test date, testing organization's name and address, quantity of the product to be furnished, and the related Contract Drawing and specification section numbers.
- ee. Provide samples of each color, texture and pattern identical with final condition of proposed materials or products for the work. Include range of samples (not less than three units) where unavoidable variations may be expected. Submit one item only of actual assembly or product. Full-size and complete samples may be returned or may be incorporated into field mock-up and the Work.
- ff. Submit actual samples. Photographic or printed reproductions will not be accepted. For manufacturer's products, the Contractor shall submit samples from manufacturer, with manufacturer's finish.
- gg. Include information with each sample showing generic description, source or product name, manufacturer and compliance with standards and specifications.
- hh. Samples are submitted for review and confirmation by SBCTA. SBCTA will review and select material for Project only after all samples are received, so that materials may be properly coordinated. SBCTA will not test samples (except as otherwise indicated) for compliance with specifications. Contractor shall have the exclusive responsibility of demonstrating material compliance.
- ii. As required per Contract Documents and/or by SBCTA, Contractor shall submit survey data, signed and sealed by a Land Surveyor licensed to practice in the State of California.
- jj. Contractor shall provide distribution of SBCTA's reviewed submittals (not included in foregoing copy submittal requirements) to subcontractors, suppliers,

- fabricators and installers, governing authorities, and others as necessary for proper performance of the Work.
- kk. Contractor shall include such additional copies of transmittal to SBCTA, where required, to receive status marking before final distribution.
  - ll. Submittals shall be a communication aid between Contractor and SBCTA by which interpretation of Contract Documents requirements may be confirmed in advance of construction. SBCTA will review submittals for general conformance with the design concept only. Such review by SBCTA shall not relieve Contractor or any subcontractor of responsibility for full compliance with contract requirements, for proper design of details, for proper fabrication and construction techniques, for proper coordination with other trades, or for providing all devices required for safe and satisfactory construction and operation.
  - mm. Changes shall only be authorized by separate written change order.
  - nn. Submittals reviewed by SBCTA and returned to Contractor will be marked with one of the following designations:
    - i. Conforms.
    - ii. Conforms with Corrections as Noted.
    - iii. Revise as Noted and Resubmit.
    - iv. Rejected. Resubmit.
    - v. No Action Taken.
  - oo. Contractor shall not proceed with procurement, manufacture or fabrication of items submitted for review until such submittals have been designated by SBCTA as "Conforms" or "Conforms with Corrections as Noted". Until submittal items receive a conforming designation by SBCTA, any costs associated with procurement for these items shall be at the Contractor's risk.
  - pp. Submittals designated as "Conforms" or "Conforms with Corrections as Noted":
    - i. Each copy of the submittal so designated by SBCTA will be identified accordingly by being so stamped and dated.
    - ii. One reproducible copy will be returned to Contractor.
    - iii. When a submittal has been designated as "Conforms" by SBCTA, Contractor shall carry out construction in accordance therewith and no further changes shall be made therein except upon written approval and instructions from SBCTA.
    - iv. Contractor shall take responsibility for and bear all cost of damages which



may result from the ordering of any material or from proceeding with any part of the Work prior to submittal being marked "Conforms" or "Conforms with Corrections as Noted" by SBCTA.

v. Where drawings are stamped "Conforms with Corrections as Noted," SBCTA shall indicate the corrected detail or information as required.

vi. Submittals stamped "Conforms" do not relieve the contractor from the responsibility of performance of Work as intended in the plans and specifications.

qq. Submittals designated as "Revise as Noted and Resubmit" or "Rejected. Resubmit"

i. Each copy of the submittal so designated by SBCTA will be identified accordingly by being so stamped and dated.

ii. One copy will be returned to Contractor.

iii. If corrections to the submittals are required, copies returned to Contractor will be marked "Rejected. Resubmit", or "Revise as Noted and Resubmit", and the required corrections shall be made on the re-submittal copies.

iv. Re-submittals will be handled in the same manner as first submittals. Direct specific attention in writing on re-submittals to revisions other than the corrections requested by SBCTA on previous submittals. Re-submittals shall use the same number as original submittal, but will be modified by R and number of re-submittal in the suffix.

v. Contractor shall notify SBCTA prior to execution of any correction, which constitutes a change of the contract requirements indicated on the submittals.

rr. Submittals designated as "No Action Taken":

i. Each copy of the submittal so designated by SBCTA will be identified accordingly by being so stamped and dated.

ii. One reproducible copy will be returned to Contractor.

iii. Submittals made by the Contractor that are not required by the Contract Documents or were not otherwise requested shall be designated "No Action Taken."

### **53. SAFETY REQUIREMENTS**

a. Comply with the provisions of all local, State and Federal codes, specifications, standards and recommended practices, and SBCTA/SCRRRA Policy, in particular:

i. Cal/OSHA: California State Occupational Safety and Health

#### Administration

- ii. OSHA: Federal Occupational Safety and Health Administration
- iii. SCRRA Master Specifications Section 01 35 23 - SCRRA Worksite Safety

#### Requirements

- b. Provide a Site Safety Representative who shall coordinate and supervise onsite safety and health, including training and testing Contractor's personnel.
- c. Contractor shall conform to requirements of SCRRA/SBCTA, Cal/OSHA, and to applicable codes and regulations of Federal, State, and local authorities having jurisdiction over jobsite safety.
- d. Testing equipment as applicable to work site safety shall conform to requirements of California Code of Regulations, Title 8, Division of Industrial Safety, unless indicated otherwise.
- e. While performing work at worksite, Contractor personnel of any tier shall be identified with employee's company name or logo affixed to employee's hardhat, identification badge, or other identification acceptable to SCRRA/SBCTA.
- f. Contractor personnel shall wear hard hats, orange safety vests or orange T-shirts with reflective strips, safety glasses, and safety shoes at all times while on the project.

#### 54. CODE COMPLIANCE

- a. Construction Industry Standards referenced in the Contract Documents have the same force and effect as if published herein and are made a part of the Contract Documents.
- b. Reference standards (referenced in the Contract Documents or by governing regulations) have precedence over non-referenced standards that are recognized in the industry for applicability to the work.
- c. Building Codes: Performance of the Work shall meet or exceed the minimum requirements of California Code of Regulations (CCR), Title 24, including the following:
  - i. CCR Title 24, Part 2: Uniform Building Code (UBC), latest edition, with State of California amendments; referenced as California Building Code (CBC).
  - ii. CCR Title 24, Part 3: National Fire Protection Association (NFPA) 13 - National Electrical Code (NEC), latest edition, with State of California Amendments, referenced as California Electrical Code (CEC).
  - iii. CCR Title 24, Part 9: Uniform Fire Code (UFC), latest edition, with State

of California Amendments, referenced as California Fire Code (CFC).

- iv. CCR Title 24, Part 12: Uniform Building Code Standards (UBC Standards), latest edition, with State of California Amendments; referenced as California Building Standards Code (CBSC).
- d. Performance of the Work shall also comply with applicable requirements of California Code of Regulations (CCR), as follows:
  - i. Title 19 - Public Safety.
  - ii. Title 22 - Social Security.
  - iii. Title 24 - Building Standards, Parts 2 through 7, and Title 25 as applicable.
- e. References on the Drawings or in the Specifications to "code", "Code" or "building code" and similar terms, not otherwise identified, shall mean the codes specified above, together with all additions, amendments, changes, and interpretations adopted by code authorities of the jurisdiction having authority over the Project.
- f. The applicable edition of all codes shall be that adopted at the time of issuance of permits by the jurisdiction having authority and shall include all modifications and additions adopted by that jurisdiction(s).
- g. Recognized industry standards shall be used where no specific standard is referenced in the Contract Documents. Obtain SBCTA's approval before using any non-referenced standards.
- h. Contact authorities having jurisdiction directly for necessary information and decisions having a bearing on performance of the work.
- i. Utility location and protection shall conform to Section 5, Utilities, of the Standard Specifications for Public Works Construction (SSPWC). At each property, the contractor shall utilize an independent underground utility locating service, which uses standard locating techniques other than excavating, to identify the location of underground utilities in the areas of the work prior to excavating. The contractor shall determine the exact location of utilities identified in the work area by potholing using hand tools before using any power operated excavating equipment. Utilities now shown on the plans which are in direct conflict with the work will be dealt with by change orders.
- j. Comply with requirements under the National Pollutant Discharge Elimination System (NPDES).
- k. Work shall be accomplished in conformance with all applicable laws, ordinances, rules and regulations of Federal, State and local governmental agencies and

jurisdictions, San Bernardino County, AQMD, CAL-OSHA and all other agencies having authority over the Project.

- l. Work shall be accomplished in conformance with all rules and regulations of public utilities, utility districts, and public agencies providing utility services.
- m. Where such laws, ordinances, rules and regulations require more care or greater time to accomplish Work, or require better quality, higher standards or greater size of products, Work shall be accomplished in conformance to such requirements with no change to the Contract Price and milestone dates, except where changes in laws, ordinances, rules and regulations occur subsequent to the execution date of the Contract.
- n. Contractor shall pay for and obtain all permits required by all agencies having jurisdiction over the work. Contractor shall be required to pay for all temporary utility connections and use to the respective utility company during construction.
- o. Obtain required permits from regulating agencies. Do not start work in areas requiring permits before issuance of permits from authorities having jurisdiction.
  - i. Coordinate with regulating agencies to obtain required permits.
  - ii. Submit copies of permit applications and permits to SBCTA.
  - iii. Comply with permit requirements and assume responsibility for any violations.
- p. Prepare permit applications and obtain permits as necessary for performance of the work, including but not limited to:
  - i. Maintenance and protection of vehicle traffic.
  - ii. Excavation, dewatering and discharge of surface water and runoff into existing drainage systems or surface waters.
  - iii. Disposal of debris and soils.
  - iv. All other activities with potential to adversely affect the environment.
  - v. Written permission from property owners for right of entry onto private property where necessary.

## 55. QUALITY ASSURANCE

- a. The following terms are used in this Section:
  - i. Quality Assurance Services: Activities, actions, and procedures performed before and during execution of the work to guard against defects and deficiencies and

substantiate that proposed construction will comply with requirements.

ii. **Quality Control Services:** Tests, inspections, procedures, and related actions during and after execution of the work to evaluate that actual products incorporated into the work and completed construction comply with requirements.

iii. **Mockups:** Full-size, physical assemblies that are constructed on-site. Mockups are used to verify selections made under sample submittals, to demonstrate aesthetic effects and, where indicated, qualities of materials and execution, and to review construction, coordination, testing, or operation; they are not samples. Approved mockups establish the standard by which the work will be judged.

iv. **Installer/Applicator/Erector:** Contractor or another entity engaged by Contractor as an employee, subcontractor, or sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations. Using a term such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to trades people of the corresponding generic name.

v. **Experienced:** When used with an entity, "experienced" means having successfully completed a minimum of five previous projects similar in size and scope to this project; having a minimum of five years' experience in work similar to that required for this project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.

b. If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to SBCTA for a decision before proceeding.

c. **Minimum Quantity or Quality Levels:** The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to SBCTA for a decision before proceeding.

d. The following qualifications paragraphs establish the minimum qualification levels required; individual specification sections specify additional requirements.

i. **Installer Qualifications:** A firm or individual experienced (as defined above) in installing, erecting, or assembling work similar in material, design, and extent to that indicated for this project, whose work has resulted in construction with a record of

successful in-service performance.

ii. **Manufacturer Qualifications:** A firm experienced (as defined above) in manufacturing products or systems similar to those indicated for this project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.

iii. **Fabricator Qualifications:** A firm experienced (as defined above) in producing products similar to those indicated for this project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.

iv. **Professional Contractor Qualifications:** A professional contractor who is legally qualified to practice in jurisdiction where project is located and who is experienced (as defined above) in providing engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly, or product, which are similar to those indicated for this project in material, design, and extent.

v. **Specialists:** Certain sections of the specifications require that specific construction activities shall be performed by entities who are recognized experts in those operations. Specialists shall satisfy qualification requirements indicated and shall be engaged for the activities indicated. Requirement for specialists shall not supersede building codes and regulations governing the work.

vi. **Testing Agency Qualifications:** An NRTL, an NVLAP, or an independent agency with the experience and capability to conduct testing and inspecting indicated, as documented by a recognized agency; and with additional qualifications specified in individual sections; and where required by authorities having jurisdiction, that is acceptable to authorities.

vii. **NRTL:** A nationally recognized testing laboratory according to 29 CFR 1910.7.

viii. **NVLAP:** A testing agency accredited according to NIST's National Voluntary Laboratory Accreditation Program.

e. **Factory-Authorized Service Representative Qualifications:** An authorized representative of manufacturer who is trained and approved by manufacturer to inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this project.

f. **Contractor responsibilities include the following:**

i. Provide test specimens representative of proposed products and

construction.

- ii. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the work.
- iii. Provide sizes and configurations of test assemblies, mockups, and laboratory mockups to adequately demonstrate capability of products to comply with performance requirements.
- iv. Build site-assembled test assemblies and mockups, where indicated, using installers who will perform same tasks for Project.
- v. Build laboratory mockups at testing facility using personnel, products, and methods of construction indicated for the completed work.
- vi. When testing is complete, remove test specimens, assemblies, mockups, and laboratory mockups; do not reuse products on project.
- g. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to SBCTA, with copy to Contractor. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the Contract Documents.
- h. Mockups: Before installing portions of the work requiring mockups, build mockups for each form of construction and finish required to comply with the following requirements, using materials indicated for the completed work:
  - i. Build mockups in location and of size indicated or, if not indicated, as directed by SBCTA.
  - ii. Notify SBCTA seven days in advance of dates and times when mockups will be constructed.
  - iii. Demonstrate the proposed range of aesthetic effects and workmanship.
  - iv. Obtain SBCTA's approval of mockups before starting work, fabrication, or construction.
  - v. Allow seven days for initial review and each re-review of each mockup.
  - vi. Maintain mockups during construction in an undisturbed condition as a standard for judging the completed work.
  - vii. Demolish and remove mockups when directed, unless otherwise indicated

## 56. QUALITY CONTROL

- a. SBCTA will determine whether the work is completed in accordance with the

Contract Documents. SBCTA will decide all questions that may arise as to the quality or acceptability of materials furnished and work performed, and interpretations of the Contract Documents.

- b. SBCTA may require the Contractor to finish a section on which work is in progress before work is started on any additional section.
- c. SBCTA may require the Contractor to submit additional shop drawings or documents to demonstrate the Contractor's understanding of the intents of contract plans and specifications as part of quality control.
- d. Regulatory Requirements for Testing and Inspection: Inspections, testing and approvals as required by authorities having jurisdiction, and:
  - i. California Code of Regulations (CCR) - Title 24, State Building Code (Uniform Building Code with State of California Amendments), latest edition, as adopted and interpreted by authorities having jurisdiction.
  - ii. California Code of Regulations (CCR) - Title 22, Sections 94065, 94067 and 94069.
- e. The Contractor shall:
  - i. Ensure that products, services, workmanship and site conditions comply with requirements of the Drawings and Specifications by coordinating, supervising, testing and inspecting the Work and by utilizing only suitably qualified personnel.
  - ii. Perform the work to achieve the level of quality prescribed in the Contract Documents, including by reference, all Codes, laws, rules, regulations and standards. Where no level of quality is prescribed, the quality shall be in accordance with the best accepted practices of the construction industry for the locale of the Project, for projects of this type.
  - iii. Perform the work in the proper sequence in relation to the requirements of SBCTA and other contractors, all as may be directed by SBCTA.
  - iv. Employ and assign knowledgeable and skilled personnel as necessary to perform quality control functions to ensure that the Work is provided as required.
  - v. Be responsible for any damage done by it or its agents to the work performed by SBCTA or another contractor.
  - vi. Give the work the constant attention necessary to facilitate the progress of the work.
  - vii. Be solely responsible for all construction means, methods, techniques, and procedures and for coordinating all portions of the work under the contract. Permission



given by SBCTA to use any particular methods, equipment, or appliances shall not be construed to relieve the Contractor from furnishing other equipment or other appliances or adopting other methods when those in use prove unsatisfactory, or as to bind SBCTA to accept work which does not comply with the contract.

viii. Immediately remove from the work, when so ordered by SBCTA, a subcontractor employee doing unsafe, improper, or defective work; who SBCTA deems to be incompetent or disorderly; or who commits trespassing on public or private property in the vicinity of the work.

ix. Be responsible for securing all work areas by barricade in accordance with local and State requirements as applicable at the end of each day.

- f. Quality of Products: Unless otherwise indicated or specified, all products shall be new, free of defects and fit for the intended use.
- g. Quality of Installation: All Work shall be produced plumb, level, square and true, or true to indicated angle, and with proper alignment and relationship between the various elements. New material shall be installed so that drainage merges with existing flow patterns on the site towards the drains.
- h. Protection of Existing and Completed Work: Take all measures necessary to preserve and protect existing and completed Work free from damage, deterioration, soiling and staining, until Acceptance by SBCTA.
- i. Standards and Code Compliance and Manufacturer's Instructions and Recommendations: Unless more stringent requirements are indicated or specified, comply with manufacturer's instructions and recommendations, reference standards and building code research report requirements in preparing, fabricating, erecting, installing, applying, connecting and finishing Work.
- j. Deviations from Standards and Code Compliance and Manufacturer's Instructions and Recommendations: Document and explain all deviations from reference standards and building code research report requirements and manufacturer's product installation instructions and recommendations, including acknowledgement by the manufacturer that such deviations are acceptable and appropriate for the Project.
- k. Verification of Quality: Work shall be subject to verification of quality by SBCTA or in accordance with provisions of the Conditions of the Contract.
  - i. Contractor shall cooperate by making Work available for inspection by SBCTA or its designated representative.
  - ii. Such verification may include mill, plant, shop, or field inspection as

required. SBCTA designated Inspector shall have access to material inspection.

iii. Provide access to all parts of the Work, including plants where materials or equipment are manufactured or fabricated.

iv. Provide all information and assistance as required, including that by and from subcontractors, fabricators, materials suppliers and manufacturers, for verification of quality by SBCTA

v. Contract modifications, if any, resulting from such verification activities shall be governed by applicable provisions in the Conditions of the Contract

- l. Observations by SBCTA and SBCTA's consultants: Periodic and occasional observations of Work in progress may be made by SBCTA and SBCTA's consultants as deemed necessary to review progress of Work and general conformance with design intent.
- m. Limitations on Inspection, Test and Observations: Neither employment of an Inspector of Record, independent testing and inspection agency, or observations by SBCTA and SBCTA's consultants shall in any way relieve Contractor of obligation to perform Work in full conformance to all requirements of Contract Documents and applicable Building Code and other regulatory requirements.
- n. SBCTA's Acceptance and Rejection of Work: SBCTA reserves the right to reject all Work not in conformance to the requirements of the Drawings and Specifications.
- o. Correction of Non-Conforming Work: Non-conforming Work shall be modified, replaced, repaired or redone by the Contractor at no change in Contract Price or milestone dates.
- p. Acceptance of Non-Conforming Work: Acceptance of non-conforming Work, without specific written acknowledgement and approval of SBCTA, shall not relieve the Contractor of the obligation to correct such Work.
- q. Contract Adjustment for Non-conforming Work: Should SBCTA or its designee determine that it is not feasible or in SBCTA's interest to require non-conforming Work to be repaired or replaced, an equitable reduction in Contract Price shall be made by agreement between SBCTA and Contractor. If equitable amount cannot be agreed upon, a Construction Change Directive will be issued and the amount in dispute resolved in accordance with the Conditions of the Contract.
- r. Non-Responsibility for Non-Conforming Work: SBCTA and SBCTA's consultants disclaim any and all responsibility for Work produced not in conformance with the

Drawings and Specifications.

- s. The work is to be completed in accordance with the specifications, the drawings, and such instructions or directions as SBCTA may give to supplement drawings and specifications. Wherever the words "directed," "permitted," "approved," "acceptable," "satisfactory to," or similar words or phrases occur in the Contract Documents, they shall be understood to be functions of SBCTA to be exercised at its discretion.
- t. SBCTA shall not be responsible for and shall not have control or charge over, the acts or omissions of the Contractor, subcontractors, or any of their agents or employees, or any other persons performing any of the work.
- u. Inspections and Tests by Authorities Having Jurisdiction: Contractor shall cause all tests and inspections required by authorities having jurisdiction to be made for Work under this Contract, Public Works Department, Fire Department, Health Department, AQMD, and similar agencies. Except as specifically noted, scheduling, conducting and paying for such inspections shall be solely the Contractor's responsibility.
- v. Inspections and Tests by Serving Utilities: Contractor shall cause all tests and inspections required by serving utilities to be made for Work under this Contract. Scheduling, conducting and paying for such inspections shall be solely the Contractor's responsibility.
- w. Inspections and Tests by Manufacturer's Representatives: Contractor shall cause all tests and inspections specified to be conducted by materials or systems manufacturers to be made. Additionally, all tests and inspections required by materials or systems manufacturers as conditions of warranty or certification of Work shall be made, the cost of which shall be included in the Contract Price.
- x. Inspections by Independent Testing and Inspection Agency or Agencies: The following applies to tests and inspections:
  - i. SBCTA will select and pay for an independent testing and inspection laboratory or agency to conduct tests and inspections as indicated on Drawings or Specifications, and as required by authorities having jurisdiction.
  - ii. Costs for additional tests, inspections and related services, due to the following, shall be reimbursed to SBCTA by the Contractor and no change in Contract Price shall result.
    - A. Failure to properly schedule or notify testing and inspection agency

- or authorities having jurisdiction.
- B. Changes in sources, lots or suppliers of products after original tests or inspections.
  - C. Changes in means methods, techniques, sequences and procedures of construction which necessitate additional testing, inspection and related services.
  - D. Changes in material after review and acceptance of submittal.
- iii. Test and Inspection Reports: After each inspection and test, one copy of report shall be promptly submitted to SBCTA, SBCTA's consultant (as applicable), Contractor, City Inspector, and to agency having jurisdiction (if required by Code).
- iv. Reports shall clearly identify the following:
- A. Project name and number.
  - B. Identification of product and Specifications Section in which Work is specified.
  - C. Name of inspector.
  - D. Date and time of sampling or inspection.
  - E. Location in Project where sampling or inspection was conducted.
  - F. Type of inspection or test.
  - G. Date of test.
  - H. Results of tests.
  - I. Comments concerning conformance with Contract Documents and other requirements
- v. Test reports shall indicate specified or required values and shall include statement whether test results indicate satisfactory performance of products.
- vi. Samples taken, but not tested, shall be reported.
- vii. Test reports shall confirm that methods used for sampling and testing conform to specified test procedures.
- y. Contractor shall provide SBCTA, independent testing and inspection agency personnel, inspector of record and SBCTA's consultant with full access to the work and reasonable time for inspection for ascertaining whether or not the work is performed in accordance with the requirements and intent of the contract. No work shall be covered or materials used without making the work or materials available

for inspection by SBCTA. If SBCTA so requests, the Contractor shall, at any time before acceptance of the work, remove or uncover such portions of the finished work as may be directed.

- z. After examination, Contractor shall restore the work to the standard required by the Contract Documents. If the work examined proves acceptable, uncovering, removal, and replacement of the work in question will be paid for by SBCTA by change order to the Contractor; but if the work proves unacceptable, the uncovering or removal and replacement of the work in question shall be at the Contractor's expense. Inspection will not relieve the Contractor from the responsibility for the quality of this work and to perform the work in accordance with the requirements of the Contract Documents.
- aa. All materials and every process of manufacture and construction shall be subject to inspection at all times. SBCTA and its designated representatives shall have free access to all operations. Contractor shall provide necessary materials and SBCTA shall have the right to select suitable samples of materials for testing or examination which the contractor shall supply without charge. In case such samples must be shipped to some other point for inspection or testing, Contractor shall box or crate samples as necessary and shall deliver them at points designated for shipment without charge. Omission of inspection shall not relieve the Contractor of its obligations to produce the work required by the Contract Documents. Materials not in compliance with contract requirements shall be removed promptly from the vicinity of the work, and the Contractor, at its expense, shall promptly remove, reconstruct, replace, and make good any defective work as directed in writing by
- bb. Oversight or error in judgment of inspectors, or previous acceptance of the work, shall not relieve Contractor from the obligation to correct defects whenever discovered.
- cc. If the Contractor does not correct nonconforming work or remove rejected materials within a reasonable time fixed by written notice, SBCTA may direct that removals and corrections be performed by other contractors. Charges for such removals and corrections shall be deducted from the Contractor's payment due under this contract or may be paid for by the Contractor's bonds held for this contract.
- dd. All inspection by SBCTA is for the protection of SBCTA and its interest and shall not relieve the Contractor of responsibility for providing work in accordance with the Contract Documents. After completion of the work, a final inspection will be made and any previous inspection or acceptance will not preclude rejection, at the final inspection, of any item that is not satisfactory to SBCTA or is not in

- accordance with the Contract Documents.
- ee. If, within the period of time prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, whichever is longer, any of the work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from SBCTA. This obligation shall survive acceptance of the work or termination of the contract. In the event SBCTA prefers to accept or not require correction of defective or nonconforming work, SBCTA may do so instead of requiring its removal and correction, in which case SBCTA shall determine an appropriate sum to be deducted from the Contract Price or otherwise charged against the Contractor, which determination shall be final and binding upon the parties. Such adjustment shall be effected whether or not final payment has been made.
  - ff. All defective work which has been rejected shall be remedied or removed and replaced by the Contractor at its own expense, in a manner acceptable to SBCTA.
  - gg. Whenever all of the work provided for in the contract or authorized as force account work has been completed and the final cleaning-up performed, SBCTA will make the final inspection, and, if the work is found to be satisfactory, Contractor will be notified in writing of the acceptance. All portions of the work shall be maintained by the Contractor at the standards required by the Contract Documents until final acceptance.
  - hh. At SBCTA's discretion, portions of the work that are determined to be substantially complete may be accepted before all the project work is completed. After acceptance of substantially completed work, Contractor shall not use the finished product for any purpose without permission of SBCTA.
  - ii. Give minimum of 48 hour advance notice of each test and inspection to SBCTA when ready for testing, observation and inspection.
  - jj. Should any compaction density/strength test or inspection fail to meet specification requirements, necessary corrective work shall be performed by the Contractor. Additional testing shall be required to determine that corrective work provides compaction in the failed area meeting requirements of these Specifications.
  - kk. Contractor shall provide a record of testing results including corrective actions taken if necessary, on the approved form to SBCTA.
  - ll. Contractor's corrective work to meet requirements and retesting resulting from failing tests shall be at no additional cost to SBCTA.
  - mm. Obtain all inspections required by the local regulatory agencies and provide

SBCTA with the final sign-off cards for the project from the local regulatory agencies.

## 57. TEMPORARY FACILITIES AND CONTROLS

- a. Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.
- b. Common-Use Field Office: not required
- c. Storage and Fabrication Sheds:
  - i. No equipment or tools are allowed to be stored at the jobsite without SBCTA's written permission. Size to storage requirements for products required per specification. Allow for access and orderly provision for maintenance and for inspection of products.
  - ii. Precast concrete planks/beams shall be cast offsite and transported to site.
- d. Telephone Service: Provide mobile telephone service for project superintendent.
- e. Temporary Electricity:
  - i. Connect to existing power service at location as directed. Power consumption shall not disrupt SCRRA's need for continuous service. Exercise measures to conserve energy.
  - ii. Provide power outlets for construction operations, with branch wiring and distribution boxes. Provide flexible power cords as required.
  - iii. Provide main service disconnect and over current protection at convenient location.
  - iv. Comply with NECA, NEMA, and UL standards and regulations for temporary electric service.
  - v. Permanent convenience receptacles may be utilized during construction.
- f. Temporary Fire Protection:
  - i. Maintain temporary fire protection facilities of the types needed until permanent facilities are installed. Fire Extinguishers shall be portable, UL rated, with class and extinguishing agent as required by locations and classes of fire exposures.
  - ii. Comply with NFPA 10 "Standard for Portable Fire Extinguishers" and NFPA 241 "Standard for Safeguarding Construction, Alterations, and Demolition Operations."
  - iii. Fire safety during construction shall comply with CFC - California Fire

Code (CCR) California Code of Regulations, Title 24, Part 9, Article 87.

- iv. Store combustible materials in containers in fire-safe locations.
- v. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire-protection facilities, stairways, and other access routes.
- vi. Provide supervision of welding operations, combustion-type temporary heating units, and similar sources of fire ignition
- g. Barriers, enclosures and fencing:
  - i. Provide barriers to prevent unauthorized entry to construction areas and to protect existing facilities and adjacent properties from damage from construction operations.
  - ii. Provide protection for plant life and trees designated to remain and for soft and hardscape areas adjacent to work, replace damaged materials in kind.
  - iii. Protect non-owned vehicular traffic, stored materials, if allowed, site and structures from damage.
- h. Noise Control: Provide methods, means, and facilities to minimize noise produced by construction operations.
- i. Pollution Control:
  - i. Provide methods, means, and facilities to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances, and pollutants produced by construction operations.
  - ii. Conform to Best Management Practices for waste management and material controls as defined in Section 4 of the Construction Activity Handbook published by the Storm Water Quality Association.
  - iii. Coordinate construction activities with control procedures established in the Storm Water Pollution Plan (SWPPP).
- j. Security:
  - i. Provide security and facilities to protect Work, from unauthorized entry,



vandalism, or theft.

- ii. Coordinate with SBCTA’s security program.
- k. Parking: No Contractor’s employees’ parking is allowed on site.
- l. Traffic Control:
  - i. Comply with requirements of authorities having jurisdiction.
  - ii. Obtain all permits, provide all materials and maintain controls as required by authorities having jurisdiction.
  - iii. Maintain access for fire-fighting equipment and access to hydrants.
- m. Progress Cleaning:
  - i. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, prior to enclosing the space.
  - ii. Broom and vacuum clean interior areas prior to start of surface finishing, and continue cleaning to eliminate dust.
  - iii. Provide walk-off mats at each building entry.
- n. Waste Disposal:
  - i. Waste Management: In compliance with local agencies’ regulations.
  - ii. Maintain work areas free of waste materials, debris, and rubbish.
  - iii. Remove waste materials, debris, and rubbish from site periodically during a work day and legally dispose of off-site at the end of each work day at 3:30 pm.
  - iv. Maintain site area in a clean and orderly condition.
- o. Locate facilities where they will serve project adequately and result in minimum interference with performance of the work. Relocate and modify facilities as required by progress of the work.
- p. Locate facilities to avoid protected areas as specified in these General Provisions.
- q. Provide and pay for temporary utility services and facilities such as sanitary facilities, telephone service and internet service adequate for construction and related activities.

## 58. TEMPORARY EROSION AND SEDIMENTATION CONTROL

- a. Conform to all applicable local, state and Federal Regulations and laws pertaining to water pollution control and as specified in SSPWC section 7-8.6.
- b. Accomplish erosion and sediment control through use of berms, dikes, swales,

- dams, fiber mats, plastic sheeting, netting, gravel, storm drain inlet protection, slope drains, sediment fences, and other sediment barriers; gravel construction entrances; and other erosion control devices or methods.
- c. Coordinate temporary pollution control provisions with permanent erosion control features specified elsewhere in the Contract Documents to the extent practicable to assure economical, effective, and continuous erosion control throughout the construction and post-construction period.
  - d. SBCTA may limit surface area of erodible earth material exposed by clearing, grubbing, excavation, borrow, embankment, and fill operations.
    - i. Provide immediate, permanent or temporary pollution control measures to prevent contamination of adjacent streams or other watercourses, lakes, ponds, or other areas of water impoundment.
    - ii. Work may involve construction of temporary berms, dikes, dams, sediment basins, and slope drains; use of temporary mats; or other control devices or methods as necessary to control erosion.
  - e. Construct facilities required for clearing, grading, and land alteration activities, to ensure that sediment-laden water does not enter drainage systems or violate applicable water standards.
  - f. Permanent Features:
    - i. Incorporate permanent erosion control features at earliest practicable time. Use temporary pollution control measures to correct unforeseen conditions that develop during construction, to provide measures that are needed prior to installation of permanent pollution control features, or to temporarily control erosion that develops during normal construction.
    - ii. Where erosion interferes with clearing and grubbing operations, schedule and perform work so that grading operations and permanent erosion control features can follow immediately; otherwise, provide temporary erosion control measures between successive construction stages.
  - g. Areas of Work:
    - i. Limit the area of clearing, grubbing, excavation, borrow, and embankment operations in progress commensurate with progress. Should seasonal limitations result in unrealistic coordination of operations, take temporary erosion control measures

immediately.

- ii. Flag boundaries of clearing limits prior to construction.
  - A. Do not disturb or permit disturbance of ground beyond flagged boundary.
  - B. Maintain flagging for duration of work.
- iii. Temporary soil erosion and sediment control may include construction work outside right of way where work is necessary as a result of project construction such as borrow pit operations, haul roads, and equipment storage sites
- h. Maintenance:
  - i. Maintain erosion control features installed, including replacement and upgrading of facilities when needed, until work is completed and notice of Final Acceptance issued.
  - ii. Maintain catch basins (inlets with sumps or inverted siphons) so that not more than one foot depth of sediment is allowed to accumulate within a trap (or sump).
    - A. Clean catch basins and storm drains prior to paving and prior to Substantial Completion.
    - B. Remove sediment. Do not flush sediment-laden water into downstream system.
  - iii. Keep paved areas clean for the duration of the project.
  - iv. Measures in addition to those indicated may be required.
  - v. Do not permit more than a one-foot depth of sediment to accumulate behind a silt fence.
  - vi. Remove sediment or regrade it into slopes, and repair and reestablish silt fences as needed.
  - vii. Remove silt fences in entirety when no longer required. Fences are required until uphill area has been permanently stabilized.
  - viii. Remove pipes, end sections, drainage curbs, silt fences, and other materials from temporary erosion control devices; those not incorporated into permanent work become property of Contractor.
  - i. Storm drain inlet protection must prevent sediment from entering storm drain

systems prior to permanent stabilization of disturbed areas.

- j. Use storm drain inlet protection per Caltrans standards plans, 2010 edition:
  - i. Where storm drain inlets are operational before permanent stabilization of disturbed drainage area.
  - ii. Adjacent to and immediately downhill of utility type construction in existing paved areas with catch basin drainage.
  - iii. When cleaning streets.
- k. Use berms when required to direct drainage to flow through filters and prevent bypassing of inlets.
- l. Do not permit more than one-foot depth of sediment to accumulate against storm drain inlet protection.
- m. Remove sediment and restore inlet protection as needed to maintain sediment trapping and filtering capability.

#### **59. CLOSEOUT PROCEDURES**

- a. As described in Section 5 of the Special Provisions, Substantial Completion will be determined at SBCTA's discretion. In order for SBCTA to make such a determination, the Contractor must comply with the requirements of this Section.
- b. Preliminary punch list review: At Contractor's request, SBCTA will attend a preliminary Contract closeout review, not earlier than 14 days prior to anticipated Substantial Completion review day. SBCTA and Contractor shall conduct a brief walk-through of Project to review scope, adequacy and completeness of the Work. SBCTA will prepare a typewritten list of items to be completed and corrected (preliminary punch list).
- c. Before requesting review/inspection for determining date of Substantial Completion, the Contractor shall complete the following:
  - i. Execute cleaning and clear site of temporary facilities and controls.
  - ii. Prior to Substantial Completion review, complete all testing, inspection, balancing, sterilization and cleaning of the Work. Obtain final City Inspection and City sign-off. Provide original of final sign-off cards to SBCTA.
  - iii. Advise SBCTA of pending insurance changeover requirements.
  - iv. Submit specific warranties, workmanship bonds, maintenance service

agreements, final certifications, and similar documents.

v. Obtain and submit releases permitting SBCTA unrestricted use of the work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.

vi. Prepare and submit project record documents, operation and maintenance manuals, final completion construction photographic documentation, damage or settlement surveys, property surveys, and similar final record information.

vii. Deliver tools, spare parts, extra materials, and similar items to location designated by SBCTA. Label with manufacturer's name and model number where applicable.

viii. Make final changeover of permanent locks and deliver keys to SBCTA. Advise SBCTA's personnel of changeover in security provisions.

ix. Complete startup testing of systems.

x. Submit test/adjust/balance records.

xi. Terminate and remove temporary facilities from project site, along with mockups, construction tools, and similar elements.

xii. Advise SBCTA of changeover in utilities.

xiii. Submit changeover information related to SBCTA's occupancy, use, operation, and maintenance.

xiv. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.

d. Contractor's Certification: The Contractor shall submit to SBCTA written certification that Contract Documents have been reviewed, Work has been inspected, and that Work is complete in accordance with Contract Documents and ready for Substantial Completion review by SBCTA. Provide five working days' notice to SBCTA that Work is substantially complete.

e. Punch List Review: SBCTA, SCRRA, and the responsible design consultants, as may be necessary, will attend a Contract closeout review and conduct a walk-through of Project to review the updated list of items to be completed and corrected (Punch List).

i. Contractor shall prepare a list and record additions, deletions, and revisions as noted by SBCTA for completion or correction.

ii. The Contractor shall complete all items on the punch list and notify SBCTA

of the completed items. SBCTA will update and distribute the revised Punch List after the next walk-through.

- iii. Costs of additional visits caused by incomplete scope of work or punch list items after the second visit to the site by SBCTA and the design consultants, to review completion and correction of Work, shall be reimbursed to SBCTA by the Contractor.
- f. Inspection: Submit a written request for inspection for Substantial Completion. On receipt of request, SBCTA will either proceed with inspection or notify Contractor of unfulfilled requirements. SBCTA will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by SBCTA, that must be completed or corrected before certificate will be issued.
- g. Re-inspection: Request re-inspection when the work identified in previous inspections as incomplete is completed or corrected.
- h. Results of completed inspection will form the basis of requirements for final completion.

## 60. HANDOVER

- a. The Contractor shall maintain at the site for SBCTA Representative one record copy of Project record documents, including:
  - i. Record drawings.
  - ii. Record specifications.
  - iii. Addenda.
  - iv. Change orders and other modifications to the Contract.
  - v. SBCTA's field orders and written instructions.
  - vi. Reviewed and Accepted Shop Drawings, Product Data and Samples.
  - vii. Field Test Reports.
  - viii. Referenced Documents.
- b. At the expiry of the Term, the Contractor shall deliver Record Documents to SBCTA's representative and comply with the handover requirements set out in this

Section 60.

- c. Accompany submittal with transmittal letter in duplicate, containing:
  - i. Date;
  - ii. Project title and contract number;
  - iii. Contractor's name and address;
  - iv. Title and number of each Record Document; and
  - v. Signature of Contractor or his authorized representative.
- d. Record Drawings: Submit one set of marked-up record prints. Submit also as pdf electronic file on electronic media acceptable to SBCTA.
- e. Record Specifications: Submit one set of contract specifications, including addenda and contract modifications. Submit also as pdf electronic file on electronic media acceptable to SBCTA.
- f. Record Product Data: Submit one marked-up copy of each product data submittal. Submit also as pdf electronic file on electronic media acceptable to SBCTA.
- g. Product data need not be submitted separately if included in operation and maintenance manuals.
- h. Shop Drawings: Submit one hard copy of reviewed and accepted shop drawings. Also submit as PDF files and AutoCAD files on a CD ROM.
- i. Operations and Maintenance Manual:
  - i. Manual content is specified in individual specification sections to be reviewed at the time of section submittals. Submit review manual content formatted and organized as required by the section. Where applicable, clarify and update reviewed manual content to correspond to modifications and field conditions.
  - ii. Submit three paper copies of each Operations and Maintenance Manual. Include a complete operation and maintenance directory. Enclose title pages and directories in clear plastic sleeves.
  - iii. Submit PDF electronic file on digital media acceptable to SBCTA. Assemble each manual into a composite electronically-indexed file.
  - iv. Initial Manual Submittal: Submit draft copy of each manual at least 30 calendar days before commencing demonstration and training. SBCTA will comment on whether general scope and content of manual are acceptable.
  - v. Correct or modify each manual to comply with SBCTA's comments. Submit

copies of corrected manual within 15 calendar days of receipt of comments and prior to commencing demonstration and training.

- j. Final Manual Submittal: Submit each manual in final form before requesting inspection for Substantial Completion and at least 15 calendar days before commencing demonstration and training.
- k. Other Documents: Unless otherwise specified, submit one (1) hard copy and a PDF electronic file of each document required herein.
- l. Final Specifications Submittals: Submit to SBCTA all documents and products required by Specifications to be submitted, including the following:
  - i. Project record drawings and specifications.
  - ii. Operations and Maintenance data.
  - iii. Guarantees, warranties and bonds.
  - iv. Test reports and certificates of compliance.
  - v. Local Regulatory Jurisdiction(s)' final Sign-off, including any and all documents required by governing authorities, utilities and other agencies, building permit cards, inspection cards signed-off as final by the inspectors, and certifications of inspections and tests.
- m. Certificates of Compliance and Test Report Submittals: Submit to SBCTA certificates and reports as specified, as required by manufacturers for warranty and guarantee purposes, and as required by authorities having jurisdiction.
- n. Subcontractor List: Submit to SBCTA five copies of updated Subcontractor and Materials Supplier List.
- o. Warranty Documents: Prepare and submit to SBCTA warranties and bonds as specified in the Contract Documents.
- p. Record Drawings
  - i. Record Prints: Maintain one set of black-line white prints of the contract drawings and shop drawings for the sole purpose of recording all as-built changes to the work.
  - ii. Preparation: Record information continuously as Work progresses. Do not conceal Work permanently until all required information is recorded. Require individual or entity who obtained record data, where individual or entity is installer, subcontractor, or similar entity, to prepare the marked-up record prints. Legibly and to scale, mark a reproducible set of Contract Drawings to record actual construction where installation



varies from that shown on contract drawings, including:

- A. Measured dimensions and cross section of work.
  - B. Measured horizontal and vertical locations of underground utilities, ducts, and vents from specific wall locations, including all new utilities installed and utilities found, abandoned or left in place, referenced to permanent surface improvements and to visible and accessible features of the structure.
  - C. Field changes of dimensions and details.
  - D. Details not on original Contract Drawings and any other changes to the original Contract Drawings (changes of location of utilities, equipment, and other accessories).
  - E. As-Built information shall be shown along with RFIs, Submittals, change orders, or other indicating source of changes. References to written changes such as RFIs of Field Directives should be clouded on the drawings with a copy of the written direction attached to the set of drawings.
  - F. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
  - G. Accurately record information in an understandable drawing technique.
  - H. Record data as soon as possible after obtaining it. Record and check the markup before enclosing concealed installations.
- iii. Mark record sets in red ink. Use other colors as required to distinguish between changes for different categories of the work at same location.
  - iv. Mark important additional information that was either shown schematically, such as conduit runs, or omitted from original drawings.
  - v. Note work change RFI numbers, directive numbers, alternate numbers, change order numbers, and similar identification, where applicable.
- q. Record Specifications
    - i. Preparation: In PART 2 – PRODUCTS in each specification section, legibly mark in red ink and record actual products installed or used:
    - ii. Give particular attention to information on concealed products and

installations that cannot be readily identified and recorded later.

iii. Mark copy with the proprietary name and model number or catalog number of products, materials, and equipment furnished, including substitutions or alternates utilized and product options selected.

iv. Record the name of manufacturer, supplier, installer, and other information necessary to provide a record of selections made.

v. For each principal product, indicate whether record product data has been submitted in operation and maintenance manuals instead of submitted as record product data.

vi. Note related addenda, change orders, record product data, and record drawings, and other instruments modifying the Contract, where applicable.

r. Shop Drawings

i. Maintain as record documents.

ii. Legibly annotate drawings to record changes made after review.

s. Record Shop Drawings:

i. Revise the shop drawings CAD files to reflect annotations made on record copy.

ii. Submit hard copies, PDF files and CAD files compatible with AutoCAD 2012

t. Operations and Maintenance Document Directory

i. Organization: Include a section in the directory for each of the following:

A. List of documents.

B. List of systems.

C. List of equipment.

D. Tables of contents.

ii. List of systems and subsystems: List systems alphabetically. Include references to operation and maintenance manuals that contain information about each system. List of Equipment: List equipment for each system, organized alphabetically by system. For pieces of equipment not part of system, list alphabetically in separate list.

iii. Tables of Contents: Include a table of contents for each emergency,

operation, and maintenance manual.

iv. Identification: In the document directory and in each operation and maintenance manual, identify each system, subsystem, and piece of equipment with same designation used in the Contract Documents. If no designation exists, assign a designation according to ASHRAE Guideline 4, Preparation of Operating and Maintenance Documentation for Building Systems.

u. Requirements for Operations and Maintenance Manuals

i. Organization: Unless otherwise indicated, organize each manual into a separate section for each system and subsystem, and a separate section for each piece of equipment not part of a system. Each manual shall contain the following materials, in the order listed:

- A. Title page.
- B. Table of contents.
- C. Manual contents.

ii. Title Page: Include the following information:

- A. Subject matter included in manual.
- B. Name and address of project.
- C. Name and address of SBCTA.
- D. Date of submittal.
- E. Name and contact information for Contractor.
- F. Name and contact information for SBCTA.
- G. Names and contact information for major consultants to SBCTA that designed the systems contained in the manuals.
- H. Cross-reference to related systems described elsewhere in the operation and maintenance manuals.

iii. Table of Contents: List each product included in manual, identified by product name, indexed to the content of the volume, and cross-referenced to specification section number in project manual.

iv. If operation or maintenance documentation requires more than one volume to accommodate data, include comprehensive table of contents for all volumes in each volume of the set.

v. Manual Contents: Provide manuals for each piece of equipment including

individual components and subsystems of complete assembly. Organize into sets of manageable size. Arrange contents alphabetically by system, subsystem, and equipment. If possible, assemble instructions for subsystems, equipment, and components of one system into a single binder. Line out non-applicable text and illustration. The section of the manual on operation shall describe the functions and limitations of each component and its relationship to the system of which it is a part. Where several models, options, or styles are described, the manual shall identify the items actually provided.

vi. Manuals, Electronic Files: Submit manuals in the form of a multiple file composite electronic PDF file for each manual.

- A. Electronic Files: Use electronic files prepared by manufacturer where available. Where scanning of paper documents is required, configure scanned file for minimum readable file size.
- B. File Names and Bookmarks: Enable bookmarking of individual documents based upon file names. Name document files to correspond to system, subsystem, and equipment names used in manual directory table of contents. Group documents for each system and subsystem into individual composite bookmarked files, then create composite manual, so that resulting bookmarks reflect the system, subsystem, and equipment names in a readily navigated file tree. Configure electronic manual to display bookmark panel upon opening file.

vii. Manuals, Paper Copy: Submit manuals in the form of hard copy, bound and labeled volumes.

- A. Binders: Heavy-duty, three-ring, vinyl-covered, loose-leaf binders, in thickness necessary to accommodate contents, sized to hold 8-1/2 by 11 inch paper, with clear plastic sleeve on cover to hold label and cover sheet describing contents and with pockets on inside covers to hold folded oversize sheets.
- B. If two or more binders are necessary to accommodate data of a system, organize data in each binder into groupings by subsystem and related components. Cross-reference other binders if necessary to provide essential information for proper operation or maintenance of equipment or system.
- C. Identify each binder on front and spine, with printed title "Operation and Maintenance Manual," project name, subject matter of contents, and specification section number (on bottom of spine). Indicate

- volume number for multiple-volume sets.
- D. Dividers: Heavy paper dividers with plastic covered tabs for each section of manual. Mark each tab to indicate contents. Include typed list of products and major components of equipment included in the section on each divider, cross-referenced to specification section number and title of project manual.
  - E. Protective Plastic Sleeves: Transparent plastic sleeves designed to enclose diagnostic software storage media for computerized electronic equipment.
  - F. Supplementary Text: Prepared on 8-1/2 by 11 inch white bond paper.
  - G. Drawings: Attach reinforced, punched binder tabs on drawings and bind with text.
  - H. If oversize drawings are necessary, fold drawings to same size as text pages and use as foldouts.
  - I. If drawings are too large to be used as foldouts, fold and place drawings in labeled envelopes and bind envelopes in rear of manual. At appropriate locations in manual, insert typewritten pages indicating drawing titles, descriptions of contents, and drawing locations.
- viii. Manuals shall contain the following minimum information for each product or system:
- A. List of equipment furnished for project with name, address, and telephone number of each vendor.
  - B. Name, address and telephone number for nearest manufacturer's service representative.
  - C. Catalog, model and serial number for the installed equipment.
  - D. Description of the normal and emergency operations of the equipment.
  - E. Statement of warranty and date warranty begins and ends.
  - F. Standard starting, stopping and operating instructions.
  - G. Emergency and special operating instructions and a list of service organizations (including addresses and telephone numbers) capable

- of rendering emergency service to the various parts of the system.
- H. Copy of each wiring and control diagram.
  - I. Routine maintenance procedures.
  - J. Servicing and lubrication schedule.
  - K. Manufacturer's printed operating and maintenance instructions and part lists. Operating and maintenance instructions for each and every item of equipment, setting forth in detail and step-by-step the procedure of starting, stopping, operating, and maintaining the entire system as installed. Include a schedule of recommended maintenance intervals.
  - L. Manufacturer's recommended special maintenance tools.
  - M. Routine maintenance procedures.
  - N. Tabulation of motor nameplate horsepower, nameplate current, field-measured current, overlay relay setting, and catalog number for polyphase motors.
  - O. List of fuses, lamps, seals, and other expendable equipment and devices. Specify size, type, and ordering description. List name, address, email address, fax number, and telephone number of vendor.
  - P. A copy of shop drawings for mechanical, electrical, and instrument equipment in final form.
  - Q. Certified equipment drawings or reviewed shop drawing data clearly marked for equipment furnished.
- ix. Brochures shall be loose leaf with durable plastic or fiberboard covers. Each sheet shall be reinforced to prevent tearing from continued use, and each brochure shall have the following information clearly printed on its cover:
- A. Project name, name of SBCTA, and address.
  - B. Name and address of SBCTA's Representative.
  - C. Name and addresses of contractors and subcontractors and department to contact.
  - D. Telephone number of contractors, including night and emergency

numbers.

E. Major equipment vendors' names and telephone numbers.

x. Equipment Data Sheet: Provide six sets of equipment data sheets, bound in three-ring binders, summarizing the equipment manufacturer's maintenance instructions and recommendations. A blank data sheet and a sample data sheet are attached at the end of this specification section

v. Photographs

i. Prior to performing any work on the site, the Contractor shall take a minimum of twenty (20) photographs of each project site. Each major area of work shall be the subject of at least one photograph.

ii. After construction operations have been started at the site, the Contractor shall periodically take color photographs to show general site condition and progress of work. A minimum of twenty (20) photos shall be taken throughout each month and submitted to SBCTA by the 5th of the following month. Each major area of work shall be the subject of at least one photograph.

iii. The photo submittals shall be a read-only compact disk (CD-ROM) containing high-resolution electronic files of the color photographs. Each photograph will be captioned with date taken, location, and general description. In addition to the electronic file, the Contractor shall submit two (2) (8" X 10") prints of each photograph

## 61. DEMONSTRATION AND TRAINING

- a. Demonstration and Training Video Recordings: Submit two copies on CD within seven days of end of each training module.
- b. Coordinate instruction schedule with SBCTA's operations. Adjust schedule as required to minimize disrupting SBCTA's operations.
- c. Coordinate content of training modules with content of approved emergency, operation, and maintenance manuals. Do not submit instruction program until operation and maintenance data has been reviewed and approved by SBCTA.
- d. Program Structure: Develop an instruction program that includes individual training modules for each system and for equipment not part of a system, as required by individual specification sections.
- e. Training Modules: Develop a learning objective and teaching outline for each module. Include a description of specific skills and knowledge that participant is expected to master. For each module, include instruction for the following as

applicable to the system, equipment, or component:

- i. Basis of System Design, Operational Requirements, and Criteria: Include the following:
  - A. System, subsystem, and equipment descriptions.
  - B. Performance and design criteria if Contractor is delegated design responsibility.
  - C. Operating standards.
  - D. Regulatory requirements.
  - E. Equipment function.
  - F. Operating characteristics.
  - G. Limiting conditions.
  - H. Performance curves.
- ii. Documentation: Review the following items in detail:
  - A. Emergency manuals.
  - B. Operations manuals.
  - C. Maintenance manuals.
  - D. Project record documents.
  - E. Identification systems.
  - F. Warranties and bonds.
  - G. Maintenance service agreements and similar continuing commitments.
- iii. Emergencies: Include the following, as applicable:
  - A. Instructions on meaning of warnings, trouble indications, and error messages.
  - B. Instructions on stopping.
  - C. Shutdown instructions for each type of emergency. Operating instructions for conditions outside of normal operating limits.
  - D. Sequences for electric or electronic systems.
  - E. Special operating instructions and procedures.



- iv. Operations: Include the following, as applicable:
  - A. Startup procedures.
  - B. Equipment or system break-in procedures.
  - C. Routine and normal operating instructions.
  - D. Regulation and control procedures.
  - E. Control sequences.
  - F. Safety procedures.
  - G. Instructions on stopping.
  - H. Normal shutdown instructions.
  - I. Operating procedures for emergencies.
  - J. Operating procedures for system, subsystem, or equipment failure.
  - K. Seasonal and weekend operating instructions.
  - L. Required sequences for electric or electronic systems.
  - M. Special operating instructions and procedures.
- v. Adjustments: Include the following:
  - A. Alignments.
  - B. Checking adjustments.
  - C. Noise and vibration adjustments.
  - D. Economy and efficiency adjustments.
- vi. Troubleshooting: Include the following:
  - A. Diagnostic instructions.
  - B. Test and inspection procedures.
- vii. Maintenance: Include the following:
  - A. Inspection procedures.
  - B. Types of cleaning agents to be used and methods of cleaning.
  - C. List of cleaning agents and methods of cleaning detrimental to product.
  - D. Procedures for routine cleaning.

- E. Procedures for preventive maintenance.
  - F. Procedures for routine maintenance.
  - G. Instruction on use of special tools.
- viii. Repairs: Include the following:
- A. Diagnosis instructions.
  - B. Repair instructions.
  - C. Disassembly; component removal, repair, and replacement; and reassembly instructions.
  - D. Instructions for identifying parts and components.
  - E. Review of spare parts needed for operation and maintenance.
- f. Assemble educational materials necessary for instruction, including documentation and training module.
  - g. Set up instructional equipment at instruction location.
  - h. Engage qualified instructors to instruct SCRRA's personnel and its contractors to adjust, operate, and maintain systems, subsystems, and equipment not part of a system.
  - i. SBCTA will furnish Contractor with names and positions of participants.
  - j. Scheduling: Provide instruction at mutually agreed on times. For equipment that requires seasonal operation, provide similar instruction at start of each season.
  - k. Schedule training with SBCTA personnel, through SBCTA, with at least seven days' advance notice.
  - l. Evaluation: At conclusion of each training module, assess and document each participant's mastery of module by use of a demonstration/performance-based review.
  - m. Cleanup: Collect used and leftover educational materials and remove from project site. Remove instructional equipment. Restore systems and equipment to condition existing before initial training use.
  - n. General: Engage a qualified commercial videographer to record demonstration and training video recordings. Record each training module separately. Include classroom instructions and demonstrations, board diagrams, and other visual aids, but not student practice.
  - o. At beginning of each training module, record each chart containing learning

- objective and lesson outline.
- p. Video Recording Format: Provide high-quality color video recordings with menu navigation in format acceptable to SBCTA.
  - q. Recording: Mount camera on tripod before starting recording, unless otherwise necessary to show area of demonstration and training. Display continuous running time.
  - r. Narration: Describe scenes on video recording by audio narration by microphone while video recording is recorded. Include description of items being viewed.
  - s. Transcript: Provide a transcript of the narration. Display images and running time captured from videotape opposite the corresponding narration segment.
  - t. Pre-Produced Video Recordings: Provide video recordings used as a component of training modules in same format as recordings of live training.

**ATTACHMENT B1: CLAIMS CERTIFICATE**

Certificate

Under the penalty of law for perjury or falsification with specific reference to the California False Claims Act, Government Code Section 12650 et. Seq., the undersigned,

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Company)

herby certifies that the claim for the additional compensation and time, if any, made herein for the work on this Contract is a true statement of the actual cost incurred and time sough, and is fully documented and supported under the Contract between the parties

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Subscribed and sworn before this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**ATTACHMENT B2: WAGES CERTIFICATION**

The undersigned, Contractor on

\_\_\_\_\_

(Contract No.)

hereby certifies that all laborers, mechanics, apprentices and trainees employed by the Contractor or by a subcontractor performing work under the Contract on the Project have been paid wages at rates not less than those required by the Contract, and that the work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the Contract or training program provisions applicable to the wage rate paid.

\_\_\_\_\_

Signature and Title

Attachment: Exhibit B - General Provisions (8765 : Award Contract No. 22-1002700 for AMF Hydrogen Fuel Upgrade Project)

## *Minute Action*

AGENDA ITEM: 8

***Date:*** February 1, 2023

***Subject:***

Regional Early Action Planning 2.0 Grant Application Resolution No. 23-028

***Recommendation:***

That the Board, acting as the San Bernardino Associated Governments (SBCOG):

Approve Resolution No. 23-028, authorizing staff to submit applications to the California Department of Housing and Community Development (HCD) for the Regional Early Action Planning 2.0 grant program and authorize Executive Director to enter into and execute Standard Agreement with HCD if funds are awarded to SBCOG.

***Background:***

On September 7, 2022, the San Bernardino County Transportation Authority / San Bernardino Council of Governments (SBCTA/SBCOG) Board of Directors (Board) authorized staff to submit grant applications for the Regional Early Action Planning (REAP) 2.0 Program for 5 different types of housing related projects.

1. Senate Bill 743 Vehicle Miles Traveled Mitigation Crediting Program
2. First/Last Mile transit service enhancements at selected Metrolink stations
- 3. San Bernardino County Regional Housing Trust Program**
4. Transit Oriented Development Housing/Land Use Strategies at Metrolink and Bus Rapid Transit Corridor
5. Other Supplemental Planning Work left from REAP 1.0

In addition, the Board also authorized the Executive Director, or his designee, to approve the scope of work and sign the grant applications. Furthermore, the Board authorized the Executive Director, or his designee, to negotiate and execute future Restricted REAP 2.0 Grant Agreements, subject to approval as to form by General Counsel, if the applications were successful and funds were awarded to SBCOG.

Although the Board previously authorized staff to submit the grant application and the Executive Director to negotiate and execute any grant agreements, the California Department of Housing and Community Development (HCD) has requested adoption of a formal resolution to include specific legal authorization language, provided by HCD, to clarify that the future agreements must be executed with HCD. As such, staff requests the Board adopt the resolution presented with this item to satisfy the grant application requirement. Since the due date given to staff from HCD was February 15, 2023, staff is presenting the item directly to the Board without any prior committee review. However, the recently formed Board Housing Trust Ad-Hoc Committee has reviewed the attached resolution.

The Higher Impact Transformative (HIT) allocation of REAP 2.0 funding makes \$30 million available to Eligible Entities (EE) across the state that pursue innovative approaches to advancing all of the REAP 2.0 goals and objectives. The HIT allocation of REAP 2.0 funds are competitive and are provided directly to EEs and are intended to support novel, unique or innovative approaches with expanded benefits and impact as reflected in the Scoring Criteria. With the State of California's goal in mind, SBCOG picked establishing the San Bernardino

*Entity: San Bernardino Council of Governments*

County Regional Housing Trust as the main program to compete under the REAP 2.0 HIT grant program. SBCOG's Regional Housing Trust Program meets all of the criteria outlined by the grant program, and the process in establishing a housing trust has been listed as an explicit example of an eligible activity under the grant program.

*(A) Accelerating housing supply, choice and affordability for all income groups to attain the state's housing goals, including facilitating Housing Element compliance and implementation and progress toward the Regional Housing Need Allocation.*

*(B) Advancing the State Planning Priorities through Infill development.*

*(C) Affirmatively Furthering Fair Housing (AFFH) by addressing significant disparities in housing needs and access to opportunity and transforming areas of poverty into areas of opportunity.*

*(D) Further the region's Sustainable Communities Strategies by reducing Vehicle Miles Traveled Per Capita to advance the state's climate goals.*

SBCOG has requested a total of \$5,965,000 in REAP 2.0 HIT allocation funding, of which \$1,215,000 will be used to establish and administer the San Bernardino Regional Housing Trust and \$4,750,000, if HCD so chooses, will provide initial funding for two priority Housing Trust program activities, pending approval of the activities by the new Joint Powers Authority (JPA) Board upon the establishment of the Housing Trust. Staff did not make any commitment on the format and/or the structure of the Board for the new Housing Trust. The initial two optional activities for the Housing Trust program include: 1) Gap Funding for Housing Development (supporting a future pilot project); and 2) Technical/Planning Support (supporting a future pilot project). However, since program establishment is under the purview of the future San Bernardino County Regional Housing Trust Governing Board, staff provided HCD only a list of sample projects received from member jurisdictions and left the \$4,750,000 in funding as an optional item for HCD to consider.

***Financial Impact:***

This item has no financial impact on the Fiscal Year 2022/2023 Budget.

***Reviewed By:***

This item was reviewed by the SBCOG Housing Trust Ad-Hoc Committee. SBCTA General Counsel has reviewed the draft resolution.

***Responsible Staff:***

Josh Lee, Deputy Director of Planning

Approved  
 Board of Directors  
 Date: February 1, 2023

Witnessed By:

**RESOLUTION NO. 23-028**

**RESOLUTION OF THE SAN BERNARDINO ASSOCIATED GOVERNMENTS  
(SBCOG) AUTHORIZING SUBMITTAL OF REAP 2.0 GRANT APPLICATION  
AND FURTHER ACTION IN EVENT OF GRANT AWARD**

**WHEREAS**, the State of California Department of Housing and Community Development (“the Department”) is authorized to provide up to \$30,000,000 to Eligible Entities listed in Health and Safety Code Section 50515.08, subdivisions (a)(1)-(6), under the Higher Impact Transformative (“HIT”) Allocation of the Regional Early Action Planning grants program (“REAP 2.0”), as detailed in Health and Safety Code Section 50515.08-10;

**WHEREAS**, the Department issued a Notice of Funding Availability (“NOFA”) on November 9, 2022 for REAP 2.0 HIT Allocation funds available to Eligible Entities;

**WHEREAS**, SBCOG is an Eligible Entity eligible to submit a Request for Funds pursuant to Health and Safety Code Section 50515.08(c) to develop and accelerate the implementation of the requirements described in Health and Safety Code section 50515.08(c)(1);

**WHEREAS**, the Department shall approve the Request for Funds, subject to the terms and conditions of Eligibility, Guidelines, NOFAs, Program requirements, and the Standard Agreement by and between the Department and REAP 2.0 Grant Recipients;

**NOW, THEREFORE, BE IT RESOLVED**, by the San Bernardino Associated Governments (SBCOG), as follows:

Section 1. The **San Bernardino Associated Governments (SBCOG)** is hereby authorized and directed to request an allocation of funds not to exceed **\$5,965,000** (the amount allocated pursuant to Health and Safety Code section 50515.07(a) consistent with the methodology described in 50515.09(a)).

Section 2. **SBCOG’s Executive Director** is authorized to execute the Request for Funds, on behalf of the **SBCOG** as required by the Department for receipt of REAP 2.0 funds.

Section 3. **SBCOG** represents and certifies that it will use all such REAP 2.0 funds allocated by the Department only for eligible activities as set forth in Health and Safety Code section 50515.08(c)(1), as approved by the Department and in accordance with all REAP 2.0 requirements, guidelines, all applicable state and federal statutes, rules, regulations, and the Standard Agreement which shall be executed by and between the **SBCOG** and the Department.

Section 4. **SBCOG’s Executive Director** is authorized to enter into, execute, and deliver a State of California Standard Agreement for an amount not to exceed **\$5,965,000**, and any and all other documents required or deemed necessary or appropriate to evidence and secure the REAP 2.0 Allocation, the **SBCOG** obligations related thereto, and all amendments the Department deems necessary and in accordance with REAP 2.0.



PASSED AND ADOPTED at a regular meeting of the **San Bernardino Associated Governments (SBCOG)** this day of **February 1, 2023**, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
Art Bishop, Board President  
San Bernardino Associated Governments

ATTEST:

\_\_\_\_\_  
Marleana Roman, Clerk of the Board  
San Bernardino Associated Governments

DRAFT

Attachment: 10b. REAP-2-0-HIT-App-Resolution DRAFT (004) [Revision 1] (9254 : REAP 2.0 Grant Application Resolution No. 23-028)

# ADDITIONAL INFORMATION

**BOARD OF DIRECTORS ATTENDANCE RECORD – 2023**

<b>Name</b>	<b>Jan</b>	<b>Feb</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug DARK</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
<b>Paul Cook</b> Board of Supervisors	X											
<b>Jesse Armendarez</b> Board of Supervisors	X											
<b>Dawn Rowe</b> Board of Supervisors	X											
<b>Curt Hagman</b> Board of Supervisors	X											
<b>Joe Baca, Jr.</b> Board of Supervisors	X											
<b>Daniel Ramos</b> City of Adelanto	X											
<b>Art Bishop</b> Town of Apple Valley	X											
<b>Paul Courtney</b> City of Barstow	X											
<b>Rick Herrick</b> City of Big Bear Lake	X											
<b>Eunice Ulloa</b> City of Chino	X											
<b>Ray Marquez</b> City of Chino Hills	X											
<b>Frank Navarro</b> City of Colton												
<b>Acquanetta Warren</b> City of Fontana	X											
<b>Sylvia Robles</b> City of Grand Terrace	X											
<b>Rebekah Swanson</b> City of Hesperia	X											
<b>Larry McCallon</b> City of Highland	X											

X = member attended meeting. \* = alternate member attended meeting. Empty box = did not attend meeting. Crossed out box = not a Board Member at the time. Shaded box=no meeting

**BOARD OF DIRECTORS ATTENDANCE RECORD – 2023**

<b>Name</b>	<b>Jan</b>	<b>Feb</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug DARK</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
<b>Rhodes ‘Dusty’ Rigsby</b> City of Loma Linda	X											
<b>John Dutrey</b> City of Montclair	X											
<b>Vacant</b> City of Needles												
<b>Alan Wapner</b> City of Ontario	X											
<b>L. Dennis Michael</b> City of Rancho Cucamonga	X											
<b>Paul Barich</b> City of Redlands												
<b>Deborah Robertson</b> City of Rialto	X											
<b>Helen Tran</b> City of San Bernardino	X											
<b>Joel Klink</b> City of Twentynine Palms	X											
<b>Carlos A. Garcia</b> City of Upland												
<b>Debra Jones</b> City of Victorville	X											
<b>Bobby Duncan</b> City of Yucaipa	X											
<b>Rick Denison</b> Town of Yucca Valley	X											
<b>Rebecca Guirado</b> Interim Ex-Official Member	X											

Communication: Attendance (Additional Information)

X = member attended meeting. \* = alternate member attended meeting. Empty box = did not attend meeting. Crossed out box = not a Board Member at the time. Shaded box=no meeting

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist Board Members and partners as they participate in deliberations at Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. Staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CMAQ	Congestion Mitigation and Air Quality
CMIA	Corridor Mobility Improvement Account
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CPUC	California Public Utilities Commission
CSAC	California State Association of Counties
CTA	California Transit Association
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
DEMO	Federal Demonstration Funds
DOT	Department of Transportation
EA	Environmental Assessment
E&D	Elderly and Disabled
E&H	Elderly and Handicapped
EIR	Environmental Impact Report (California)
EIS	Environmental Impact Statement (Federal)
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds

**Acronym List**

MAGLEV	Magnetic Levitation
MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
NAT	Needles Area Transit
NEPA	National Environmental Policy Act
OA	Obligation Authority
OCTA	Orange County Transportation Authority
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PNRS	Projects of National and Regional Significance
PPM	Planning, Programming and Monitoring Funds
PSE	Plans, Specifications and Estimates
PSR	Project Study Report
PTA	Public Transportation Account
PTC	Positive Train Control
PTMISEA	Public Transportation Modernization, Improvement and Service Enhancement Account
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
RSTIS	Regionally Significant Transportation Investment Study
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SAFETEA-LU	Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
S RTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
TSSDRA	Transit System Safety, Security and Disaster Response Account
USFWS	United States Fish and Wildlife Service
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments

# AGENCY REPORTS



REPORT: Mobile Source Air Pollution Reduction Review Committee

FROM: Larry McCallon, SBCTA Representative to the MSRC

SYNOPSIS: The Mobile Source Air Pollution Reduction Review Committee held a hybrid meeting on Thursday, December 15, 2022. The following is a summary of the meeting.

### **FYs 2021-24 Work Program**

#### **Request for Proposals for Micro-transit Operations**

The MSRC approved the release of #RFP2023-07 under the FYs 2021-24 Work Program. The RFP, with an initial targeted funding amount of \$2,500,000, solicits proposals from qualifying transportation and mobility providers to provide technology-enabled, shared transportation that fills the void between traditional “fixed route” transit and “ride hailing” technology. The MSRC seeks to invest in micro transit service which is either new within a specified area, or the expansion of an existing service. MSRC funding should serve as seed money and the proposer should present a strong business case, including a service continuation plan that thoroughly explains how the proposed service will be sustainable beyond the MSRC funding period. All micro transit vehicles must be zero emission, and a minimum of 50 percent co-funding is required. A geographical funding minimum has been set at \$312,500 per county, which will be made available to projects from other counties if there are insufficient qualifying projects within a county. Proposals may be submitted at any time from January 6 to March 24, 2023.

#### **Plus Up Partnership with South Coast AQMD**

As an element of their FYs 2018-21 Work Program, the MSRC partnered with the South Coast AQMD for a VIP Plus Up Incentive. The baseline VIP offers incentives to encourage the replacement of older, higher-polluting vehicles with newer, lower-emission vehicles. The Plus Up offers an increased incentive to achieve additional surplus emission reductions. The MSRC subsequently extended the date for application acceptance under the Plus Up partnership to August 31, 2022, as well as extending the deadline for delivery of the replacement vehicle to December 31, 2023. South Coast AQMD has completed their evaluation of applications received by the August 31, 2022 deadline. A total of 12 projects were approved for Plus Up incentives. 6 projects have already been completed and reimbursed a total of \$590,000 to date. For the 6 projects which have been approved, but not yet completed, a total of \$655,000 in Plus Up funding would continue to be reserved through March 31, 2024. The MSRC approved to revert



the remaining \$1,255,000 allocated for this program to the AB 2766 Discretionary Fund for redeployment.

#### Trade Up Program Partnership with South Coast AQMD

In November 2019, the MSRC allocated \$4,000,000 to partner with South Coast AQMD to implement a Market Acceleration Program to encourage the early deployment of near-zero emission natural gas trucks. In August 2020, the MSRC reallocated \$3,000,000 of this funding to a separate South Coast AQMD program, the Trade Up Program. Subsequently, the MSRC approved adjustments to the Program. Due to COVID-19 driven supply chain issues, no truck trade up transactions have been accomplished. South Coast AQMD is now formulating an alternative work scope which promises to be significantly different than the original. The MSRC approved to revert the \$3,000,000 allocated for the Trade Up Program to the AB 2766 Discretionary Fund for redeployment.

#### Hosting and Maintenance of MSRC Website

Geographics currently hosts and maintains the MSRC's [www.CleanTransportationFunding.org](http://www.CleanTransportationFunding.org) website under Contract #MS21006. This contract includes an option for a two-year contract term extension. MSRC staff recently reviewed Geographic's performance and found that Geographics was performing well in hosting and maintaining the site. The MSRC approved exercising the option with Geographics, increasing the value by \$7,200 and extending the term by two years.

#### Contract Modification Requests

The MSRC considered sixteen contract modification requests and took the following actions:

1. City of Laguna Hills, Contract #MS18099 to install EV charging infrastructure, approval of a sixteen-month no-cost term extension;
2. City of Rialto, Contract #ML18159 to procure nine light-duty zero emission vehicles and install EV charging infrastructure, approval of scope modification and four-month no-cost term extension;
3. Capistrano Unified School District, Contract #MS18108 to expand existing CNG station and train mechanics, approval of reduced scope and value and a sixteen-month no-cost term extension;
4. Universal Waste Systems, Contract #MS18122 to install new limited access CNG infrastructure, approval of reduced scope and value;
5. City of Pico Rivera, Contract #ML18067 to install EV charging infrastructure; approval of increased scope and an eleven-month no-cost term extension;
6. Penske Truck Leasing Co., L.P., Contract #MS21007 to deploy five zero emission yard tractors, approval of modified scope of work;
7. City of Fontana, Contract #ML18144 to install electric vehicle charging infrastructure, approval of a two-year no-cost term extension;

8. City of Temecula, Contract #ML18091 to install EV charging infrastructure, approval of modified scope and a 32- month no-cost term extension;
9. City of Eastvale, Contract #ML16040 to install EV charging infrastructure, approval of increased scope, reduction of contract value by \$66,409, and four-month term extension;
10. City of Riverside, Contract #ML18063 to expand existing CNG stations; approval of a 14-month term extension, reduced scope and value;
11. City of La Puente, Contract #ML18178 to purchase one heavy-duty near-zero emission vehicle; approval of a one-year no-cost term extension, contingent on this being the final extension;
12. City of Monterey Park, Contract #ML18093 to purchase one heavy-duty near-zero emission vehicle; approval of modified scope and a thirty-two-month no-cost term extension, contingent on this being the final extension;
13. City of Yucaipa, Contract #ML16057 to implement “Complete Streets” pedestrian access project; approval of a one year no-cost term extension, contingent on award of a construction contract by January 31, 2023;
14. City of Perris, Contract #ML18058 to procure one medium-duty zero emission vehicle and install EV charging infrastructure, approval of a four-year no-cost term extension, contingent on issuance of a purchase order for the vehicle by February 28, 2023;
15. County of Los Angeles, Contract #ML14027 to construct new CNG stations in Canyon Country and La Puente, approval of a fourteen month no-cost term extension; and
16. City of Montclair, Contract #ML18132 to install electric vehicle charging infrastructure, approval of three year no-cost term extension.

### **Contracts Administrator’s Report**

The MSRC AB 2766 Contracts Administrator’s report provides a written status report on all open contracts from FY 2008-09 to the present.

# COMMITTEE MEMBERSHIP

**San Bernardino County Transportation Authority (SBCTA)  
Representatives on SCAG Committees**

APPOINTING/ELECTING AUTHORITY	REGIONAL COUNCIL (12:15 p.m.)	POLICY COMMITTEES (Regional Council Members Serve on One Each) (Subregional Appointments) (County Commissions Appoint One to TC) (10:00 a.m.)		
		Community, Economic, and Human Development	Energy and Environment	Transportation
District 6 (Grand Terrace, Colton, Loma Linda, Redlands, Yucaipa) District 7 (San Bernardino, Highland) District 8 (Rialto, Fontana) District 9 (Rancho Cucamonga, Upland, Montclair) District 10 (Chino, Chino Hills, Ontario) District 11 (Barstow, Big Bear, Needles, Twentynine Palms, Yucca Valley) District 65 (Adelanto, Apple Valley, Hesperia, Victorville) San Bernardino County † Community of Concern Appointee	F. Navarro L. McCallon D. Robertson L. Michael R. Marquez R. Putz L. Becerra C. Hagman G. Reyes	G. Reyes	D. Robertson  R. Putz	F. Navarro L. McCallon  L. Michael R. Marquez  L. Becerra C. Hagman
†† San Bernardino County Transportation Authority Appointee	A. Wapner			A. Wapner
SBCTA Subregional Appointees* *One appointee to each policy committee for a total of three appointees per subregion, plus one additional appointee for every SCAG District over three in the subregion. SBCTA has a total of seven subregional appointees to the policy committees. Terms of appointment expire December 31 of odd-numbered years.		Acquanetta Warren Sylvia Robles Vacant	Cynthia Moran Rick Denison Damon Alexander	John Dutrey

**Communication: Representatives on SCAG Committees (Committee Membership)**

**Rules of Appointment**

1) SBCTA policy stipulates that all SBCTA appointees be SBCTA Board Members. 2) SCAG President appoints Regional Council members to Standing and Policy Committees.

**Terms of Appointment**

Terms of appointment are two years, commencing on adjournment of the annual General Assembly in May of each year. Even-numbered District representatives' terms expire in even-numbered years; odd-numbered District representatives expire in odd-numbered years. † Community of Concern appointee, appointed by the County Regional Council representative for a two-year term. †† SBCTA Regional Council Representative serves a two-year term from the date of appointment.

**Stipend Summary**

SCAG Regional Council members receive a \$120 stipend for attendance and travel to SCAG sponsored meetings. Regional Council members may also receive reimbursement for public transit expenses or a mileage reimbursement. Parking is validated at SCAG's downtown Los Angeles office for RC members. RC members are eligible to receive up to six (6) per diem stipends per month. Both RC members and Subregional Appointees, if eligible, may receive reimbursement (\$150 + taxes) for lodging (please review SCAG rules before making expenditure). Subregional Appointees shall receive a \$120 stipend for up to four Policy or Task Force meetings per month.

**Meeting Information**

The regular meetings of SCAG Regional Council and Policy Committees are on the 1<sup>st</sup> Thursday of each month at the SCAG offices located at 900 Wilshire Blvd., Ste. 700, Los Angeles. Generally, the Policy Committee meetings start at 10 AM and Regional Council meetings start at 12:15 PM.

**Policy Committees**

**Community, Economic, and Human Development:** Provides policy recommendations to the Regional Council on subjects of housing, land use, resource, economic, community development, infrastructure, employment, and regional disaster preparedness issues. Reviews and recommends to the Planning Committee revisions to the Housing, Economy, Growth Management, Human Resources, and Finance Chapters of the Regional Comprehensive Plan and Guide.

**Energy and Environment:** Acts as the policy advisory committee to the Regional Council on environmental issues, including air and water, hazardous, solid waste management, natural resources conservation, and energy conservation. Reviews the Environmental Impact Report of the Regional Comprehensive Plan and Guide. Provides recommendations to the Planning Committee on state and federal legislative proposals and administrative guidelines affecting environmental quality, resource conservation.

**Transportation:** Acts as the policy advisory committee to the Regional Council on all regional matters pertaining to the movement of goods and people on land, water, and air. Reviews and recommends to the Regional Council all major utility development plans. Addresses the location, size, or capacity, timing, and impact of facilities.

### Appointments to External Agencies

The San Bernardino County Transportation Authority (SBCTA) and San Bernardino Council of Governments (SBCOG) work closely with not only the County and cities within the County of San Bernardino, but with a number of regional governments that relate to the multiple counties within the Southern California region. Members of the SBCTA Board of Directors frequently take active roles in representing the interests of San Bernardino County on these regional bodies. This participation provides assurance that the unique needs and characteristics of San Bernardino County are taken into consideration as policies are developed which impact this County and its individual local government units. Active participation in regional organizations further promotes the interests of San Bernardino County and secures its appropriate role in the Southern California region.

The following table lists some of the regional bodies upon which SBCTA and SBCOG representatives serve.

Committee	Appointee	Appointing Authority	Purpose	Term
California Association of Councils of Governments	Alan Wapner, Ontario	President	CALCOG facilitates communication and information sharing among its members. Most members of CALCOG are Councils of Governments (COGs), while some are transportation commissions and others are the large Metropolitan Planning Organizations like SCAG and SANDAG. CALCOG is governed by a Board of Directors comprised of a representative from each member's Board of Directors.	12/31/24
Gold Line Phase II Joint Powers Authority	John Dutrey, Montclair, Primary Ray Marquez, Chino Hills, Alternate	Board of Directors	The Gold Line Phase II Construction Authority is a Joint Powers Authority (JPA) formed by 14 cities along the corridor and SBCTA. The JPA serves as a forum for the review, consideration, study, development and recommendation of policies and plans for the extension of the Gold Line from Pasadena to Montclair. Members receive \$100 payment from Gold Line Authority for participation.	12/31/23 12/31/24
Inland Empire Economic Partnership (IEEP)	Dennis Michael, Rancho Cucamonga	President	The IEEP is a partnership that includes business, government and academic leaders to develop and carry out initiatives to benefit the region.	
Inland Regional Energy Network (I-REN) Program Executive Committee	Curt Hagman, County Supervisor Deborah Robertson, Rialto Art Bishop, Apple Valley	President	The I-REN Executive Committee consists of three representative votes from SANBAG, WRCOG, and CVAG. The committee will meet quarterly and make executive decisions regarding the overall program. Stipends for the Executive Committee are not an allowable expense under the CPUC rules.	12/31/24 12/31/24 12/31/24
Metro Gold Line Foothill Extension Construction Authority	Alan Wapner, Ontario, Primary John Dutrey, Montclair, Alternate	President	The Authority is responsible for the development of a light rail project from the City of Los Angeles into San Bernardino County. The Authority board meets on the second and fourth Wednesday of the month at 12:00 p.m. at the Authority's office in Monrovia. Members receive \$150 for each day spent on Authority business, not to exceed \$600 per month.	12/31/24 12/31/24
Mobile Source Air Pollution Reduction Review Committee	Larry McCallon, Highland, Primary John Dutrey, Montclair, Alternate	Board of Directors	Develops and implements work programs which reduce mobile source emissions, funded by AB2766 (portion of the \$4 motor vehicle registration fee). County Commissions, SCAQMD, and ARB have one appointment with alternates. In April 2005, SBCTA authorized a stipend of \$100 per day. The MSRC meets on the third Thursday of the month at 2:00 p.m. at South Coast Air Quality Management District in Diamond Bar.	12/31/24 12/31/24

Communication: Appointments to External Agencies (Committee Membership)

### Appointments to External Agencies

Committee	Appointee	Appointing Authority	Purpose	Term
One Water One Watershed (OWOW) Steering Committee of the Santa Ana Watershed Project Authority	Deborah Robertson, Rialto	Board of Directors	<p>Responsible for developing the integrated Regional Water Management Plan for the Santa Ana River.</p> <p>The term of the appointment is for four years for a city representative from San Bernardino County.</p> <p>Officers leaving elected office after appointment are still eligible to serve. Beginning January 2016, the OWOW meets on the 4<sup>th</sup> Thursday of every other month at 11:00 a.m. at the Santa Ana Watershed Project Authority (SAWPA). Members of the Steering Committee do not receive a stipend.</p>	12/31/26
SCAG Policy Committees	See associated table.	The Board has authorized the President to make appointments to SCAG Policy Committees.	SBCTA also has authority to appoint up to seven appointees to the three SCAG Policy Committees: i.e., Community Economic and Human Development, Energy and Environment, and Transportation. SCAG pays appointees to policy committees a stipend of \$120 per meeting.	See associated table – Representatives on SCAG Committees
Southern California Regional Rail Authority	Alan Wapner, Ontario, Primary Larry McCallon, Highland, Primary Ray Marquez, Chino Hills, Alternate John Dutrey, Montclair, Alternate	Board of Directors (Recommendation made by the Transit Committee)	<p>SCRRA serves as the governing body for Metrolink, the regional commuter rail system serving the five Southern California Counties.</p> <p>Members receive payment of \$100 per day from SCRRA for participation.</p>	Indefinite
SR 91 Advisory Committee	Ray Marquez, Chino Hills, Ex-Officio Member	Board of Directors	<p>The Committee reviews issues and makes recommendations to OCTA regarding the transportation facilities acquired, including tolls imposed, operations, maintenance, use of toll revenues, and improvements in the area of SR 91 between I-15 and SR 55, including the identification and siting of alternate highways.</p> <p>SBCTA has not authorized payment of stipend for participation.</p>	12/31/24
The Sam and Alfreda L. Maloof Foundation for Arts and Crafts	Deborah Robertson, Rialto	Board of Directors	A non-profit corporation that participates in the preparation of the Conservation Plan and oversees the activities and assets of the Foundation. A payment of stipend for participation has not been authorized.	12/31/24

Communication: Appointments to External Agencies (Committee Membership)

## San Bernardino County Transportation Authority (SBCTA) Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p><b>General Policy Committee</b>                      Membership consists of the following:                      SBCTA President, Vice President, and Immediate Past President                      4 East Valley (3 City, 1 County)                      4 West Valley (3 City, 1 County)                      4 Mt/Desert (3 City, 1 County)                      City members shall be SBCTA Board Members elected by caucus of city SBCTA Board Members within the subarea.                      Policy Committee and Board Study Session Chairs are members of this policy committee.                      All City members serving as Board officers, Committee chairs, or Board Study Session Chair, are counted toward their subareas City membership. Supervisors collectively select their representatives.                      The SBCTA Vice President shall serve as Chair of the General Policy Committee.</p>	<p>Makes recommendations to Board of Directors and:                      (1) Provides general policy oversight which spans the multiple program responsibilities of the organization and maintains the comprehensive organization integrity;                      (2) Provides policy direction with respect to administrative issues, policies, budget, finance, audit, and personnel issues for the organization;                      (3) Serves as policy review committee for any program area that lacks active policy committee oversight.                      Committee has authority to approve contracts in excess of \$25,000 with notification to the Board of Directors.                      (Brown Act)</p>	<p><u>West Valley</u>                      Ray Marquez, Chino Hills (Chair TC)                      Acquanetta Warren, Fontana                      Alan Wapner, Ontario                      Curt Hagman, Supervisor (Past President)</p> <p><u>East Valley</u>                      Frank Navarro, Colton                      Larry McCallon, Highland                      Rhodes "Dusty" Rigsby, Loma Linda                      Joe Baca, Jr., Supervisor</p> <p><u>Mountain/Desert</u>                      Art Bishop, Apple Valley (Vice Chair/President/MDC Chair)                      Debra Jones, Victorville                      Rick Denison, Yucca Valley                      Dawn Rowe, Supervisor (Chair/Vice President/MVSS Chair)</p> <p>Should the chairs of each Committee and the Officers all be from the East Valley, West Valley or Mountain/Desert, additional members may be added to maintain geographical balance. Additional Board Members may be appointed annually at the discretion of the Board President.</p>	<p>6/30/2023                      6/30/2023                      6/30/2023                      6/30/2023</p> <p>6/30/2023                      6/30/2023                      6/30/2023                      6/30/2023</p> <p>6/30/2023                      6/30/2023                      6/30/2023                      6/30/2023</p>
<p><b>Transit Committee</b>                      Membership consists of 12 SBCTA Board Members:                      10 Valley-members, two being Southern California Regional Rail Authority (SCRRA) primary (*) and two being SCRRA alternate (**) members, and 2 Mountain/Desert Board Members.                      SCRRA members and alternates serve concurrent with their term on the SCRRA Board of Directors as appointed by the SBCTA Board.                      Other members are appointed by the SBCTA President for 2-year terms.</p>	<p>Provides policy guidance and recommendations to the SBCTA Board of Directors and Southern California Regional Rail Authority (SCRRA) delegates with respect to commuter rail and transit service.                      * SCRRA Primary Member                      ** SCRRA Alternate Member                      (Brown Act)</p>	<p>Ray Marquez, Chino Hills** (Chair)                      Eunice Ulloa, Chino                      Frank Navarro, Colton                      Acquanetta Warren, Fontana                      Sylvia Robles, Grand Terrace                      Larry McCallon, Highland*                      John Dutrey, Montclair**                      Alan Wapner, Ontario*                      L. Dennis Michael, Rancho Cucamonga                      Rick Denison, Yucca Valley                      Dawn Rowe, Supervisor                      Joe Baca, Jr., Supervisor</p>	<p>Indeterminate (6/30/2023)                      12/31/2024                      12/31/2023                      12/31/2023                      12/31/2024                      Indeterminate                      Indeterminate                      Indeterminate                      12/31/2023                      12/31/2024                      12/31/2024                      12/31/2024</p>

Communication : Committee Membership (Committee Membership)

### San Bernardino County Transportation Authority (SBCTA) Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p><b>Mountain/Desert Committee</b> Membership consists of 11 SBCTA Board Members from each Mountain/Desert jurisdiction and County Supervisors representing the First, and Third Districts.</p>	<p>Provides ongoing policy level oversight related to the full array of SBCTA responsibilities as they pertain specifically to the Mountain/Desert subregion.</p> <p>The Committee also meets as the Mountain/Desert Measure I Committee as it carries out responsibilities for Measure I Mountain/Desert Expenditure Plan.</p> <p>(Brown Act)</p>	<p>Art Bishop, Apple Valley (Chair) Paul Cook, Supervisor (Vice Chair) Daniel Ramos, Adelanto Paul Courtney, Barstow Rick Herrick, Big Bear Lake Rebekah Swanson, Hesperia Janet Jernigan, Needles Joel Klink, Twentynine Palms Debra Jones, Victorville Rick Denison, Yucca Valley Dawn Rowe, Supervisor</p>	<p>Indeterminate (6/30/20 Indeterminate (6/30/20 Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate</p>
<p><b>Legislative Policy Committee</b> Membership consists of the following: President, Vice-President, Immediate Past President and four Board members appointed by the Board President.</p> <ul style="list-style-type: none"> <li>- 1 East Valley member</li> <li>- 1 West Valley member</li> <li>- 1 Mountain/Desert member</li> <li>- 1 County member</li> </ul> <p>Members shall serve for the duration of the State and Federal two-year legislative session in which they were appointed, with terms expiring December 31 of even-numbered years. The SBCTA Board President shall serve as Chair of the Legislative Policy Committee.</p>	<p>Provide guidance and recommendations to the Board of Directors regarding issues and actions relating to the executive, legislative or judicial branches of the State and Federal government, or any other local governing body.</p> <p>Review and provide input on drafting of State and Federal legislative platform, which will serve as guiding principles to support or oppose State and Federal legislation and regulations.</p> <p>(Brown Act)</p>	<p>Art Bishop, Town of Apple Valley (President) Dawn Rowe, Supervisor (Vice President) Curt Hagman, Supervisor (Past President) Larry McCallon, Highland Alan Wapner, Ontario Rick Denison, Yucca Valley Paul Cook, Supervisor</p>	<p>Indeterminate Indeterminate Indeterminate 12/31/2024 12/31/2024 12/31/2024 12/31/2024</p>

Communication: Committee Membership (Committee Membership)

<b><u>Policy Committee Meeting Times</u></b>	General Policy Committee	Second Wednesday, 9:00 a.m., SBCTA Office
	Legislative Policy Committee	Second Wednesday, 9:30 a.m., SBCTA Office
	Transit Committee	Second Thursday, 9:00 a.m., SBCTA Office
	Mountain/Desert Committee	Third Friday, 9:30 a.m., Victorville, CA

#### Board of Directors Study Sessions for Metro Valley Issues

STUDY SESSION	PURPOSE	MEMBERSHIP	TERMS
<p>Board of Directors Study Sessions for Metro Valley Issues Refer to SBCTA Policy 10007.</p>	<p>To review, discuss, and make recommendations for actions to be taken at regular meetings of the Board on issues relating to Measure I Projects in the Valley.</p> <p>(Brown Act)</p>	<p>Board of Directors Dawn Rowe, Supervisor (Chair) Paul Cook, Supervisor (Vice Chair)</p>	<p>6/30/2023 6/30/2023</p>

**Meeting Time:** Second Thursday, 9:30 a.m., SBCTA Office



**I-10 and I-15 Corridor Joint Sub-Committee**

Joint Sub-Committee	PURPOSE	MEMBERSHIP	TERMS
<p><b>I-10 and I-15 Corridor Joint Sub-Committee of the Board of Directors Metro Valley Study Session and the Mountain/Desert Policy Committee</b></p> <p>Members of the committee will be members of the SBCTA Board of Directors and will be appointed by the SBCTA Board President. The President will appoint the Chair and Vice-Chair of the Sub-Committee. The Sub-Committee will include a minimum of nine and a maximum of fourteen SBCTA Board members. Membership will be composed of a minimum of three representatives from the East Valley; and a minimum of two representatives from the Victor Valley. The Sub-Committee will meet as necessary immediately following the Metro Valley Study Session.</p>	<p>The purpose is to consider and make recommendations to the Board of Directors on the development of express lanes in San Bernardino County, in particular on the I-10 and I-15 Corridors.</p> <p>(Brown Act)</p>	<p>Alan Wapner, Ontario (Chair)                      Art Bishop, Town of Apple Valley (Vice Chair)                      Joe Baca Jr., Supervisor                      Paul Cook, Supervisor                      Larry McCallon, Highland                      L. Dennis Michael, Rancho Cucamonga                      Frank Navarro, Colton                      Deborah Robertson, Rialto                      Acquanetta Warren, Fontana</p>	<p>12/31/2024                      12/31/2024                      12/31/2024                      12/31/2024                      12/31/2024                      12/31/2024                      12/31/2024                      12/31/2024</p>

**Public and Specialized Transportation Advisory and Coordinating Council (PASTACC)**

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>Public and Specialized Transportation Advisory and Coordinating Council (PASTACC)</p> <p>Membership consists of 11 members appointed by the SBCTA Executive Director.</p> <p>5 representing Public Transit Providers                      1 representing County Dept. of Public Works                      2 representing the Consolidated Transportation Services Agency - Omnitrans and VVTA also represent CTSA for the Valley and High Desert respectively.                      5 At Large Members representing Social Service Providers</p>	<p>Subject to the Transportation Development Act (TDA) Section 99238 – establishes PASTACC’s statutory responsibilities;</p> <p>(1) Review and make recommendations on annual Unmet Transit Needs hearing findings                      (2) Score and make recommendations for Federal Transit Administration Section 5310 Capital Grant Program applications                      (3) Assist SBCTA in developing public outreach approach on updating the Coordinated Public Transit/Human Services Transportation Plan                      (4) Review call for projects for Federal Transit Administration Section 5310 grant applications                      (5) Monitor and make recommendations on Federal regulatory processes as they relate to transit and specialized transit                      (6) Monitor and disseminate information in reference to State level law and recommendations as they relate to transit and specialized transit                      (7) Receive annual reports on funded specialized programs funded through FTA Section 5310 and Measure I                      (8) Identify regional or county level areas of unmet needs                      (9) Address special grant or funding opportunities                      (10) Address any special issues of PASTACC voting and non-voting members</p> <p>(Brown Act)</p>	<p>Standing Membership –                      Morongo Basin Transit Authority                      Mountain Transit                      City of Needles Transit Services                      Omnitrans                      Victor Valley Transit Authority                      County of San Bernardino Dept. of Public Works</p> <p>At Large Membership –                      San Bernardino Dept. of Aging and Adult Services                      Foothill Aids                      OPARC                      Reach Out Morongo Basin                      Loma Linda University Health</p>	<p>On-going                      On-going                      On-going                      On-going                      On-going                      On-going</p> <p>5/31/2024                      9/30/2023                      9/30/2023                      6/30/2025                      5/31/2024</p>

Communication: Committee Membership (Committee Membership)

**Meeting Dates and Time:** Bi monthly, beginning in January, 2<sup>nd</sup> Tuesday of the month, 10:00 a.m., (Location rotates: SBCTA Office, VVTA, MBTA)

**Independent Taxpayer Oversight Committee (ITOC) Review of Measure I Expenditure Plan**

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>Independent Taxpayer Oversight Committee (ITOC) Review of Measure I Expenditure Plan</p> <p>The ITOC shall provide citizen review to ensure that all Measure I funds are spent by the San Bernardino County Transportation Authority (hereby referred to as the Authority) in accordance with provision of the Expenditure Plan and Ordinance No. 04-01. The ordinance specifies that each member of the ITOC have certain credentials or experience as follows:</p> <ul style="list-style-type: none"> <li>A. One member who is a professional in the field of municipal audit, finance and/or budgeting with a minimum of five years in a relevant and senior decision-making position in the public or private sector.</li> <li>B. One member who is a licensed civil engineer or trained transportation planner with at least five years of demonstrated experience in the fields of transportation and/or urban design in government and/or the private sector. No member shall be a recipient or sub-recipient of Measure “I” funding.</li> <li>C. One member who is a current or retired manager of a major publicly financed development or construction project, who by training and experience would understand the complexity, costs and implementation issues in building large scale transportation improvements.</li> <li>D. One member who is current or retired manager of a major privately financed development or construction project, who by training and experience would understand the complexity, costs and implementation issues in building large scale transportation improvements.</li> <li>E. One public member, who possesses the knowledge and skills which will be helpful to the work of the ITOC.</li> </ul> <p>In addition to the appointed members, the SBCTA President and Executive Director will serve as ex-officio members.</p>	<p>The ITOC shall review the annual audits of the Authority; report findings based on the audits to the Authority; and recommend any additional audits for consideration which the ITOC believes may improve the financial operation and integrity of program implementation.</p> <p>The Authority shall hold a publicly noticed meeting, which may or may not be included on the agenda of a regularly scheduled Board meeting, with the participation of the ITOC to consider the findings and recommendations of the audits.</p> <p>(Brown Act)</p>	<p>Cole Jackson (A)                  Gerry Newcombe (B)                  Vacant (C)                  Vacant (D)                  Vacant (E)                  Art Bishop, Ex-Officio                  Ray Wolfe, Ex-Officio</p>	<p>10/31/24                  12/31/24</p>

Communication: Committee Membership (Committee Membership)

**SBCTA Ad Hoc Committees**

COMMITTEE	PURPOSE	MEMBERSHIP
<p><b>Emerging Technology Ad Hoc Committee</b>                      On October 6, 2021, the Board approved the establishment of this ad hoc committee composed of Board members appointed by the Board President.</p>	<p>To look broadly at Transportation Technology. This ad hoc has a term ending December 31, 2023.</p>	<p>Art Bishop, Apple Valley                      Frank Navarro, Colton                      Acquanetta Warren, Fontana                      John Dutrey, Montclair                      L. Dennis Michael, Rancho Cucamonga                      Curt Hagman, Supervisor                      Vacant</p>
<p><b>Housing Trust Ad Hoc Committee</b>                      On January 4, 2023, the Board approved the</p>	<p>To take a broad look into the housing trust and how it interacts with the Council of Governments. This ad hoc has a term ending December 31,</p>	<p>Eunice Ulloa, Chino                      Deborah Robertson, Rialto</p>

<p>establishment of this ad hoc committee composed of Board members appointed by the Board President.</p>	<p>2023.</p>	<p>Alan Wapner, Ontario L. Dennis Michael, Rancho Cucamonga Debra Jones, Victorville Rick Denison, Yucca Valley Curt Hagman, Supervisor</p>
<p><b>Transportation Investment Plan Ad Hoc Committee</b> On June 29, 2022 the Board approved the establishment of this ad hoc committee composed of Board members appointed by the Board President.</p>	<p>To look at future Measure options and make recommendations relating to any future local measure. This ad hoc has a term end date of December 31, 2023.</p>	<p>Art Bishop, Apple Valley Sylvia Robles, Grand Terrace Larry McCallon, Highland Alan Wapner, Ontario L. Dennis Michael, Rancho Cucamonga Joel Klink, Twentynine Palms Debra Jones, Victorville</p>

### SBCTA Technical Advisory Committees

COMMITTEE	PURPOSE	MEETING SCHEDULE
<p><b>Transportation Technical Advisory Committee (TTAC)</b> Committee membership consists of a primary staff representative of each SBCTA member agency designated by the City Manager or County Administrative Officer.</p>	<p>SBCTA’s Transportation Technical Advisory Committee was formed by SBCTA management to provide input to SBCTA staff on technical transportation-related matters and formulation of transportation-related policy recommendations to the SBCTA Board of Directors.  The TTAC is not a Brown Act committee.</p>	<p>Generally meets on the first Monday of each month at 1:30 PM, at SBCTA.</p>
<p><b>City/County Manager’s Technical Advisory Committee (CCM TAC)</b> The committee is composed of up to two representatives of the County Administrator’s Office and the city manager or administrator from each city and town in the County.</p>	<p>SBCTA’s City/County Manager’s Technical Advisory Committee was established in the Joint Powers Authority that established San Bernardino Associated Governments (SANBAG). The primary role of the committee is to provide a forum for the chief executives of SANBAG’s member agencies to become informed about and discuss issues facing SANBAG/SBCTA. It also provides a forum for the discussion of items of mutual concern and a way to cooperate regionally in addressing those concerns.  The CCM TAC is a Brown Act Committee.</p>	<p>Meets on the first Thursday of each month at 10:00 AM, at SBCTA.</p>
<p><b>Planning and Development Technical Forum (PDTF)</b> Committee membership consists of a primary staff representative of each SBCTA member agency designated by the City Manager or County Chief Executive Officer.</p>	<p>The SBCTA Planning and Development Technical Forum was formed by SBCTA management to provide an opportunity for interaction among planning and development representatives of member agencies on planning issues of multijurisdictional importance.  The PDTF is not a Brown Act Committee.</p>	<p>Meets the 4th Wednesday of each month at 2:00 p.m. at the Santa Fe Depot (in the SCAG Office).</p>

Communication: Committee Membership (Committee Membership)

<b>Project Development Teams</b>	<p>Project Development Teams (PDTs) are assembled for all major project development activities by SBCTA staff.</p> <p>Teams are generally composed of technical representatives from SBCTA, member jurisdictions appropriate to the project, Caltrans, and other major stakeholder entities that have significant involvement in the project.</p> <p>PDTs make recommendations related to approaches to project development, evaluation of alternatives, and technical solutions.</p> <p>PDTs meet on a regular basis throughout the project phase to review progress and to provide technical input required for project development.</p> <p>The PDTs are not Brown Act Committees.</p>	Varies with the PDT.
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Communication: Committee Membership (Committee Membership)



## MISSION STATEMENT

Our mission is to improve the quality of life and mobility in San Bernardino County. Safety is the cornerstone of all we do.

We achieve this by:

- Making all transportation modes as efficient, economical, and environmentally responsible as possible.
- Envisioning the future, embracing emerging technology, and innovating to ensure our transportation options are successful and sustainable.
- Promoting collaboration among all levels of government.
- Optimizing our impact in regional, state, and federal policy and funding decisions.
- Using all revenue sources in the most responsible and transparent way.

Approved December 4, 2019