



INVITATION FOR BIDS (IFB) 24-1003176

FOR

SR-60 CENTRAL ESTABLISH EXISTING PLANTING

KEY IFB DATES

IFB Issue Date:	MONDAY OCTOBER 7, 2024
Written Questions Deadline:	WEDNESDAY, OCTOBER 16, 2024 at 4:00 P.M.
Bid Due Date:	WEDNESDAY, NOVEMBER 6, 2024 at 2:00 P.M.
Contract Award/Notice of Award Date:	JANUARY 2025
Notice To Proceed Date:	FEBRUARY 2025



October 7, 2024

**SUBJECT: NOTICE INVITING SEALED BIDS
INVITATION FOR BIDS (IFB) 24-1003176 (Enter Contract No.)
“SR-60 CENTRAL ESTABLISH EXISTING PLANTING”**

The San Bernardino County Transportation Authority, (“SBCTA”) invites sealed bids for construction of the **SR-60 Central Establish Existing Planting Project**, hereinafter referred to as “Project.”

Firms intending to submit a bid should note the “Key IFB Dates” on the cover of this IFB. SBCTA intends, subject to contract approval, to have the selected firm under contract by April 2024. The IFB and IFB schedule updates and addenda, together with other important information, are available on SBCTA’s website at www.gosbcta.com (“Bids & RFPs” under “DOING BUSINESS”). Firms are requested to check the Vendor Portal periodically, and no less frequently than weekly, for IFB updates, addenda and other information. All bidders will be held accountable for compliance with all updates, addenda and other information posted on the Vendor Portal. Please note that SBCTA will not be responsible for mailing any addenda, schedule updates or other information to any firm.

All questions and requests for clarifications to this IFB or approved equal requests must be put in writing and submitted to SBCTA electronically via Planet Bids, and they must be received by SBCTA no later than **4:00 p.m., on Wednesday, October 16, 2024**. All questions received after the date and time specified may or may not be responded to, at the sole discretion of SBCTA. SBCTA’s responses to the questions received by the date and time identified herein will be posted on the Vendor Portal on SBCTA’s website at www.gosbcta.com: click on “Doing Business”, which will take you to the “Bids & RFPs” page. There, click on the tab “Vendor Portal”.

The procurement will be conducted electronically through SBCTA’s PlanetBids Vendor Portal webpage. SBCTA will not accept paper copies for any part of this procurement, including the bid submittal.

Bids are due at or before **2:00 p.m. on Wednesday, November 6, 2024**. Bids must be submitted electronically through SBCTA’s Vendor Portal PlanetBids.

To propose for this project, vendors must be registered with SBCTA’s PlanetBids Vendor Portal website. A firm must accept the terms and conditions in order to proceed. Firms may save their bid at any time as a draft. Firms may edit the bid as often as they need to until the IFB closes. The PlanetBids system will not accept bids after the due date and time specified for this procurement and SBCTA will not consider any late submittals.

Please note that where two or more firms, persons or entities wish to submit one bid in response to this IFB, as a joint venture or partnership, each joint venture, partner, or member shall be jointly

and severally liable for any and all of the duties and obligations of the contractor that are assumed under or arise out of the contract. In the case of a joint venture, SBCTA provides all applicable notices under the contract to the joint venture contractor only, and not to individual joint venturers, partners, or members. Each of such joint venturers, partners, or members waives individual notice of the breach or non-performance of any undertaking or obligation of the contractor contained in resulting from or assumed under the contract, and the failure to give any such individual notice shall not affect or impair such venturer's, partner's, or member's joint and several liability under the contract.

Bids will be electronically unlocked, and the results will be made available to view, through the Vendor Portal at **2:00 p.m on Wednesday, November 6, 2024.**

General description of work:

The project is located SR-60 and Central Avenue Street in the City of Chino in the County of San Bernardino. The limits of work along SR-60 are approximately 0.3 miles west to 0.4 miles east of Central Avenue.

The work involves maintenance of landscaping improvements including trees, shrubs, groundcover plantings, wood mulch and other erosion control items, gravel mulch and decorative boulders. Work also includes maintenance of irrigation systems consisting of irrigation controllers, remote control valves, sprinkler assemblies, backflow preventer assemblies, flow sensors, water meter, irrigation pipes and supply lines, and other miscellaneous appurtenances, and modification of existing electrical and communication systems.

The awarded contractor shall possess a **Class C-27** license at the time of award through Project acceptance by SBCTA. Bidder shall ensure that all subcontractors comply with the appropriate licensing requirements as identified in the State of California Public Contract Code section 20103.5.

As of January 1, 2015, all contractors and subcontractors bidding and performing work on Public Works Projects must register on an annual basis with the California Department of Industrial Relations (DIR), and effective April 1, 2015, furnish electronic payroll records for new projects to the Labor Commissioner.

A contractor or subcontractor shall not be qualified to bid on or be listed in a bid proposal subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Labor Code Section 1720, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Sections 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Labor Code Section 1725.5 at the time the contract is awarded.

If the contract is awarded, the contractor will be required to comply with all applicable laws and regulations, whether or not specifically listed in this IFB or the contract.

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

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

INVITATION FOR BIDS24-1003176

FOR

SR-60 CENTRAL ESTABLISH EXISTING PLANTING

I. INSTRUCTION TO BIDDERS

The San Bernardino County Transportation Authority (“SBCTA”) is soliciting bids from qualified firms (“firms” or “bidders”), to establish existing planting for the SR-60 Central Project.

A. IFB DOCUMENTS

The IFB, including but not limited to the plans and specifications, special provisions, and bid forms for bidding this project, can be obtained on PlanetBids.

B. CONTACT INFORMATION

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

San Bernardino County Transportation Authority
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715
(909) 884-8276
Attention: Jenny Holliday, Procurement Analyst III
jholliday@gosbcta.com

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

C. PRE-BID CONFERENCE

INTENTIONALLY OMITTED.

D. EXAMINATION OF BID DOCUMENTS/INFORMED BIDDER

By submitting a bid, the bidder represents and acknowledges that it has thoroughly reviewed the requirements of this IFB, including all documents, contractual requirements, plans and specifications, and has become familiar with the work identified in this IFB. Bidder also acknowledges that it is satisfied with the general and local conditions to be encountered; the character, quality, and scope of work to be performed; quantities and types of materials to be furnished; and character, quality, and quantity of surface and subsurface materials or obstacles.

E. SENSITIVE SECURITY INFORMATION (SSI) REQUIREMENTS

INTENTIONALLY OMITTED.

F. WRITTEN QUESTIONS/APPROVED EQUALS

All questions, requests for clarification or approved equal requests, including oral questions, must be put in writing and submitted electronically via PlanetBids and they must be received by SBCTA no later than 4:00 p.m. on Wednesday, October 16, 2024. SBCTA's responses to the questions received by the date and time identified herein will be posted on the PlanetBids.

Any request for an approved equal must be fully supported with technical data or other relevant information as evidence of support that the substitute meets or exceeds the current specification requirements. The burden of proof as to the suitability, equality and compatibility rests solely with the bidder. SBCTA shall be the sole judge as to the suitability, equality and compatibility of the proposed equal.

G. ADDENDA

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

H. CONFLICT OF INTEREST

Any firm that has provided architectural or engineering services to SBCTA for the work identified in this IFB before bid submittal is prohibited from any of the following: submitting a bid; subcontracting for any part of the work identified herein; and/or supplying materials. A firm who is prohibited from submitting a bid in response to this IFB will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at that time. The determination of a conflict of interest, direct or incidental, shall be made by SBCTA's Executive Director or designee based upon substantial evidence.

I. PRE-CONTRACTUAL EXPENSES

SBCTA shall not be liable for any pre-contractual expenses incurred by the bidder in preparation or submittal of its bid. The bidder shall not include any such expenses in its bid. Prohibited pre-contractual expenses include any and all expenses incurred by the bidder prior to issuance of the Notice To Proceed by SBCTA.

J. IRAN CONTRACTING ACT OF 2010

INTENTIONALLY OMITTED.

K. PREVAILING WAGES

The project requires compliance with California Labor Code Sections 1770 et seq. All contractors shall be bound by federal and California law regarding work subject to prevailing wages; duties, responsibilities and rights of the parties; wage determinations; petitions to review prevailing wage determinations; the certification of payroll records, including requests, content and cost; the withholding of funds from contractor; and hearing procedure. All pertinent federal and state statutes and regulations, including but not limited to those referenced above, are hereby incorporated by reference into this document as though set forth in their entirety.

Wage schedules will be set forth in the wage determination(s) issued to bidders by SBCTA in an addendum to this IFB, which may be examined at the offices described above, where the project plans, special provisions and bid forms can be reviewed. The wage schedules are also accessible via the Internet at www.dir.ca.gov/DLSR/statistics_research.html.

Effective June 20, 2014, the Department of Industrial Relations (DIR) made changes to the administration and enforcement of prevailing wage requirements, including a contractors registration program. Contractors are required to register and meet the online requirements as identified in DIR application before submitting a public works bid in the State of California. Additional information can be found at dir.ca.gov.

L. NON-DISCRIMINATION

The contract, if awarded, is subject to the California Fair Employment and Housing Act, Government Code Sections 12900 et seq. The contractor or subcontractor shall not discriminate on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status in the performance of this contract. Failure by the contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this contract, or such other remedy, as SBCTA deems appropriate.

M. TAXES

The amount of the bid must be inclusive of state and local sales tax, which remains the obligation of the contractor. The contractor is responsible for payment of all taxes for any goods, services, processes and operations for this contract.

N. LICENSING REQUIREMENTS

The contractor shall possess a **Class C-27** license at the time of award through Project acceptance by SBCTA. Bidder shall ensure that all subcontractors comply with the appropriate licensing requirements as identified in the State of California Public Contract Code section 20103.5.

O. INSURANCE REQUIREMENTS (See Insurance Requirements in Sample Contract)

Bidder shall review the insurance language and insurance limits in the sample contract.

Bidder shall be fully prepared to secure the necessary insurance coverage and limits as detailed in the Contract and comply with all insurance requirements. Submitting “Certificate of Compliance with Insurance Requirements” form as part of the bid certifies the Bidder’s understanding and compliance of the insurance requirements, without exceptions.

II. BID SUBMITTAL

- A. Bids must be submitted on the forms provided in “Bid Forms” included in this IFB. Bidders are responsible for ensuring that the Bid Forms are properly completed. Only Bid Forms submitted through SBCTA’s PlanetBids Vendor Portal will be allowed unless otherwise stated elsewhere in this IFB. If any forms are incomplete or missing, the Bid may be considered non-responsive and subject to rejection at the sole discretion of SBCTA.
- B. Bids must be submitted electronically through SBCTA’s Vendor Portal: PlanetBids **at or before 2:00 p.m., on Wednesday, November 6, 2024**. To bid for this project, firms must be registered with SBCTA’s Vendor Portal.
- C. A firm must accept the PlanetBids terms and conditions in order to proceed. Firms may save their bid at any time as a draft. Firms may edit the bid as often as they need to until the Invitation for Bids (IFB) closes. The PlanetBids system will not accept bids after the due date and time specified for this procurement and SBCTA will not consider any late submittals.
- D. Please note that where two or more firms, persons or entities wish to submit one bid in response to this IFB as a joint venture or partnership, each joint venturer, partner, or member shall be jointly and severally liable for any and all of the duties and obligations of the contractor that are assumed under or arise out of the contract. In the case of a joint venture, SBCTA provides all applicable notices under the contract to the joint venture contractor only, and not to individual joint venturers, partners, or members. Each of such joint venturers, partners, or members waives individual notice of the breach or non-performance of any undertaking or obligation of the contractor contained in, resulting from or assumed under the contract, and the failure to give any such individual notice shall not affect or impair such venturer's, partner's, or member's joint and several liability under the contract.
- E. Bids will be electronically unlocked, and the results will be made available to view through PlanetBids by **2:00 p.m., on Wednesday, November 6, 2024**.

III. ACCEPTANCE OF BIDS

SBCTA reserves the right to accept or reject any or all bids, to waive any informalities or irregularities in any bid, to determine which bid is the lowest responsive bid of a responsible bidder and which bid should be accepted in the best interest of SBCTA. SBCTA reserves the right to withdraw or to cancel this IFB at any time without prior notice, and SBCTA makes no representation that any contract will be awarded to any firm responding to this IFB.

IV. WITHDRAWAL OF BIDS

A bidder or authorized agent of a bidder may withdraw its bid at any time before the bid opening date and time by submitting a written request to SBCTA, Attn: Procurement Manager, at the address identified in this IFB. Withdrawing a bid prior to bid opening does not prevent a bidder from submitting a timely, new bid. After bid opening, the bid shall remain open and shall not be withdrawn for a period of one hundred and twenty (120) calendar days from the date prescribed for its opening.

V. BID SECURITY FORMS

- A. Bid Bond – Each bid shall be accompanied by a bid guaranty in the amount of ten percent (10%) of the bidder’s bid amount in the form of (i) a cashier’s check made payable to SBCTA, (ii) a certified check, made payable to SBCTA, or (iii) a Bidder’s Bond executed by an admitted surety insurer (as defined in Code of Civil Procedure § 995.660) made payable to SBCTA. The admitted surety executing a Bidder’s Bond must be registered to do business in San Bernardino County. If the bidder fails or refuses to enter into a contract, if awarded, the bond shall be forfeited to SBCTA.

- B. Performance/Payment Bond – The successful bidder shall furnish to SBCTA a Payment and Performance Bond on the forms provided in this IFB, in the amount of one hundred percent (100%) of the bid amount, per the requirements defined herein.

VI. SUBCONTRACTOR LISTING

Pursuant to California Public Contract Code section 4104, the bidder shall identify the following in their bid:

- a. The name, location of place of business, California contractor license number and public works contractor registration number issued pursuant to Labor Code Section 1725.5 of each subcontractor performing work or rendering a service to the bidder in an amount in excess of one-half of one percent of the total bid amount, or \$10,000, whichever is greater; and

- b. Show the portion of work by bid item number, description and percentage of each bid item subcontracted.

The bidder shall list only one subcontractor for each portion of work as identified in its bid and shall complete and submit the subcontractor listing form presented in this IFB package as part of their bid. The successful bidder shall perform work equivalent to at least thirty percent (30%) of the total amount of the work with its own forces. If the bidder is not proposing to use subcontractors, or the portion of the work is less than ½ of 1%, or \$10,000, the bidder is to acknowledge the subcontractor listing form in this IFB with “Not Applicable”.

The bidder shall complete the form entitled "Listing of Subcontractors" contained in this IFB. Section A of the form must be completed and submitted with the bid. Section B of the form shall be completed and submitted to SBCTA within 24 hours of the Bid Due Date.

VII. 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 SBCTA's DBE program may contact Alicia Bullock at (909) 884-8276.

VIII. CONTRACT AWARD

Any contract awarded as a result of this IFB will be awarded to the lowest responsive, responsible bidder in accordance with this IFB. The successful bidder shall be required to perform all the terms and conditions of SBCTA's Contract as identified in the form attached hereto as Attachment A.

IX. EXECUTION OF CONTRACT

The successful bidder shall submit to SBCTA the executed contract together with the required Performance and Payment Bonds, certificates of insurance, Non-Lobbying Certification w/ Disclosure Forms, Certification Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusions for the prime and its subcontractors, if applicable, within ten (10) working days from the date of the Notice of Award issued by SBCTA. Failure to submit the documents cited and to execute the contract within the specified time shall be just cause for the annulment of the award and the forfeiture of the bidder's Bid Bond.

X. PROTEST INFORMATION

SBCTA has on file written Protest Procedures (Policy 11007). Firms may download a copy from <http://www.gosbcta.com>: hover over "Doing Business" tab and then select "Bids & RFPs."

XI. PUBLIC RECORDS ACT

Bids may be subject to public disclosure under the California Public Records Act and other public records laws, and by submitting a bid, the bidder waives all rights to confidentiality of any information submitted in the bid and agrees to any and all such disclosures required or permitted by law. Bids become the property of SBCTA when submitted and by submitting a bid, the bidder agrees that SBCTA may use any information, documentation or writing contained in the bid for any SBCTA purpose.

BID FORMS

FORMS TO BE SUBMITTED AT TIME OF BID

1. Bid Form
2. Bidder's Bond (1 original mailed to SBCTA and 1 scanned electronic copy sent via email)
3. Non-Collusion Affidavit
4. Listing of Subcontractors-Section A. Section B to be submitted within 24 hours after the bid due date.
5. Bidder's Certificate of Compliance – Worker's Compensation Insurance
6. Public Contract Code section 10162 Questionnaire
7. Public Contract Code section 10285.1 Statement
8. Certificate of Compliance with Insurance Requirements
9. Contractor Questionnaire
10. Certification Regarding Project and Worker Safety Requirements

FORMS THAT MUST BE SUBMITTED WITHIN TEN (10) BUSINESS DAYS AFTER NOTICE OF AWARD

1. Executed Contract – signed by contractor
2. Payment Bond – 100% of Bid amount
3. Performance Bond – 100% of Bid amount
4. Insurance Certificates with endorsements



BID FORM
SR-60 CENTRAL ESTABLISH EXISTING PLANTING
CONTRACT NO. 24-1003176
(Form must be completed in its entirety)

Name of Bidder: _____
Business P.O. Box: _____
Business Street Address: _____
City, State, Zip: _____
Telephone No.: _____
Fax No.: _____
Date: _____
Contractor's License Number /
Classification _____

The work for which this bid is submitted is for the construction in conformance with the Invitation for Bid, Special Provisions, including the payment of not less than the higher of State general prevailing wage rates or Federal Prevailing wage rates, as defined in the Invitation For Bids, the project plans and specifications described below, including **any Addenda** thereto, the Contract annexed hereto, and also State of California Department of Transportation Standard Plans dated 2018 and Standard Specifications dated 2018 and safety related portions dated 2018 and latest updates, the 2018 Green Book ,the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished, and the General Prevailing Wage Rates most current edition at the date of the bid opening.

Accompanying this bid is a “Cashier’s Check”, “Certified Check”, or “Bidders Bond” (**Circle applicable term as the case may be**), made payable to the SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY for the sum of _____ Dollars (\$),
_____ in an amount equal to ten percent (10%)
of the total bid amount.

If the Cashier’s Check or Certified Check accompanies this bid as the guarantee, then the proceeds thereof shall become the property of the San Bernardino County Transportation Authority if, in the case this bid is accepted by said Board of San Bernardino County Transportation Authority or Authorized Representative, and such bidder has received a Notice of Award issued by SBCTA, the undersigned shall fail within ten (10) business days, not including Saturdays, Sundays and legal holidays, thereafter to execute a Contract with, and furnish the securities required by said Board of San Bernardino County Transportation Authority or authorized representative. Otherwise, such guarantee shall be returned to the undersigned.

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

BID FORM 24-1003176

The undersigned hereby acknowledges the following:

1. The Project Plans dated **July 7, 2020** Invitation for Bid, and Special Provisions dated **August 22, 2024**, for the work to be done are entitled:

SR-60 CENTRAL ESTABLISH EXISTING PLANTING

This bid is submitted with respect to the changes to the IFB documents included in the Addenda issued. Bidder further acknowledges the receipt of the following Addenda Number(s): insert number(s) _____.

2. The bidder has thoroughly examined and is familiar with the work required by and the documents contained within this IFB. By investigation at the site of the work and otherwise, the bidder is satisfied as to the nature and location of the work and is fully informed as to all conditions and matters which can affect the work performed and the cost thereof.
3. Bidder fully understands the scope of the work and specifications identified in this IFB, has carefully checked all words and figures inserted in this IFB, and further understands that SBCTA will not be liable for any errors or omissions in the preparation of this bid.
4. Bids are required for the entire work. The amount of the bid for comparison purposes will be the total of all items. The total of unit basis items will be determined by extension of the item price bid on the basis of the estimated quantity set for the item.
5. The bidder shall set forth for each unit basis item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for that purpose. In the case of unit basis items, the amount set forth under the "Item Total" column shall be the product of the unit price bid and the estimated quantity for the item.
6. In case of discrepancy between the unit price and the total set forth for a unit basis item, the unit price shall prevail, except as provided in (a) or (b) as follows:
 - (a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount of the entry in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price.
 - (b) (Decimal errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, one-hundredth, etc., from the entered total, the discrepancy will be resolved using the entered unit price or item total, whichever most closely approximates percentage-wise the unit price or item total in SBCTA's final estimate of cost.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise, if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided. Symbols such as commas and dollar signs will be ignored and have no mathematical significance in establishing any unit price or item total or lump sums. Written unit prices, item totals, and lump sums will be

interpreted according to the number or digits and, if applicable, decimal placement. Cents symbols also have no significance in establishing any unit price or item total, since all figures are assumed to be expressed in dollars and/or decimal fractions of a dollar. Bids on lump sum items shall be item totals only; if any unit price for a lump sum item is included in a bid and it differs from the item total, the item's total shall prevail.

The foregoing provisions for the resolution of specific irregularities cannot be so comprehensive as to cover every omission, inconsistency, error, or other irregularity which may occur in a bid. Any situation not specifically provided for will be determined in the discretion of SBCTA, and that discretion will be exercised in the manner deemed by SBCTA to best protect the public interest in the prompt and economical completion of the work. The decision of SBCTA respecting the amount of a bid or the existence or treatment of an irregularity in a bid shall be final.

7. If this Bid is accepted and the undersigned fails to execute the Contract and furnish the Performance and Payment bonds, insurance certificates, and the Required Documents within ten (10) working days, not including legal holidays, after the date of SBCTA's delivery to Bidder of the Notice of Award, SBCTA may, at its option, determine that the Bidder has abandoned the Contract, and thereupon this Bid and the acceptance thereof shall be null and void and the forfeiture of the bid security accompanying this Bid shall operate and the same shall become the property of SBCTA.
8. The undersigned, as Bidder, declares that the only persons or parties interested in this Bid as principals are those named herein; that this bid is made without collusion with any other person, firm or corporation; that the Bidder has carefully examined the location of the proposed work, the Contract, any addenda issued, and the plans referred to herein, having become thoroughly familiar with the terms and conditions of the Contract Documents and with the local conditions affecting the performance and cost of the work at the place where the Work is to be done; and the bidder hereby proposes, and agrees if this bid is accepted, that the Bidder will contract with SBCTA, in the form of the copy of the Contract annexed hereto, to provide all necessary labor, machinery, tools, apparatus, and other means of construction, and to do all the work and furnish all the materials specified in the Contract, in the manner and time therein prescribed, and in accordance with the requirements of SBCTA as herein set forth, and that he/she will accept as full payment therefore the following prices, to wit:

**BID ITEMS LIST LOCATED ON PLANET BIDS
UNDER THE “LINE ITEMS” TAB.**

SAN BERNARDINO CNTY TRANSPORTATION AUTHORITY
BID FORM 24-1003176
(Continued)

9. Bidder understands that SBCTA reserves the right to reject the bid, and that the bid shall remain open and not withdrawn for a period of one hundred and twenty (120) calendar days from the date of the bid opening.
10. In accordance with the provisions of sections 1860 and 1861 et seq. of the California Labor Code, every contractor will be required to secure the payment of compensation of his employees. Each contractor to whom a public works contract is awarded shall certify that he/she is aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this contract.
11. In accordance with California Public Contract Code section 10232, the bidder 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 the contractor within the immediately preceding two-year period because of the contractor's failure to comply with any order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board.
12. The Bidder shall comply with Title VI of the Civil Rights Act of 1964 (the "Act"), as amended, which prohibits discrimination on the basis of race, color, and national origin. In addition, the contractor and all subcontractors will ensure their services are consistent with and comply with obligations and procedures outlined in SBCTA's current Board-adopted Title VI Program, including the Public Participation Plan and the Language Assistance Plan. The contractor certifies that they will comply with all requirements of the Act.
13. Bidder hereby certifies that he/she has reviewed the insurance coverage requirements specified in the Contract. Should he/she be awarded the contract for the work, bidder further certifies that he/she can meet all Contract requirements for insurance including insurance coverage of his/her subcontractors.
14. Bidder hereby lists the names of all persons interested in the forgoing bid as principals and are as follows:

IMPORTANT NOTICE:

If bidder or other interested person is a corporation, state legal name of corporation, and names of the officers authorized to execute this bid. If bidder is a limited liability company, state legal name of LLC and names of manager(s) (if manager-managed) or member(s) (if member-managed) authorized to submit this bid. If bidder is a partnership, state true name of firm and names of all partners composing firm. If bidder or other interested person is an individual, state first and last names in full.

BID FORM 24-1003176

(Continued)

- 15. Bidder has attached hereto and incorporated herein the complete and entire list of subcontractors to be employed by the undersigned in the performance of the work.

- 16. Bidder certifies under penalty of perjury under the laws of the State of California, that the statements within the foregoing Bid, including, without limitation, the questionnaire and statements provided for in Public Contract Code sections 10162, 10232 and 10285.1, are true and correct and that the Bidder has complied with the requirements of section 11102 of the Fair Employment and Housing Council Regulations (Chapter 5, Title 2 of the California Code of Regulations). By my signature on this bid, I further certify, under penalty of perjury of the laws of the State of California and the United States of America, that the Non-collusion Affidavit required under California Public Contract Code section 7106 is true and correct.

This declaration executed in California, at (place) _____ on (date) _____

Business Type: (Check only one) Corporation Partnership Sole Proprietorship

Limited Liability Company

Business organized under the laws of the State of: _____

Bid and Certification submitted by _____

Company Name

SIGN HERE

Signature of Authorized Representative of Bidder

Print Name and Title

Note:

If the bidder is a corporation, the legal name of the corporation shall be set forth above with the signature(s) of the officer(s) authorized to sign contracts on behalf of the corporation. If bidder is a limited liability company, the legal name of the LLC shall be set forth above with the signature(s) of the manager(s) or member(s) authorized to bind the LLC. If bidder is a partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if a bidder is an individual, his/her signature shall be placed above. If signature is by an agent, other than an officer of a corporation or member of a partnership, a Power of Attorney must be on file with SBCTA prior to opening of the bids or submitted with the bid; otherwise, the bid will be disregarded as irregular and found non-responsive.

BIDDER'S BOND

24-1003176

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (bidder's name) as principal and bidder (hereafter "Principal"), and _____ (surety company) (hereafter "Surety"), as surety for this bond, provide this forfeiture bond to SBCTA (hereafter "Owner") as beneficiary. Surety shall be an admitted surety insurer as defined in section 995.120 of the California Code of Civil Procedure.

Principal and Surety are firmly bound unto the Owner in the penal sum of ten percent (10%) of the total aggregate amount of the bid of the above contractor, submitted by said Principal to Owner for the work described below (hereafter "Penal Sum"), for the payment of which sum in lawful money of the United States, well and truly to be made, Principal and Surety bind ourselves, our heirs, executors, administrators, and successors, and assigns, jointly and severally, firmly by these presents. The Penal Sum shall be forfeited in its entirety to Owner, without consideration as to the amount of actual damages incurred by Owner, if Principal fails to enter into the Contract for the work described in this "Invitation for Bids" and fails to furnish the necessary performance and payment bonds and insurance. A Bid Bond has been submitted by Principal to Owner and delivered to and received by SBCTA located at: 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410-1715.

IN WITNESS WHEREOF, we hereunto set our hands and seals on this day of _____.

Principal Name: _____

_____ Signature of Principal _____ Date

Surety Company

Address

City, State, and Zip

_____ Signature of Surety _____ Date

NOTE: Signatures of those executing for Surety must be properly acknowledged. This form may be reproduced for transmittal to the Surety for execution and attached to the front of the original Bid Bond Form.

CERTIFICATE OF ACKNOWLEDGMENT

BIDDERS BOND

CONTRACT No. 24-1003176

State of California

County of _____

On this ____ day of _____ in the year 20____ before me, _____ personally appeared, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to this instrument as the attorney-in-fact of, and acknowledged to me that he/she/they subscribed the name of the said company thereto as surety, and his/her own name as attorney-in-fact.

WITNESS my hand and official seal.

Signature

Seal

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Contract No. 24-1003176

WARRANTY BOND FORM

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS,

THAT WHEREAS, the San Bernardino County Transportation Authority, a California public entity (the "Obligee") has awarded to _____, a Contract (as amended from time to time, the "Contract"), which Contract is specifically incorporated by reference in this Bond, for the design and construction of the _____ (the "Project");

AND WHEREAS, initially capitalized terms not otherwise defined in this Bond have the meaning given in the Contract;

AND WHEREAS, as a condition to release of the Performance Bond and Payment Bond, Principal is required to furnish a bond (this "Bond") guaranteeing the faithful performance of its obligations under the Contract after final acceptance, including payments owing to persons named in California Civil Code Section 9100;

NOW THEREFORE, We the undersigned Principal and _____ (the "Surety" or "Co-Sureties"), an admitted surety insurer in the State of California, are held and firmly bound unto the Obligee, in the sum of _____ Dollars (\$ _____) (the "Bonded Sum"), for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH THAT, if Principal shall promptly and faithfully perform all of its obligations under the Contract, as they may be amended or supplemented, including without limitation the performance of all Warranty Work, enforcement of subcontractor warranties, and payment of claims as described in paragraph 5 below, then the obligations under this Bond shall be null and void; otherwise this Bond shall remain in full force and effect, it being expressly understood and agreed that the liability of Surety for any and all claims hereunder shall in no event exceed the Bonded Sum.

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

1. The Contract is incorporated by reference into this Bond.
2. If the above bound Principal, or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform the covenants, conditions, obligations and agreements in the Contract, including any and all amendments, supplements, and alterations made to the Contract as therein provided, on the Principal's part to be kept and performed at the time and in the manner therein specified, and shall indemnify, defend and save harmless the Obligee and all other Indemnified Parties, as therein stipulated, then this obligation shall become and be null and void; otherwise, it shall be and remain in full force and virtue.
3. This Bond shall cover the cost to perform all the obligations of the Principal pursuant to the Contract. The obligations covered by this Bond specifically include all payment obligations, liability for damages and warranties as specified in the Contract, but not to exceed the Bonded Sum.

4. Whenever the Principal shall be, and is declared by the Obligee to be, in default under the Contract, the Surety (or Co-Sureties) shall promptly:

- (a) remedy such default, or
- (b) complete the work and perform the obligations covered by this Bond in accordance with the terms and conditions of the Contract then in effect, or
- (c) select a contractor or contractors to complete the work and perform the obligations covered by this Bond in accordance with the terms and conditions of the Contract then in effect, using a contractor or contractors approved by the Obligee in its sole discretion, arrange for a contract that contains substantially the same terms and conditions of the Contract between such contractor or contractors and the Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under such contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion; but not exceeding, including other costs and damages for which the Surety (or Co-Sureties) is (are) liable hereunder, the Bonded Sum.

5. This Bond shall inure to the benefit of the persons named in Civil Code Section 9100 or anyone required to be paid by law or under the Contract so as to give a right of action to such persons or their assigns in any suit brought upon this Bond. The obligations covered by this Bond specifically include:

- (a) payments owing to any of the persons named in California Civil Code Section 9100 involved in prosecution of the Work as provided for in the Contract, or
- (b) any amounts due under the Unemployment Insurance Code, with respect to work or labor performed by such claimant under the Contract or subcontracts, or
- (c) any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Principal and its subcontractors pursuant to Revenue and Taxation Code Section 18662 et seq. with respect to such work and labor, and
- (d) any other payments owing to anyone required to be paid by law.

In case suit is brought to enforce the provisions of this paragraph 5, the Surety (or Co-Sureties) will pay a reasonable attorney's fee, to be fixed by the court.

6. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the Contract, or in the work to be performed with respect to the project, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the Contract, or any rescission or attempted rescission of the Contract, or this Bond, or any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of claimants otherwise entitled to recover under this Bond, or any fraud practiced by any other person other than the claimant seeking to recover this Bond, shall in any way affect its obligations on this Bond, and it does hereby waive notice of such changes, extension of time, alterations, additions, omissions or other modifications.

7. [Use in case of multiple or co-sureties] The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that the Obligee and claimants will have no obligation to deal with

multiple sureties hereunder. All correspondence from the Obligee or claimants to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be

_____.”

In witness whereof, we have hereunto set our hands and seals on this _____ day of _____, 202__.

Principal: _____

Dated: _____

Signature of Principal

Surety

NONCOLLUSION AFFIDAVIT
Public Contract Code section 7106

In accordance with California Public Contract Code section 7106, the bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I, declare under the penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Date: _____ Principal Officer of: _____

(Name and Address of Contractor)

LISTING OF SUBCONTRACTORS

In compliance with the provisions of section 4100 et seq. of the Public Contract Code of the State of California, and any amendments thereof, the undersigned has set forth below the name, the address, and a description of the work for each subcontractor who will perform work or labor or render services to the undersigned in or about the construction of the work or improvement to be performed in an amount over \$10,000 or 0.5% of the total contract bid price, whichever is greater.

Section A - This section is to be completed and submitted with your bid

Subcontractor:

Name

Address

City, State & Zip Code

License Number

DIR Registration No.

Description of work to be performed:

Subcontractor:

Name

Address

City, State & Zip Code

License Number

DIR Registration No.

Description of work to be performed:

Section B - This section to be completed and submitted within 24 hours of the bid due date to jholliday@gosbcta.com

Subcontractor:

Bid item number, description and percentage of bid item

Bid item number, and description of work

_____ % of work

Subcontractor:

Bid item number, description and percentage of bid item (cont'd)

Bid item number, and description of work

_____ % of work

By:

Bidder's Signature

**BIDDERS CERTIFICATE OF COMPLIANCE REGARDING
WORKERS COMPENSATION INSURANCE**

In conformance with current statutory requirements of section 1860 et. seq., of the Labor Code of the State of California, the undersigned confirms the following certification:

“As the bidder, I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

Bidder Name: _____

Signature: _____

Name and Title: _____

Date: _____

CALIFORNIA PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In accordance with California Public Contract Code section 10162, the bidder shall complete, under penalty of perjury, the following questionnaire.

Has the bidder, any officer of the bidder, or any employee of the bidder who has proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes

No

If the answer is yes, explain the circumstances in the space below.

CALIFORNIA PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT

In accordance with California Public Contract Code section 10285.1, the bidder hereby declares under penalty of perjury that neither the bidder, nor any subcontractor listed by the bidder for this bid has been convicted by a court of competent jurisdiction within the preceding three (3) years of any offenses referred to in the section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of any public works contract, as defined in Public Contract Code section 1101, with any public entity, as defined in Public Contract Code section 1100, including the Regents of the University of California or Trustees of the California State University. The term “bidder” is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employees thereof, as referred to in section 10285.1.

If bidder cannot so certify, explain fully in the space below:

**CERTIFICATE OF COMPLIANCE WITH
INSURANCE REQUIREMENTS**

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

INSURANCE REQUIREMENTS (check appropriate boxes below):

- Contractor has provided a copy of the insurance requirements contained in the San Bernardino County Transportation Authority (SBCTA) Contract to their agent or broker to confirm the ability to meet requirements.

AND

- Contractor certifies that the company or individual is fully prepared to secure the necessary insurance coverage and limits as detailed in the SBCTA Contract and comply with all insurance requirements.

OR

- Contractor has identified areas of conflict with the insurance requirements and will procure the required insurance per the requirements within 10 days of the Notice to Award.

Vendor/Firm Information:

Company/Individual Name

Print Name of Authorized Official

Signature of Authorized Official

Date Signed

Address: _____

City: _____

State: _____ Zip Code: _____

Phone No.

Email Address:

Broker Information:

Name: _____

Address: _____

Phone Number: _____

Email Address: _____

CONTRACTOR QUESTIONNAIRE

CONTRACTOR NAME: _____

1. BUSINESS ORGANIZATION

1.1 How many years have you been in business? _____

1.2 How many years have you been in business under your current name? _____

1.2.1 Under what other names have you conducted business? _____

1.3 Name(s) and title(s) of person(s) authorized to execute contracts on behalf of your business. Attach appropriate documentation demonstrating signature authority (e.g. Corporate Resolution, Board Minutes, Operating Agreement, Articles of Organization, etc.).

1.4 If your business is a corporation, answer the following:

1.4.1 Date of incorporation: _____

1.4.2 State of incorporation: _____

1.4.3 California Secretary of State Entity ID Number: _____

1.4.4 Names and titles of corporate officers: _____

1.5 If your business is a limited liability company, answer the following:

1.5.1 Date of formation: _____

1.5.2 State of formation: _____

1.5.3 California Secretary of State Entity ID Number: _____

1.5.4 Is LLC managed by managers or members? _____

1.5.5 Manager(s)/Member(s) name(s): _____

1.6 If your business is a partnership, answer the following:

1.6.1 Date of organization: _____

1.6.2 Type of partnership: _____

1.6.3 California Secretary of State Entity ID Number: _____

1.6.4 Name(s) of general partner(s): _____

1.7 If your business is individually owned, answer the following:

1.7.1 Date of organization: _____

1.7.2 Name of owner: _____

1.8 If the form of your business is other than those listed above, describe it and name the principals:

1.9 Number of owned autos: _____

1.10 Number of employees: _____

2. LICENSING

2.1 List jurisdictions and trade categories in which your business is legally qualified to do business and indicate registration or license numbers, if applicable.

2.2 List any other certifications held by your business, and the name under which they are held.

3. EXPERIENCE

3.1 List the categories of work that your business normally performs with its own forces.

3.2 List all contracts your business (individually or a joint venture in which your business or its principal(s) was a partner, member, and/or participant) has worked in the past three five years, giving the name of project, owner, owner's phone number, account manager, Contract amount, date of completion and percentage of the cost of the work performed with your own forces.

3.3 State average annual amount of _____ services performed during the past five years:

Year _____	\$ _____
Year _____	\$ _____
Year _____	\$ _____
Year _____	\$ _____
Year _____	\$ _____

3.4 List the contracts and/or projects your business has in progress, giving the name of the project, owner/contact, contract amount and scheduled completion.

3.5 Has your business, under its current name or any previous names, ever failed to complete any work/contract awarded to it? If Yes, please explain. (Attach additional pages if necessary.)

4. CLAIMS AND LAWSUITS

4.1 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your business or any its officers? If Yes, please describe. (Attach additional pages if necessary.)

4.2 Has your business filed any lawsuits or requested arbitration with regard to any of its contracts within the last five (5) years? If Yes, please explain. (Attach additional pages if necessary.)

4.3 During the past five years, have any complaints or claims been filed with the Department of Fair Employment and Housing (DFEH) and/or the Department of Industrial Relations (DIR) against your business? If Yes, please describe. (Attach additional pages if necessary.)

_____ [insert Contractor name] hereby certifies and affirms the truthfulness, completeness, and accuracy of the content of the statements and information above under penalty of perjury pursuant to the laws of the State of California and the United States of America.

Signature

Contractor Name

Name and Title of Authorized Signatory

**CERTIFICATION REGARDING PROJECT AND WORKER SAFETY
REQUIREMENTS**

_____ [insert contractor name] hereby certifies the following responses under penalty of perjury, and to the best of its knowledge and belief, on behalf of its principals, and/or any joint venture in which it is or was a partner, member, and/or participant.

In the past three years have you, your principal(s), and/or any joint venture in which you or your principal(s) were a partner, member, and/or participant, had any portion of its work on a project fully or partially terminated, suspended, stopped, and/or delayed as a result of safety violations for which you or any person under contract with you were responsible?

CHECK ONE: ___ YES OR ___ NO

In the past three years has a final order or determination been made against you, your principal(s), and/or any joint venture in which you or your principal(s) were a partner, member, and/or participant, which resulted in the assessment of penalties for any “serious,” “willful,” or “repeat” violation(s) of safety or health regulations?

CHECK ONE: ___ YES OR ___ NO

_____ [insert contractor name] hereby certifies and affirms the truthfulness, completeness, and accuracy of the content of the statements and information above under penalty of perjury pursuant to the laws of the State of California and the United States of America.

SIGNATURE

CONTRACTOR NAME

NAME AND TITLE OF AUTHORIZED SIGNATORY

**ATTACHMENT “A”
CONTRACT**

CONTRACT 24-1003176

BY AND BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

FOR

SR-60 CENTRAL ESTABLISH EXISTING PLANTING

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. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and Name of (“CONTRACTOR”) whose address is _____. SBCTA and CONTRACTOR are each a “Party” and collectively the “Parties” herein.

RECITALS:

WHEREAS, SBCTA has determined that it requires establishment of existing planting; and

WHEREAS, the work described herein cannot be performed by the employees of SBCTA; and

WHEREAS, CONTRACTOR has certified that it has 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. CONTRACT DOCUMENTS

The complete Contract includes all of the following Contract Documents: the Contract Articles; Invitation For Bids 24-1003176 (IFB) dated October 2, 2024; bid dated _____; the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished; Project Plans and Specifications dated **July 7, 2020**; Addenda Nos. (enter number); Notice to Bidders and Special Provisions dated **August 22, 2024**; and Performance and Payment Bonds.

ARTICLE 2. BONDS

CONTRACTOR will furnish a Payment Bond, in the form provided by SBCTA in the IFB, in an amount equal to one hundred percent (100%) of the contract price, and a faithful

Performance Bond, in the form provided by SBCTA in the IFB, in an amount equal to one hundred percent (100%) of the contract price, said bonds to be secured from a surety company satisfactory to SBCTA within ten (10) working days of the date of SBCTA's delivery to CONTRACTOR of the Notice of Award this Contract and prior to the commencement of work under this Contract. Bonds shall remain in full force and effect for a period of one (1) year following the date of filing of the Notice of Completion. 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.

Upon final acceptance of the project work by SBCTA, CONTRACTOR may obtain a release of the Performance Bond and Payment Bond if CONTRACTOR provides to SBCTA and maintains a Warranty Bond, in the form provided by SBCTA in the IFB, or such other security as SBCTA may approve in its sole discretion, that guarantees performance of Work required to be performed during the period following final acceptance of the Project work, including Warranty Work, and which shall also constitute a payment bond guaranteeing payment to persons performing such Work (the "Warranty Bond"). The Warranty Bond, if used, shall guarantee the performance of CONTRACTOR's warranties and warranties of its subcontractors and run in favor of and be enforceable by SBCTA, the Department, utility owners and local agencies (as applicable) for the warranty obligations under the Contract.

If used, the Warranty Bond shall be in an amount specified of ten (10) percent of the amount payable to CONTRACTOR under the Contract ("Warranty Bond Amount"). SBCTA will release the Warranty Bond upon the expiration of the Warranty Period, provided the following conditions have been met: (i) CONTRACTOR is not in default under this Contract and no event has occurred that, with the passage of time or the giving of notice, would constitute a default under this Contract; and (ii) SBCTA receives either (a) evidence satisfactory to SBCTA that all persons eligible to file a claim against the Warranty Bond have been fully paid and unconditional releases of liens and stop payment notices from all subcontractors, if any, that filed preliminary notice of a claim against the Warranty Bond; or (b) the statutory period for subcontractors to file a claim against the Warranty Bond has expired and no claims have been filed.

ARTICLE 3. PROMPT PAYMENT/RETENTION

CONTRACTOR is required to pay all subcontractors for satisfactory performance of their work no later than seven days from the date CONTRACTOR receives payment from SBCTA. SBCTA shall hold retainage from CONTRACTOR of five percent (5%) from each invoice and shall make prompt and regular incremental acceptances of portions, as determined by SBCTA, of the contract 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 subcontractors.

ARTICLE 4. COMPENSATION

- 4.1 SBCTA agrees to pay, and CONTRACTOR agrees to accept as full payment for the work outlined in the Contract documents, the sum of **(Write out Dollar Amount) \$(Enter Numeric Amount)**, 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, if any, in accordance with said documents. Progress payments shall not be made more often than once each thirty (30) days, nor shall the amount paid be in excess of ninety-five percent (95%) of either the pro-rata amount due for completed work at the progress payment date, or of the full payment amount of the Contract 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. The Bid Schedule presented on the next page is incorporated into this Contract by this reference.
- 4.2 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.
- 4.3 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.

ENTER APPROVED BID ITEMS LIST
FROM WINNING BIDDER.

ARTICLE 5. 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 6. 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 7. 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, as required by the “Notice to Bidders and Special Provisions”, all permits required throughout the duration of the Project.

ARTICLE 8. 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 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, their representatives and agents to reproduce any materials as reasonably necessary.

ARTICLE 9. SCHEDULE

CONTRACTOR agrees to complete the work within the time period 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 Notice To Proceed (NTP).

ARTICLE 10. NONDISCRIMINATION

This contract is subject to the California Fair Employment and Housing Act, Government Code Sections 12900 et seq. The CONTRACTOR and any subcontractor(s) shall not discriminate on the

basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status in the performance of this contract. Failure by the contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this contract, or such other remedy, as SBCTA deems appropriate.

ARTICLE 11. 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. CONTRACTOR agrees that CONTRACTOR and its staff shall comply with SBCTA's Conflict of Interest Policy, No. 10102.

ARTICLE 12. 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 13. PROPRIETARY RIGHTS/CONFIDENTIALITY

- 13.1 If, as part of this Contract, CONTRACTOR is required to produce materials, documents data, or information ("Products"), then CONTRACTOR, if requested by SBCTA, shall deliver to SBCTA the original of all such products, which shall become the property of SBCTA.
- 13.2 All materials, documents, data or information obtained from SBCTA's data files or any SBCTA-owned medium furnished to CONTRACTOR in the performance of this Contract will at all times remain the property of SBCTA. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONTRACTOR without the express written consent of SBCTA.
- 13.3 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.

- 13.4 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.
- 13.5 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. CONTRACTOR shall not release any reports, information or promotional material related to this Contract for any purpose without prior written approval of SBCTA.
- 13.6 CONTRACTOR, its employees, agents and subcontractors shall be required to comply with SBCTA's Confidentiality Policy; anyone who may have access to Personally Identifiable Information ("PII") and/or Sensitive Security Information ("SSI") will be required to execute a Confidentiality Agreement.

ARTICLE 14. TERMINATION

- 14.1 Termination for Convenience - SBCTA shall have the right at any time 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 Services 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.
- 14.1.1 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.
- 14.1.2 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 Services satisfactorily executed to the date of termination.
- 14.1.3 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.
- 14.2 Termination for Cause - 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) calendar 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.

14.2.1 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.

14.3 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 15. 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 16. 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 17. INSURANCE

17.1 CONTRACTOR shall furnish SBCTA with original Certificates of Insurance, including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy Endorsement Page(s) of the CGL policy listing all policy endorsements, before work begins. SBCTA reserves the right to require full-certified copies of all Insurance policies and endorsements. Prior to commencing the Work, and at all times during the performance of the Work, and for such additional periods as required herein, CONTRACTOR shall, at CONTRACTOR's sole expense, procure and maintain insurance coverage with the following minimum requirements, and shall require all subcontractors of every tier performing any portion of the Work to procure and maintain such insurance as specified below:

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

- CONTRACTOR shall maintain 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. and if necessary excess/umbrella commercial liability insurance, with a combined limit of liability of not less than **\$5,000,000 each occurrence**.
- The policy shall, at a minimum, include coverage for any and all of the following: bodily injury, property damage, personal injury, broad form contractual liability (including coverage to the maximum extent possible for the indemnifications in this Contract), premises-operations (including explosion, collapse and underground coverage), duty to defend in addition to (without reducing) the limits of the policy(ies), and products and completed operations.
 - \$1,000,000 per occurrence limit for personal injury and advertising injury
- If a general aggregate applies, it shall apply separately to this project/location. The project name must be indicated under “Description of Operations/Locations” (ISO Form CG 25 03 or CG 2504).
- Coverage is to be on an “occurrence” form. “Claims made” and “modified occurrence” forms are not acceptable.
- If this contract includes work in close proximity to an active railroad and Railroad Protective Liability Coverage is required then the CGL policy shall not exclude coverage of contractual liability relating to railroads or shall be endorsed by ISO Form CG 24 17, or equivalent acceptable to SBCTA, to remove all such exclusions to the coverage.
- A copy of the declaration page or endorsement page listing all policy endorsements for the CGL policy must be included.

All subcontractors of any tier performing any portion of the Work for CONTRACTOR shall also obtain and maintain the CGL insurance coverage with limits not less than:

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

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

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:

- 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.
- The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
- The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.
- The umbrella or excess policy must also extend coverage over the automobile policy if it is to be used in combination with the primary automobile policy to meet the total insurance requirement limits.

There shall be no statement limiting the coverage provided to the parties listed as additionally insureds or as indemnitees below.

17.4 Commercial Auto Insurance – The policy must include the following:

- A total limit of liability of not less than **\$5,000,000** each accident. This total limit of liability may be met by combining the limits of the primary auto policy with an umbrella or excess policy in accordance with Article 17.3 (Umbrella/Excess CGL).
- Such insurance shall cover liability arising out of any vehicle, including owned, hired, leased, borrowed and non-owned vehicles assigned to or used in performance of the CONTRACTOR services.
 - Combined single limit Bodily Injury and Property Damage Liability insurance

The commercial automobile liability insurance shall be written on the most recent edition of ISO Form CA 00 01 or equivalent acceptable to SBCTA.

17.5 Workers' Compensation/Employer's Liability Insurance – The policies must include the following:

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

Such policies shall contain a waiver of subrogation in favor of the parties named as Indemnitees below. Such insurance shall be in strict accordance with the applicable workers' compensation laws in effect during performance of the Work by CONTRACTOR or any subcontractor of any tier. All subcontractors of any tier performing any portion of the Work for CONTRACTOR shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONTRACTOR and all parties named as Indemnitees in Article 18 below. SBCTA and CONTRACTOR must be certificate holders and must be provided at least 30 days advance notice of cancellation, unless the cancellation is for non-payment, then at least 10 days advance notice of cancellation shall be provided.

17.6 Professional Liability -- Intentionally Omitted

17.7 Builder's Risk Insurance – Intentionally Omitted

17.8 Contractor's Pollution Liability Insurance - The policy must include the following:

- \$1,000,000 per claim or occurrence limits/\$2,000,000 in the aggregate

17.9 Railroad Protective Liability Insurance --

This coverage may be required by a third party railroad operator or railroad owner anytime work is performed on or in close proximity to a railroad. CONTRACTOR is to conduct their own investigation of the RRPL requirements and shall meet the coverage and limits dictated by any third party railroad, but when required, in no event less than outlined below.

Insurance Services Office Form Railroad Protective Liability, AAR-AASHTO (ISO/RIMA), in the name of the railroad owner and/or operator with respect to the operations the CONTRACTOR or any of their subcontractors perform on the Property. Minimum Limits: **\$2 million per occurrence** combined single limit, for coverage and for losses arising out of injury to or death of all persons and for physical loss or damage to or destruction of Property, including the loss of use thereof. A **\$6 million annual aggregate** shall apply. If providing coverage on the London claims- made form, the following provisions shall apply:

- The limits of liability shall be not less than \$3 million per occurrence, combined single limit. A \$9 million aggregate may apply.
- Declarations item 6, extended claims made date, shall allow an extended claims made period no shorter than the length of the original policy period plus one year.

- If equivalent or better, wording is not contained in the policy form, the following endorsement must be included:
 - It is agreed that "physical damage to Property" means direct and accidental loss of or damage to rolling stock and their contents, mechanical construction equipment or motive power equipment, railroad tracks, roadbed, catenaries, signals, bridges or buildings.

17.10 General Provisions

17.10.1 Qualifications of Insurance Carriers. 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.

17.10.2 Additional Insured Coverage. All policies, except those for Workers' Compensation and Professional Liability insurance, shall be endorsed by ISO Form CG 20 10 11 85, or if not available, then ISO Form CG 20 38, to name San Bernardino County Transportation Authority, Caltrans 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 any additional insured to vicarious liability but shall allow coverage for the additional insureds to the full extent provided by the policy.

17.10.3 Proof of Coverage. Certificate of insurance on the latest ISO Accord form shall be provided to SBCTA's Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as specified by SBCTA. 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 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.

17.10.4 Deductibles and Self-Insured Retention. Regardless of the allowance of exclusions or deductibles by SBCTA, CONTRACTOR shall be responsible for any deductible or self-insured retention (SIR) amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONTRACTOR will pay, and shall require its sub-contractors to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. Any deductibles or self-insured retentions must be declared to and approved in writing by SBCTA's Risk Manager. Without SBCTA's Risk Manager's express 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, at 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.

17.10.5 CONTRACTOR's and Subcontractors' Insurance Will Be Primary. All policies required to be maintained by the CONTRACTOR or any subcontractor with the exceptions of Professional Liability, Pollution Liability and Worker's Compensation, shall be endorsed, with a form at least as broad as ISO Form CG 20 01 04 13), to be primary coverage, and any coverage carried by any of the Additional Insureds shall be excess and non-contributory. Further, none of CONTRACTOR'S or subcontractors' pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.

17.10.6 Waiver of Subrogation Rights. To the fullest extent permitted by law, CONTRACTOR hereby waives all rights of recovery under 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.

17.10.7 Cancellation. If any insurance company elects to cancel or non-renew coverage for any reason, CONTRACTOR will provide SBCTA thirty (30) days' prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONTRACTOR will provide SBCTA ten (10) days' prior written notice. In any event, CONTRACTOR will provide SBCTA with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONTRACTOR receives within one business day after CONTRACTOR receives it by submitting it to SBCTA at insurance@gosbcta.com, to the attention of SBCTA's Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.

17.10.8 Enforcement. SBCTA may take any steps as are necessary to assure CONTRACTOR's compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONTRACTOR fails to obtain or maintain any insurance coverage required, SBCTA may, but is not required to, maintain this coverage and charge the expense to the CONTRACTOR or withhold such expense from amounts owed

CONTRACTOR, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONTRACTOR of its duties and responsibility under the Contract, including but not limited to obligations to indemnify, defend and hold harmless the Indemnitees named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONTRACTOR for liability in excess of such coverage, nor shall it preclude SBCTA from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONTRACTOR, or any subcontractor of any tier of their obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.

17.10.9 No Waiver. Failure of SBCTA to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.

17.10.10 Subcontractors' Insurance. Insurance required of the CONTRACTOR shall be also provided by subcontractors or by CONTRACTOR on behalf of all subcontractors to cover their services performed under this Contract. CONTRACTOR may reduce types and the amounts of insurance limits provided by subcontractors to be proportionate to the amount of the subcontractor's contract and the level of liability exposure for the specific type of work performed by the subcontractor. CONTRACTOR shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subcontractor.

17.10.11 Higher limits. The Insurance obligations under this agreement shall be the greater of 1- all the Insurance coverage and limits carried by or available to the Vendor; or 2- the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to SBCTA. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Vendor under this agreement.

17.10.12 Non-Limitation of Insurance Requirements. 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. 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. 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. The Contractor acknowledges and will at all times comply with the provisions of Labor Code Section 3700 which require 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.

17.10.13 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 contract.

17.10.14 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 contract are adequate to protect the CONTRACTOR against its undertakings under this Contract or its liability to any third party, nor will they preclude SBCTA from taking any actions as are available to it under this Contract or otherwise at law.

17.10.15 Review of Coverage. SBCTA may at any time review the coverage, form, and amount of insurance required under this contract, 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. SBCTA may change the insurance coverages and limits required under this contract 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 (at actual cost) from such change will be paid by SBCTA and any reduction in cost will reduce the Contract Price pursuant to a Change Order.

ARTICLE 18. INDEMNITY

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by SBCTA) and hold harmless San Bernardino County Transportation Authority, Caltrans and their officers, directors, members, employees, contractors, agents and volunteers (collectively the "Indemnitees") 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 Indemnitees on account of any claim except where such indemnification is prohibited by law. 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 Indemnitees. 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 Indemnitees, 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 Indemnitees but does not apply to the "sole" or "active" negligence or "willful misconduct" of any of the Indemnitees within the meaning of Civil Code section 2782.

ARTICLE 19. OWNERSHIP OF DOCUMENTS

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.

ARTICLE 20. RECORD AND INSPECTION AND AUDITING

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, 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.

ARTICLE 21. 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 CONTRACTOR's employees in the performance of 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 22. 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 23. 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 24. 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 25. PRECEDENCE

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

ARTICLE 26. 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 during regular business hours; (b) on the first business day following delivery by fax when made outside 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: CONSTRUCTION	To: SBCTA
	1170 W. 3rd Street, 2nd Floor
	San Bernardino, CA 92410-1715
Attn:	Attn: Paul Melocoton
2nd Contact:	Cc: Procurement Manager
Email:	Email: pmelocoton@goscbta.com
Phone:	Phone: (909) 884-8276

ARTICLE 27. LIQUIDATED DAMAGES

Should CONTRACTOR fail to complete all work within the time specified herein, 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 One Thousand Dollars (**\$1,000**) 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 in accordance with the Force Majeure article of this Contract. SBCTA may extend the period of performance of this Contract when in its sole judgment, sufficient justification to do so.

ARTICLE 28. 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 29. SUBCONTRACTS

29.1 CONTRACTOR shall perform with its own organization contract work amounting to not less than **30 percent** (or a greater percentage if specified elsewhere in the Contract) of the total original contract price, excluding any specialty items designated by SBCTA. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by CONTRACTOR's own organization.

29.1.1 "Its own organization" shall be construed to include only workers employed and paid directly by the prime CONTRACTOR and equipment owned or rented by the prime CONTRACTOR, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime CONTRACTOR.

29.1.2 "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract. The contract amount upon which the requirements set forth in this Contract is computed includes the cost of material and manufactured products, which are to be purchased or produced by the CONTRACTOR under the contract provisions.

29.2 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.

29.3 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 30. 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 31. PREVAILING WAGE REQUIREMENTS

31.1 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.

31.2 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 32. SAFETY

32.1 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 as it determines, 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.

32.2 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 33. DISADVANTAGED BUSINESS ENTERPRISE

33.1 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 Alicia Bullock, Procurement Manager at (909) 884-8276.

ARTICLE 34. NONSEGREGATED FACILITIES

34.1 As prescribed by 41 CFR 60-1.8, CONTRACTOR must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. CONTRACTOR may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. CONTRACTOR's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated.

34.2 The term "facilities" means any waiting rooms, work areas, restrooms, 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. CONTRACTOR shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between. However, nothing in this Article shall prohibit separate facilities necessary to comply with the Americans with Disabilities Act (e.g., disabled parking).

34.3 All subcontracts of \$10,000 shall contain the provisions of this Article.

ARTICLE 35. 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 36. CONFIDENTIALITY

See Article 13.

ARTICLE 37. 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 38. 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 for the interpretations made by CONTRACTOR on the basis of the information made available by SBCTA.

ARTICLE 39. 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 all subcontracts and further agrees to take such action SBCTA may direct as a means of enforcing such requirements.

ARTICLE 40. DRUG FREE WORKPLACE

CONTRACTOR agrees to comply with the Drug Free Workplace Act of 1990 per Government Code Section 8350 et seq, the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103, et seq.; U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR Part 32; and U.S. OMB regulatory guidance, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 2 CFR Part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 CFR Part 32.

ARTICLE 41. 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 42. 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 43. INCORPORATION OF RECITALS

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

ARTICLE 44. 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

By: _____
Name
Title

Date: _____

Licensed in accordance with an act
providing for registration of contractors.

License Number

Federal Employer
Identification Number

SBCTA

By: _____
Ray Marquez
President, Board of Directors

Date: _____

APPROVED AS TO FORM

By: _____
Julianna K. Tillquist
General Counsel

Date: _____

CONCURRENCE

By: _____
Alicia J. Bullock
Procurement Manager

Date: _____

BOND FORMS

**San Bernardino County
Transportation Authority**

Contract No. 24-1003176

PAYMENT BOND FORM

KNOW ALL MEN BY THESE PRESENTS:

That the San Bernardino County Transportation Authority of the State of California (hereinafter referred to as SBCTA) and _____
(hereinafter referred to as Principal) have by written agreement dated _____, entered into a contract identified as:

CONTRACT No.: **24-1003176** (hereinafter referred to as the Contract); and

That, pursuant to law and said Contract, and before entering upon the performance of said Contract, the principal is required to file with SBCTA a good and sufficient bond to secure the payment of labor and materials claims.

NOW, THEREFORE, said Principal and _____ as corporate surety (hereinafter referred to as Surety) (Surety shall be listed in the Insurance Organizations Authorized by the Insurance Commissioner to Transact Business of Insurance in the State of California published by the Department of Insurance, State of California, or successor publications) are held firmly bound unto SBCTA in the amount of _____ (\$ _____) for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns both jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal or his/her/its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named or referred to in section 9100 of the California Civil Code, with respect to such work and labor as required by Division 4, Part 6, Title 3, Chapter 5 (commencing at section 9950) of the California Civil Code, or this bond, then said Surety will pay for the same, in an amount not to exceed the amount hereinafter set forth.

This bond shall inure to the benefit of any and all persons, companies and corporations named or referred to in section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

And the said Surety, for value received, hereby stipulates and agrees that all alterations, extensions of time, extra and additional work, and other changes authorized by the Specifications or any part of the contract may be made without securing consent of the Surety on this bond, and any such actions shall not in any way affect the obligations of the Surety on this bond. Surety does hereby waive notice of any alterations, extensions of time, extra and additional work to the terms of the Contract or to the Specifications.

In the event suit is brought upon this Bond by SBCTA and judgment is recovered, Surety shall pay all costs incurred by SBCTA in such suit, including a reasonable attorney's fee to be fixed by the court.

Death, illness, disability or disqualification of the Principal shall not relieve Surety of its obligations hereunder.

Principal: _____

Signature of Principal Date

Surety: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Signature of Surety Date

NOTE: Signatures of those executing for Surety MUST be properly acknowledged.

NOTE: This form may be reproduced for transmittal to the Surety for execution.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

Contract No. 24-1003176

PERFORMANCE BOND FORM

KNOW ALL MEN BY THESE PRESENTS:

That the San Bernardino County Transportation Authority of the State of California (hereinafter referred to as SBCTA) and _____ (hereinafter referred to as Principal) have by written agreement dated _____, entered into a contract identified as:

CONTRACT NO. 24-1003176

(Hereinafter referred to as the Contract); and that, the Principal is required under the terms and conditions of said Contract to furnish a bond for the faithful performance of Contract.

NOW, THEREFORE, said Principal and _____ as corporate surety (hereinafter referred to as Surety) (Surety shall be listed in the Insurance Organizations Authorized by the Insurance Commission to Transact Business of Insurance in the State of California published by the Department of Insurance, State of California or successor publications) are held firmly bound unto SBCTA in the amount of _____ (\$_____) for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns both jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the said Principal or his/her/its subcontractors, heirs, executors, administrators, successors, or assigns, shall perform all of the covenants, conditions and agreements in said Contract and any alteration made as herein provided, in his/her/their part, to be kept and performed at the time, and in the manner therein specified, and shall indemnify and save harmless, SBCTA and its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force, virtue and effect.

And the said Surety, for value received, hereby stipulates and agrees that all alterations, extensions of time, extra and additional work, and other changes authorized by the Specifications or any part of the contract may be made without securing consent of the Surety on this bond, and any such actions shall not in any way affect the obligations of the Surety on this bond. Surety does hereby waive notice of any alterations, extensions of time, and extra and additional work to the terms of the Contract or to the Specifications.

In the event suit is brought upon this Bond by SBCTA and judgment is recovered, Surety shall pay costs incurred by SBCTA in such suit, including a reasonable attorney's fee to be fixed by the court.

Death, illness, disability or disqualification of the Principal shall not relieve Surety of its obligations hereunder.

Principal: _____

Signature of Principal Date

Surety: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Signature of Surety Date

NOTE: Signatures of those executing for Surety MUST be properly acknowledged.

NOTE: This form may be reproduced for transmittal to the Surety for execution.

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

ALL BIDDERS:

SBCTA maintains a "Bidders List" containing information about all firms (DBE and non-DBE) that bid, propose or quote on SBCTA's contracts, for use in SBCTA's overall annual DBE goal-setting process. Therefore, the bidder shall provide the requested information for every firm who submitted a quote, bid, or proposal, including the primary bidder whether successful or unsuccessful in their attempt to obtain a contract:

- a. Firm name;
- b. Firm address;
- c. Phone number
- d. A description of the work that each DBE will perform;
- e. Firm's status as a DBE or non-DBE;
- f. Age of the firm;
- g. Annual gross receipts

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

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

It is the bidder's responsibility to verify that the DBE(s) falls into one of the following groups in order to count towards the DBE contract goal:

1) Black American; 2) Asian-Pacific American; 3) Hispanic Americans; 4) Subcontinent Asian American; 5) Native American; and 6) Women.

Exhibit 12-B: Bidder's List of Subcontractor (DBE and Non-DBE) - Part 1

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts must be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>. The local agency will verify registration of all contractors and subcontractors on public works projects at bid and thereafter annually to assure that yearly registration is maintained throughout the life of the project.

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater).

Photocopy this form for additional firms.

FEDERAL PROJECT NUMBER:

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
				DIR Reg Number			
NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
City, State							
NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
City, State							
NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
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NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
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NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
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NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
City, State							
NAME							<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million Age of Firm in years <input type="text"/>
City, State							

Distribution – Original: Local Agency File; Copy: DLAE w/Award Package

Exhibit 12-B: Bidder's List of Subcontractor (DBE and Non-DBE) - Part 2

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but **were not selected** to participate as a subcontractor on this project.

FEDERAL PROJECT NUMBER: _____

Photocopy this form for additional firms.

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
				DIR Reg Number				
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
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City, State							< \$15 million	
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							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	

Distribution – Original: Local Agency File; Copy: DLAE w/Award Package