California High-Speed Train Project

Request for Proposal for Design-Build Services

RFP No.: HSR 11-16

Book 1, Parts A - C: Instructions to Proposers, Certifications, and Forms

ADDENDUM 9

Revision(s)	Date	Description
0	03/22/2012	Initial Release, R0
1	04/30/2012	Addendum 1
2	06/05/2012	Addendum 2
3	07/02/2012	Addendum 3
4	08/22/2012	Addendum 4
5	10/29/2012	Addendum 5
6	11/13/2012	Addendum 6
7	12/14/2012	Addendum 7
8	01/08/2013	Addendum 9

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Part A. Instructions to Proposers

1 Introduction and Purpose of Solicitation

1.1 Authority, System and Project Overview

1.1.1 Authority

Established in 1996 by State legislation, the California High-Speed Rail Authority (Authority) has a statutory mandate to plan, build, and operate a high-speed rail system to be coordinated with California's existing transportation network, particularly intercity rail and bus lines, commuter rail lines, urban rail transit lines, highways, and airports. The Authority is seeking competitive proposals to provide design-build services (Proposals) for Construction Package 1 (Project) of the Initial Construction Segment (ICS) of the California High-Speed Train System (System) in California's Central Valley. This procurement is conducted in accordance with the Authority's contracting power described in Section 185036(a) of the California Public Utilities Code.

1.1.2 System

The System goal is to increase and maintain California's mobility, vital to our economy's health, as the population grows from 38 million today to a projected 50 million by 2035. The planned System length is approximately 800 miles from Sacramento to San Diego, with nine (9) segments running through the Bay Area, Central Valley, Inland Empire, and Southern California. The train will travel at speeds of up to 220 miles per hour with approximately 15 stops. A key performance goal is to make the trip from San Francisco to Los Angeles in 2 hours and 40 minutes. The initial operating segment (IOS) will run through the Central Valley, and includes the ICS. Completion of the Project represents the first step toward delivery of the System.

1.1.3 Project

The Project is located within the Counties of Madera to the north and Fresno to the south, and the City of Fresno in the southern area. It is composed of one base alignment and two alignment options:

- Construction Package (CP) 1A (including the hybrid alternative) – Approximately twenty-three (23) miles, from south of Avenue 17 to north of Stanislaus Street (base alignment)
- CP 1B – Approximately one (1) mile, from north of Stanislaus Street to south of Santa Clara Street (option)
- CP 1C – Approximately five (5) miles, from south of Santa Clara Street to south of East American Avenue (option)

The Project alignment will extend approximately twenty-nine (29) miles in length and will include at-grade, aerial structures, and trench sections and one short tunnel. Also, the Project

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will include approximately seventeen (17) or twenty-five (25) grade separations and one (1) or three (3) bridges depending on the chosen alignment. The Contractor will be responsible for all work required to design and construct the Project.

Refer to the Scope of Work in Book 2, Part C for a more detailed description of the Project, including other major elements of Work.

1.1.4 Project Cost and Funding

The estimated Project cost is between $1.2 billion and $1.8 billion. The Authority intends to finance the Project with State and federal funding, provided by the Federal Railroad Administration (FRA) and funding made available through the American Recovery and Reinvestment Act of 2009 (ARRA). No private funding is required.

The Authority will act as the FRA designated recipient of grant funds obligated under the High-Speed Intercity Passenger Rail (HSIPR) Program. The Authority Chief Executive Officer (CEO) and the Authority Board are ultimately accountable to the FRA for the expenditure of federal funds for the Project. As a recipient of federal transportation grants, the Authority will be subject to the oversight requirements of the FRA. The Authority will work closely with the FRA in order to meet all of the FRA requirements and will make quarterly submissions of Project budget and schedule reports to the FRA. The Authority will coordinate with the FRA through regularly scheduled monthly meetings, and as otherwise needed.

1.2 Construction Package 1 Request for Proposals

This Request for Proposals (RFP) is the second phase of a two-phase best value procurement process. Proposals are only invited from, and will only be considered from, Shortlisted Offerors (Proposers) based on their Statements of Qualifications (SOQs) submitted in response to the Request for Qualifications (RFQ) issued by the Authority on November 15, 2011.

The purpose of this RFP is for the Authority to seek competitive proposals to provide design-build services for the Project. By submitting a Proposal, Proposers agree to be bound by and meet all of the requirements specified in this RFP. Failure to do so may result in rejection of the Proposal and elimination of the Proposer from the procurement.

This RFP Documents are organized into the following Books:

- Book 1 – Instructions to Proposers (ITP) – Addendum 9
- Book 2 – Contract Requirements
  - Signature Documents – Addendum 9
  - Special Provisions – Addendum 9
  - General Provisions – Addendum 9
  - Scope of Work – Addendum 9
  - Scope of Work Attachment 1 – Addendum 9

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- Scope of Work Attachment 2 – Addendum 4
- Scope of Work Attachment 2a – Addendum 4
- Scope of Work Attachment 2b – Addendum 4
- Scope of Work Attachment 2c – Addendum 9
- Scope of Work Attachment 3 – Addendum 1 and Addendum 6
- Scope of Work Attachment 4 – Addendum 7
- Scope of Work Attachment 5 – Addendum 6
- Scope of Work Attachment 6 – Addendum 6
- Scope of Work Attachment 7 – Addendum 7
- Scope of Work Attachment 8 – Addendum 7
- Community Benefits Agreement – Addendum 8

- Book 3 – Supplemental Contract Requirements
  - Basis of Design – Initial Release
  - Conflict of Interest Policy – Initial Release
  - Verification, Validation and Self Certification – Addendum 7
  - Reliability, Availability, Maintainability – Addendum 6
  - Small and Disadvantaged Business Enterprise Program – Addendum 6
  - Design Variance Request Process – Addendum 1
  - CHSTP Safety and Security Management Plan – Addendum 1
  - Aesthetic Guidelines for Non-Station Structures – Addendum 1
  - Cost and Schedule Program Plan – Addendum 9
  - Milestone Data Pack – Addendum 7
  - Design Criteria
    - Chapter 1 – Addendum 1 and Updates to Design Criteria
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    - Chapter 3 – Addendum 1 and Updates to Design Criteria
    - Chapter 3 Appendices 3.A-3.H – Addendum 5
    - Chapters 4-9 – Addendum 1 and Updates to Design Criteria
    - Chapters 10-11 – Addendum 7
    - Chapter 12 – Addendum 7 and Updates to Design Criteria
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    - Chapters 20-22 – Addendum 1 and Updates to Design Criteria
  - Updates to Design Criteria – Addendum 9
  - CADD Manual – Addendum 1 and Addendum 7
  - Plans Preparation Manual – Addendum 1 and Addendum 7
  - Third Party Master/Cooperative Agreements – Addendum 9
  - Approach for Obtaining ICS Environmental Approvals/Permits – Addendum 9
  - Final Environmental Documents – Addendum 5
  - Mitigation Monitoring Reporting Program – Addendum 7
  - Design Variance Report – Addendum 5
  - CP01 A and B Transportation Mitigation – Addendum 9
  - Fresno Design Guidelines Clarifications – Addendum 9
  - Caltrans, Railroad and Additional Third Party Agreements
    - Caltrans SR99 – Addendum 9
    - UPRR Engineering and Construction – Addendum 8
  - Directive Drawings
    - General – Addendum 1 and Updates to Directive Drawings
    - Civil – Addendum 1 and Updates to Directive Drawings
    - Drainage – Addendum 1
    - Utilities – Addendum 1
    - Intrusion Protection – Addendum 1 and Updates to Directive Drawings
    - Structural – Addendum 1 and Updates to Directive Drawings
    - Systems Overall – Addendum 6
    - Traction Power – Addendum 1 and Addendum 7
    - Overhead Contact System – Addendum 1 and Updates to Directive Drawings
    - Communications – Addendum 1
  - Updates to Directive Drawings – Addendum 7
  - Preliminary Ground Motions – Addendum 5
  - Record of Survey and Control Monument Data – Addendum 1
  - Right of Way Acquisition Plan – Addendum 9
  - Geotechnical Baseline Report – Addendum 6
- Book 4 – Reference Documents

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- Drawings
  - Option 1 Design Plans – Initial Release and Addenda 3, 4, 5 and 7
  - CP01A Design Plans – Initial Release and Addenda 3, 4, 5 and 7
  - CP01B Design Plans – Initial Release and Addenda 2, 3, 4 and 6
  - CP01C Design Plans – Initial Release and Addenda 3 and 4
  - Standard Drawings – Initial Release
  - Fresno Street Underpass Design Documents by Caltrans – Addendum 3
- Reports
  - Floodplain and H&H Report – Initial Release and Addenda 3 and 5
  - 15% Geotechnical Summary Report – Initial Release
  - Geotechnical Data Reports – Initial Release and Addenda 3 and 4
  - Stormwater Management Report – Initial Release and Addendum 3
  - Structures Report – Initial Release and Addenda 3 and 4
- Specifications
  - Standard Specifications – Initial Release, Addenda 3 and 4 and Updates to Standard Specifications
  - Updates to Standard Specifications – Addendum 7
  - Special Specifications – Initial Release, Addendum 3 and Updates to Special Specifications
  - Updates to Special Specifications – Addendum 7
- Electronic Design Files
  - CP01 ALG Design Files – Initial Release and Addendum 3
  - CP01 DTM Terrain Files – Initial Release and Addendum 3
  - Existing Utility Data – Initial Release and Addendum 3
  - Topographic Mapping – Initial Release and Addenda 3 and 6
  - CP01 Cross Sections – Initial Release and Addendum 3
  - Photogrammetric Data – Initial Release
  - GIS Files for Environmentally Sensitive Areas – Initial Release and Addendum 1
  - Geotechnical Electronic Data – Addenda 2 and 5
  - CP01A-B-C-Sheet-DGN-Files – Addenda 3, 5 and 9
- Resource Information

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  - City of Fresno Aesthetic Design Guidelines – Addendum 5
  - Task Orders and Related Information – Addendum 9
  - USBR Agreement – Addendum 9
- Change Logs

The ITP (Book 1) and Reference Documents (Book 4) are not Contract Documents and will not form a part of the Contract. The ITP provides instructions to be followed by Proposers in their response to this RFP No. HSR 11-16. The Reference Documents are included in the RFP for the purpose of providing information to Proposers that is in the Authority's possession. The Authority has not determined whether the Reference Documents are accurate, complete or pertinent, or of any value to the Proposers. The Authority makes no representation, warranty or guarantee as to the accuracy, completeness, pertinence or fitness of the Reference Documents. The Authority takes no responsibility for the Reference Documents and shall not be responsible for any conclusions drawn therefrom, except to the extent the Contract Documents expressly allow the Contractor to rely on such documents.

The documents identified in the list above for each document in Contract Requirements (Book 2) and Supplementary Contract Requirements (Book 3) will form part of the Contract.

2 Definitions

The following terms used in this ITP shall have the meanings set forth below. Refer to Book 2, General Provisions, Section 1 for the meaning of capitalized terms and acronyms used but not defined herein.

- **Alternative Technical Concept (ATC) –** Any concept submitted by a Proposer and approved by the Authority, which differs from the requirements of the Contract Documents provided in the RFP and results in performance and quality of the end product that is equal to or better than the performance and quality of the end product absent the deviation as determined by the Authority in its sole discretion, and is not merely the result of reduced quantities, performance or reliability.
- **Apparent Best Value Proposer** – The Proposer that submits the Proposal that receives the highest Total Proposal Score.
- **Contract Price** – The combined price for Construction Packages 1A, 1B and 1C submitted by the Proposer in Form F, Contract Price
- **Financial Statements –** consist of the following:
  - Balance sheet
  - Income statement
  - Statement of changes in cash flow and footnotes

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- **Guarantor –** Any Person that is the obligor under any guaranty in favor of the Authority required under the Contract.
- **Key Personnel –** Those individuals identified in the Proposal to fill the positions specified in Form G (Key Personnel Matrix).
- **Major Participant –** Any of the following entities:
  - Principal Participants;
  - The Lead Engineering Firm;
  - Each Subcontractor that may perform 10 percent or more of the construction Work; and
  - Each Subcontractor that may perform 20 percent or more of the design Work.
- **Material Change** – Any material changes in financial condition, corporate form, market capitalization, or potential liabilities that may affect an entity's ability to complete the Project for any entity for which financial statements are provided in the Proposal. Set forth below is a representative list of events intended to provide examples of what the Authority considers a material change in financial condition, corporate form, market capitalization, or potential liabilities. This list is intended to be indicative only.
  - An event of default or bankruptcy involving the affected entity, a related business unit within the same corporation, or the parent corporation of the affected entity.
  - A change in tangible net worth of 10 percent of shareholder equity.
  - A sale, merger or acquisition exceeding 10 percent of the value of shareholder equity prior to the sale, merger or acquisition which in any way involves the affected entity, a related business unit, or parent corporation of the affected entity.
  - A change in credit rating for the affected entity, a related business unit, or parent corporation of the affected entity.
  - Inability to meet conditions of loan or debt covenants by the affected entity, a related business unit or parent corporation of the affected entity which has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations, or additional credit support from shareholders or other third parties.
  - In the current and the three (3) most recently completed fiscal years, the affected entity, a related business unit in the same corporation, or the parent corporation of the affected entity either:
    - Incurs a net operating loss;
    - Sustains charges exceeding 5 percent of the then shareholder equity due to claims, changes in accounting, write-offs or business restructuring; or
    - Implements a restructuring/reduction in labor force exceeding 200 positions or involve the disposition of assets exceeding 10 percent of the then shareholder equity.

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- Other events known to the affected entity, a related business unit or parent corporation of the affected entity which represents a material change in financial condition over the past three (3) years or may be pending for the next reporting period.

- **Offeror** – A Person that submitted an SOQ in response to the RFQ.
- **Principal Participant** – is defined as one or all of the following:
  - The Proposer
  - If the Proposer is a joint venture, partnership, or limited liability company, any joint venture, general partner, or member thereof
  - Any Person holding (directly or indirectly) a 15 percent or greater interest in the Proposer
- **Project Website** – is defined as the official website of the California High-Speed Rail Authority.
- **Proposer** – The Shortlisted Offeror submitting a Proposal in response to this RFP.
- **Proposer Team** – Collectively, the Proposer, other Major Participants, Subcontractors, including their respective employees, agents, and officers.
- **Request for Qualifications (RFQ)** – The Request for Qualifications, including all addenda thereto, issued by the Authority for the Project on November 15, 2011.
- **Request for Proposals (RFP)** – This written solicitation, issued by the Authority in March 2012 to all Shortlisted Offerors for submission of detailed proposals to undertake the Project.
- **RFP Documents** – Those documents included in Books 1-4 of the RFP.
- **Shortlisted Offerors** – Offerors invited by the Authority, based on the Authority's evaluation of each Offeror's SOQ, to submit Proposals in response to this RFP.
- **Statement of Qualifications (SOQ)** – The document submitted by an Offeror in response to the RFQ issued on November 15, 2011.
- **Surety** – A properly licensed surety company, insurance company, or other Person approved by the Authority, which has issued a Proposal Bond and/or will issue a Performance Bond and Payment Bond. To be considered a Surety for purposes of this ITP the surety company, insurance company, or other Person approved by the Authority shall:
  - Be registered with the California State Insurance Commissioner;
  - Appear on the current Authorized Insurance List in the State of California published by the Office of the Insurance Commissioner, and
  - Possess an A.M. Best and Company rating level of A- or better and Class X or better, or as otherwise approved by the Authority in its sole discretion.

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3 Procurement and Project Schedules

Table 1 summarizes the schedule of events in this RFP phase of the two-step procurement process (the "RFP Schedule"). The RFP Schedule is subject to modification at the sole discretion of the Authority. Proposers will be notified of any change in the RFP Schedule by an addendum to this RFP.

Table 1: RFP Schedule

Activity	Deadline[1]	Responsibility
Issue RFP	March 22, 2012	Authority
One-on-One Meetings with Potential Proposers	May 14-15, 2012	Both
Mandatory Department of Labor EEO and AA Seminar	May 16, 2012	Both
Mandatory Authority Small Business Program Seminar	May 16, 2012	Both
Mandatory Authority Sponsored Small Business Outreach Meeting	May 17, 2012	Both
Meetings with Potential Proposers on Possible ATCs	June 4-6, 2012	Both
Follow-up Meetings with Potential Proposers on ATCs	June 18-20, 2012	Both
Proposal Agreement Submittal Deadline	June 15, 2012	Proposers
ATC Submittal Deadline	July 9, 2012	Proposers
Follow-up One-on-One Meetings with Potential Proposers	July 10-12, 2012	Both
List of Critical Right-of-Way Parcels Submittal	Within 60 Days of receipt of RFP	Proposers
Response to ATC Submittals	September 14, 2012	Authority
Deadline to Submit Agenda for One-on-One Meetings	November 21, 2012	Proposers
Deadline for Proposer Questions[2]	December 21, 2012 at 12:00pm (PST)	Proposers
Deadline to Submit Changes to Proposer Teams	November 26, 2012	Proposers
One-on-One Meetings with Potential Proposers	November 28-30, 2012	Both
Proposal Deadline	January 18, 2013	Proposers
Deadline to Submit Escrowed Proposal Documentation (See 8.2.5)	January 23, 2013	Proposers
Anticipated Contract Award	June 2013	Authority

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[1] All deadlines are 3:00 p.m. Pacific Time unless otherwise indicated.

[2] Proposers will be limited to five (5) comments/questions following release of Addendum No. 7.

Table 2 summarizes the anticipated schedule of events for Project implementation.

Table 2: Anticipated Project Implementation Schedule

Activity	Approximate Date	Responsibility
Initial Notice to Proceed	July 2013	Authority
Substantial Completion	December 2017	Contractor
Final Acceptance	February 2018	Contractor

4 Project Goals

The Authority's goals for this Project focus the Contractor on schedule, budget, quality, environmental mitigation, sustainability, safety, and small business utilization.

4.1 Schedule

The Authority's goal is to have the design, construction, and testing of the Project completed in accordance with the schedule requirements of the Grant/Cooperative Agreement.

4.2 Budget

The Authority's budget goal is for the design and construction of the Project to be completed within the budget for the Project, which is estimated at $1.2 billion to $1.8 billion.

4.3 Quality

The Authority's quality goal is for the Project to be designed and constructed in such manner as to serve as a model for the high standard of quality that the Authority will require for the remainder of the ICS and the entire System.

Consistent with the Authority's quality goal, the Contractor shall develop and implement a Quality Management Plan that provides quality control and quality assurance for both design and construction of the Project, including control of quality-related documents, and which effectively coordinates with the Contractor's Verification and Validation process.

4.4 Verification, Validation (V&V), and Self Certification

The Authority's goal for verification, validation, and self-certification is to complete a series of self-certified, verified and validated, design-build construction packages to confirm that the technical contract requirements have been fulfilled and provide the Authority documentation that the System will meet the overall performance requirements.

4.5 Environmental Mitigation and Compliance

The Authority's environmental goal is for the Project to comply with all environmental laws and regulations, including permit terms and conditions, and to effectively implement all

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required mitigation measures that the Authority and the FRA adopt at the conclusion of the California Environmental Quality Act (CEQA)/National Environmental Policy Act (NEPA) environmental review processes. Construction activities performed under the Contract will be subject to specific mitigation measures and other commitments, which will be included in the environmental documents for the Project.

4.6 Sustainability

The Authority's vision is to design and construct the System in a manner that minimizes impacts to the natural and built environment and encourages compact land development around transit stations. The goal for the Project is to demonstrate environmental design excellence that employs sustainability as its measure of and foundation for design and construction. Additionally, these goals will provide a benchmark for sustainable infrastructure and serve as a model that is progressively improved upon for the remainder of the System. In furtherance of these goals, as set forth in the Authority's Memorandum of Understanding; which also establishes its partnership for sustainable planning with the US Department of Housing and Urban Development (HUD), the Federal Railroad Administration (FRA), and the US Environmental Protection Agency (EPA); the following must be achieved:

- Exemplary energy use minimization and energy efficiency
- Minimize water use
- Reduce greenhouse gas emissions and dependency on fossil fuels
- Employ sustainable, healthy materials and reduce the extraction of scarce resources
- Reduce waste to landfill

4.7 Safety and Security

The Authority's safety and security goal is for work to be performed on the Project in a manner that ensures the safety and security of employees, contractors, emergency responders, and the public. Implicit in this goal is the compliance with applicable safety and security laws, regulations, requirements and railroad industry practices, including all FRA railroad safety regulations. To achieve this goal, the Contractor will be expected to promote the following elements of the Authority's safety and security program at all levels of management within the Contractor's organization:

- Plan all work to prevent injury, damage, and lost production time
- Compliance with federal, State, and local laws and regulations, and with industry standards
- Maintain a system for prompt detection of and corrective actions for unsafe and/or unhealthy practices and conditions
- Timely notification and investigation of accidents/incidents or claims, to determine causes, and to initiate prompt corrective and mitigation actions

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- Maintain a comprehensive security program, encompassing personnel, facility, and site management in conjunction with emergency planning and response procedures
- Actively participate in and cooperate at all levels of management within the Contractor's organization, along with direct coordination with the Authority to promote the Authority's safety and security program

4.8 Overall Project Small Business Goal

For this Project, the Authority has established an overall project Small Business utilization goal of 30 percent to be achieved through the utilization of firms, in any combination and at any tier level, who are certified as Small Businesses (SB) inclusive of Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs), and Microbusinesses (MBs).

The selected design-build contractor will be responsible for establishing subsequent contract goals, as appropriate for the subcontracting solicitation packages it lets in conformance with Title VI Best Practices and the Authority's Small and Disadvantaged Business Enterprise Program.

More detailed information regarding the Overall Project Small Business goal is in the Authority's Small and Disadvantaged Business Enterprise Program located in Book 3, Part A.

5 Project Status

The status of significant Project activities includes:

5.1 Environmental Analysis

The Project encompasses project scopes addressed in two separate environmental documents. As part of this environmental analysis, on August 12, 2011, the Authority and FRA released for public review and comment both the Merced to Fresno HSR Project Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and the Fresno to Bakersfield HSR Project Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS). The initial comment period for both documents closed on October 13, 2011.

Following the close of the comment period on the Merced to Fresno Draft EIR/EIS, the Authority and FRA considered all substantive comments, and identified a preferred alternative to be included in the Merced to Fresno Final EIR/EIS. On April 20, 2012, the Authority and FRA released a Final EIR/EIS for the Merced to Fresno section. The Authority Board certified the Final EIR/EIS on May 3, 2012, and filed a Notice of Determination (NOD) with the State Clearinghouse on May 4, 2012. The FRA issued its Record of Decision (ROD) on September 18, 2012.

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In response to public input during the initial comment period for the Draft Fresno to Bakersfield environmental document, the Authority and FRA subsequently prepared and released a Revised Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) for the Fresno to Bakersfield HSR Project for additional public comment on July 20, 2012. The comment period for the RDEIR/SDEIS closed on October 20, 2012. The Authority and FRA will consider any additional comments received by the deadline and identify a preferred alignment alternative for the Fresno to Bakersfield section. The release of the Fresno to Bakersfield Final EIR/EIS is anticipated in the spring of 2013 after which Authority Board and FRA action on the final document and subsequent NOD/ROD is anticipated by Summer 2013. Notice to Proceed (NTP) will not be issued for any activity until issuance of the relevant NOD/ROD.

Proposers are advised that the Authority's issuance of this RFP does not constitute a commitment to undertake this Project or enter into a contract for all or any portion of this Project. It is possible that the environmental process will result in the selection of a no-build alternative for the Project or an alignment that differs from the preferred alignment identified in the Final EIR/EIS. It is further possible that additional, subsequent, or supplemental CEQA or NEPA review and/or amendments to Governmental Approvals may be required by law for the Project, which may affect the preferred alignment, required mitigation measures and conditions, permits, and/or other aspects of the Project. Nothing contained in this RFP is intended to modify, limit, or otherwise constrain the environmental process, or commit the Authority or any other entity to undertake any action with respect to the Project, including the selection of a Contractor or the design and construction of the Project.

To review the construction mitigation measures included in the Merced to Fresno Final EIR/EIS and the Fresno to Bakersfield RDEIR/SDEIS documents, Proposers may refer to the following links at the Authority's website:

- Merced to Fresno Final EIR/EIS: http://www.cahighspeedrail.ca.gov/final-eir-m-f.aspx
- Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS: http://www.cahighspeedrail.ca.gov/revised-draft-eir-f-b.aspx

The Merced to Fresno Final EIR/EIS including any updated mitigation measures is located in the Final Environmental Documents, Book 3, Part D.

5.2 Investigations of Site Conditions

Existing available geotechnical data and limited geotechnical investigations are located in the Geotechnical Baseline Report for Bidding (GBR-B), Book 3, Part E.

Preliminary hazardous materials/waste information is available in the environmental documents. The Authority is also consulting with school districts pursuant to Public Resources Code § 21151.4 regarding certain hazardous substances and hazardous air emissions, and mitigation measures to avoid hazardous materials/air emissions impacts to schools.

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5.3 Permitting

The Authority has obtained or will obtain various permits and Governmental Approvals. The Contractor will be responsible for obtaining all other permits and Governmental Approvals, including final versions of any draft approvals obtained by Authority, as further described in General Provisions, Book 2, Part B, Section 7.7 and Book 3, Part D.

5.4 Right-of-Way

The Authority intends to provide the Contractor with sufficient right-of-way to contain the limits of construction in support of the alignment and scope of work for this solicitation, as developed in the preliminary engineering drawings. The Work must be designed and constructed within the right-of-way limits indicated in these drawings unless otherwise stated in the Contract.

The Authority has begun the acquisition process for the Merced to Fresno project scope. The Authority cannot commence parcel acquisition for the Fresno to Bakersfield project scope until the NOD/ROD is obtained, but is currently undertaking preliminary activities to expedite the acquisition process. Details regarding parcel maps and numbers, parcel access dates and the updated right-of-way footprint are included in the current Right-of-Way Acquisition Plan located in Book 3.

Proposers must submit information regarding right-of-way parcels to be acquired and possession dates necessary to accommodate the Proposer's anticipated construction schedule in Form I by the date indicated in Table 1.

5.5 Utility Relocation

The Authority has commenced discussions with utility owners regarding master and cooperative agreements for the Project. The Authority has also mapped existing high risk utilities and identified conflicts with the high risk utilities, based on preliminary engineering drawings for CP 1A, CP 1B and CP 1C. Current and draft master and cooperative agreements are located in Book 3. Mapping documentation is located in Books 3 and 4.

5.6 Other Third Parties

The Authority has entered or will enter into memoranda of understanding (MOUs) and other agreements with certain State and local agencies, railroads and other third parties that may be impacted by the Project. These MOUs and other agreements are located in Book 3 or will be provided by addenda.

5.7 Design Information

Technical Memorandum 0.3, Basis for Design, is included for reference in Book 3. The document provides a definition of the major components and performance objectives of the System. The document, as originally issued, pre-dated the current environmental documents and the most

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recent business plan; therefore the document includes updates to some of the values and organizational groupings.

The Design Manual and Computer Aided Design and Drafting (CADD) Guidelines are included in Book 3.

The standard drawings and standard specifications are located in Book 4 and the directive drawings are included in Book 3.

6 Federal Requirements

This Project will receive federal funding, including ARRA funds. Therefore, the procurement documents and any Contract entered into by the Authority shall be subject to the requirements of applicable Federal law, regulations, and conditions in the Grant/Cooperative Agreement with FRA. The Authority reserves the right to modify this procurement to address any concerns, conditions, or requirements of the funding agencies, including FRA. The full Grant/Cooperative Agreement, including relevant Federal requirements, is available for review by Proposers on the Project Website at the following link:

http://www.cahighspeedrail.ca.gov/funding.aspx

Proposers are advised that Buy America requirements will apply to the Project, as set forth in 49 U.S.C. § 24405(a). Proposers will be required to sign and submit Cert. 10, Buy America Certifications, as provided in Part B of this ITP. FRA's High Speed Intercity Passenger Rail Project is intended, in part, to bolster American passenger rail expertise and resources, and the Buy America requirements reinforce this goal and aid in encouraging a domestic market in the rail sector. For this reason, Proposers should not assume that any waivers will be granted.

7 Procurement Procedures

7.1 General

The Authority will accept Proposals for the Project only from the Proposers. The Authority will not review or consider alternative proposals. The Proposer shall submit all requested information specified in this ITP. Proposals must set forth full, accurate, and complete information as required by this ITP.

The Authority will award the Contract (if at all) to the responsible Proposer offering a Proposal meeting the high standards set by the Authority and which is determined by the Authority, through evaluation based upon the criteria set forth in this ITP, to provide the best value to the Authority and to be in the best interest of the State of California.

The verbiage used in each Proposal will be interpreted and evaluated based on the level of commitment provided by Proposer. Tentative commitments will be given no consideration.

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For example, phrases such as "we may" or "we are considering" will be given no consideration in the evaluation process since they do not indicate a firm commitment.

All correspondence regarding the RFP, Alternative Technical Concepts (ATCs) and Proposal are to be in the English language. If any original documents required for the Proposal are in any other language, Proposer shall provide a certified English translation, which shall take precedence in the event of conflict with the original language.

7.2 Designated RFQ/Proposal Manager

Each Proposer has designated one (1) individual as its RFQ/Proposal Manager who is responsible for all communications during the RFQ and RFP process. The Proposer's RFQ/Proposal Manager and the Authority Point of Contact shall be the single points of contact for questions, inquiries, clarifications, and correspondence during the RFP process. Any substitution of the Proposer's RFQ/Proposal Manager for the RFP process shall be made in writing and is subject to approval by the Authority Point of Contact. If at any time during the bidding process the Proposer should need to substitute another person as its RFQ/Proposal Manager, Proposer will immediately notify the Authority of the substitution in writing using Form C, Proposer's RFQ/Proposal Manager Substitution as provided in this document.

7.3 Authority Point of Contact

California High-Speed Rail Authority
Attention: Elizabeth Stone, Contracts Office
770 L Street, Suite 800
Sacramento, CA 95814
Phone: (916) 324-1541
Fax: (916) 322-0827
Email: RFPCP01@hsr.ca.gov

7.4 Distribution of RFP and Addenda

One DVD containing a copy of the RFP Documents will be sent to each of the Proposers. Addenda will be made available to the Proposers via the Project Website identified in the transmittal of the RFP Documents. The Authority reserves the right to revise this RFP at any time before the Proposal Deadline. Such revisions, if any, will be announced by addenda to this RFP. The Authority will post all addenda on the Project Website and will send an e-mail notification as soon as each addendum is issued. Notwithstanding anything herein to the contrary, the addenda documents provided on DVDs and the change logs are provided for reference only and shall not become part of the Contract.

Proposers shall be solely responsible for monitoring the Project Website and for examining, with appropriate care and diligence, the RFP, any addenda issued, and material posted on the Project Website. Any failure of Proposer to so examine and inform itself shall be at Proposer's sole risk, and no relief for error or omission will be provided by the Authority.

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7.5 Requests for Information and Clarifications

7.5.1 Proposer Requests

Except as otherwise provided by the Authority, questions and requests for clarification regarding this RFP must be submitted in writing on the Request for Information and Clarification (Form H, provided in Part B) to the Authority Point of Contact. All questions and requests must be received by email no later than the date and time specified in Section 3.

Questions and requests for clarification regarding this RFP shall:

- Be sequentially numbered
- Identify the document (i.e., Book 2, Part B, etc.)
- Identify the relevant section number and page number (i.e., Section 1.2, page 2) or, if it is a general question, indicate so
- Not identify the Proposer's identity in the body of the question or contain proprietary or confidential information
- Indicate whether the question is a Class 1, 2, 3 or 4 question
- Each page of questions shall be marked with the Proposer's name and date of submission

As used above, "Class 1" means a potential "go/no-go" issue that, if not resolved in an acceptable fashion, may preclude the Proposer from submitting a Proposal. "Class 2" means a major issue that, if not resolved in an acceptable fashion, will significantly affect price or, taken together with the entirety of other issues, may preclude the Proposer from submitting a Proposal. "Class 3" means an issue that may affect price, or another material issue, but is not at the level of a Class 1 or Class 2 issue. "Class 4" means an issue that is minor in nature, a clarification, or a comment concerning a conflict between documents or within a document, etc.

Proposers will be limited to seventy (70) comments/questions per the released RFP, and per each addendum released modifying the RFP. Each Proposer's allotment of comments/questions will be reset upon release of each addendum, unless otherwise provided. If a question has more than one subpart, each subpart will be considered a separate question. Corrections of typographical errors, incorrect cross references or inconsistencies within or among the RFP documents will be excluded from the question limitation and shall be categorized as a "Class 4" question.

7.5.2 Authority Responses

The Authority will use the following guidelines when responding to questions and requests for clarification:

- Questions and requests for clarification from all Proposers will be reviewed by the Authority's procurement team.

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- The Authority will post responses to questions and requests for clarification in the form of a response matrix posted on the Project Website.
- The Authority will send an e-mail notification as soon as each response to questions and requests for clarification is issued.

7.6 Not Used

7.7 Rules of Contact

The rules of contact for this procurement are designed to promote a fair, unbiased, and legally defensible procurement process. "Contact" includes any face-to-face, telephone, email, or other written communication.

These rules of contact shall apply for the duration of the Project's procurement process, which began on the date the Authority issued the RFQ and ends when the Contract is awarded and the protest period has lapsed.

Proposer, Major Participants and other members of a Proposer Team may not communicate with another Proposer or members of any other Proposer Team about the Project, the RFP or the Proposals. However, a Proposer, Major Participants and other members of a Proposer Team may communicate with a Subcontractor that is on more than one (1) Proposer Team if the two (2) Proposers establish a protocol to ensure that the Subcontractor will not act as a conduit of information between the two (2) Proposers.

Contact between any Proposer, Major Participant, or other member of a Proposer Team and the Authority shall only be made through the Authority Point of Contact identified herein and the Proposer's RFQ/Proposal Manager, except for communications expressly permitted by this RFP.

The Authority will not be bound by any oral exchange, nor will the Authority be bound by any other information exchange that occurs outside of the official Project-related communications specified herein.

Except for communications expressly permitted by this RFP, no employee, member, or agent of any Proposer Team shall directly or indirectly contact any officer, administrator, employee, member, consultant or other agent of the Authority, California Department of Transportation (Caltrans), California Department of General Services (DGS), FRA, or any of the firms identified in Table 3 of this ITP as being subject to Proposer ex parte communications regarding the Project, the RFP, the Proposals or any other aspect of this procurement. Proposers shall not contact any person serving on an advisory or selection committee regarding the RFP, Proposals or Project.

The Authority may call special meetings (group meetings or one-on-one meetings) with Proposers as it deems necessary. The Authority may establish separate protocols for special meetings which will allow Proposers to communicate with Authority staff or consultants other than the Authority Point of Contact during one-on-one meetings and with other Proposers during any group meetings.

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All official Project-related communications will be either:

- Disseminated by the Authority Point of Contact in writing, or
- Posted on the Authority's Project Website.

The Authority may disqualify any Proposer or any member of a Proposer Team that engages in any contact that the Authority in its sole direction determines is not in compliance with this Section 7.7.

To the extent any Proposer intends at any time to initiate contact with the general public regarding the Project, the nature of such intended contact and the substance thereof must be approved in writing by the Authority prior to the commencement of such activities.

Contact by Proposers with third-party stakeholders during the RFP process is subject to the following parameters:

- Contact by Proposers with third parties such as municipalities or other agencies is allowed for the purposes of obtaining information on permit fees, permitting processes and schedules, or related or similar standard information.
- Contact with utilities is allowed for the purpose of obtaining cost and schedule information.
- The Authority does not warrant the accuracy of any information obtained from third parties and cautions the Proposers that reliance on any information received from third parties is at Proposer's risk.

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Table 3: Firms Subject to Proposer Ex Parte Communications Prohibitions During Solicitation

Firms on PMT	Firms on Fresno to Bakersfield RC
Parsons Brinckerhoff	URS
The Solis Group	Hatch Mott MacDonald
Pat Padilla and Associates	Arup
Cordoba Corporation	Anchor Engineering
SC Solutions, Inc.	Applied Earthworks
Turner Engineering Corporation	ATS Consulting
Cambridge Systematics	Bender Rosenthal Inc.
All Transit Consultants LLC	CSU, Stanislaus (Brian Cypher, PhD)
Simpson Gumpertz & Heger	Gene Tackett Consulting
Paragon Partners	J.R. Conkey & Associates
Balfour Beatty	JRP Historical Consulting
Technical Advisory	Mara Feeney & Associates
Spectrum Consult Leslie Rifkin	Minner, Stinnett, Koo & Agbayani
The Next Generation	Paleo Resource Consultants
Julia Sankey	Sierra Testing Labs
Gil Mallery	Signet Testing Labs
David Dubbink	The Forhan Company
John Diener	VBN Architects
Firms on Merced to Fresno RC	Villines Group
AECOM	William Kanemoto & Associates
Bender Rosenthal Inc.	Roberts Environmental & Conservation Planning, LLC
CH2MHill	Vibro Acoustics Consultants
CirclePoint	**Firms on PMOC**
Critigen	TY Lin
INOCSA	Auriga Corporation
EDAW	**Other Authority Consultants**
HMMH	KPMG
Parus	Nossaman LLP
Parikh	Ogilvy
Lynch	Valerie Martinez and Associates (VMA)
Psomas	**Key Stakeholder Firms**
O'Dell Engineering	Zimmer Gunsul Frasca (ZGF)
Cross Spectrum Acoustics	

7.8 Pre-Proposal Meetings

7.8.1 Mandatory Meetings

Mandatory meetings are listed as follows and will occur as indicated in Table 1:

- Department of Labor Equal Employment Opportunity and Affirmative Action Seminar
- Authority Small Business Program Seminar
- Authority Sponsored Small Business Outreach Meeting
- Other meetings as necessary

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The Authority shall notify all Proposers in writing of specific dates for the aforementioned meetings. Failure to attend a mandatory meeting may result in disqualification of the Proposer.

7.8.2 One-on-One Meetings

The Authority shall conduct one-on-one meetings with each Proposer on dates designated by the Authority in writing to the Proposers, to discuss issues and clarifications regarding the RFP and Proposer's ATCs. The Authority reserves the right to disclose to all Proposers any issues raised during the one-on-one meetings, except to the extent that the Authority determines, in its sole discretion, such disclosure would impair the confidentiality of an ATC or would reveal a Proposer's confidential business strategies. Participation by the Proposers at such meetings shall be mandatory.

The one-on-one meetings are subject to the following:

- The meetings are intended to provide Proposers with a better understanding of the RFP.
- The Authority will not discuss with any Proposer any Proposal or ATC other than its own.
- Proposers shall not seek to obtain commitments from the Authority in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer.
- No aspect of these meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers, and no part of the evaluation of Proposals will be based on the conduct or discussions that occur during these meetings.
- Persons attending the one-on-one meetings will be required to sign an acknowledgment of the foregoing rules and to identify all participants from Proposer.

7.8.3 Questions and Responses During One-on-One Meetings

During one-on-one meetings, Proposers may ask questions and the Authority may provide responses. However, any responses provided by the Authority during one-on-one meetings may not be relied upon unless questions were submitted in writing and the Authority has provided written responses in accordance with Section 7.5. The questions and the Authority's responses will be provided in writing to all Proposers, except to the extent such questions are deemed by the Authority to contain confidential or proprietary information relating to a particular Proposer's Proposal or ATCs.

7.8.4 Statements at Meetings

Nothing stated at any pre-proposal meeting or included in a written record or summary of a meeting will modify the ITP or any other part of the RFP unless it is incorporated in an Addendum issued pursuant to Section 7.4.

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7.9 Confidentiality; Ownership of Proposer Work Product

All written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to the Authority during this procurement process, including as part of a response to this RFP are, upon their receipt by the Authority, the property of the Authority and are subject to the Open Government Laws. Except as otherwise specifically provided herein, with respect to Escrowed Proposal Documents and Price Proposals, none of the aforementioned materials will be returned to the Proposers. Any materials that are delivered to FRA are subject to the Freedom of Information Act (FOIA) or other federal open records laws. Proposers should familiarize themselves with the Open Government Laws, including the Public Records Act and FOIA. In no event shall the State, the Authority, FRA, or any of their agents, representatives, consultants, directors, officers, or employees be liable to a Proposer or Proposer Team member for the disclosure of all or a portion of a Proposal submitted in response to this RFP or other information provided in connection with this procurement.

If a Proposer has special concerns about information that it desires to make available to the Authority, but which it believes constitutes a trade secret, proprietary information, or other information excluded from disclosure, such Proposer should specifically and conspicuously designate that information as “TRADE SECRET” or “CONFIDENTIAL” in its filed response to this RFP. Blanket, all-inclusive identifications by designation of whole pages or sections as containing proprietary information, trade secrets, or confidential commercial or financial information shall not be permitted and shall be deemed invalid. The specific proprietary information, trade secrets, or confidential commercial and financial information must be clearly identified as such. Under no circumstances, however, will the Authority be responsible or liable to the Proposer or any other party for the disclosure of any such labeled materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of the Authority or its officers, employees, contractors, or consultants.

The Authority will not advise a Proposer as to the nature or content of documents entitled to protection from disclosure under the Public Records Act, FOIA, U.S. Department of Transportation (USDOT) FOIA regulations (49 C.F.R. § 7.17), or other applicable laws and implementing regulations, as to the interpretation of the Public Records Act or FOIA, or as to the definition of trade secret. The Proposer shall be solely responsible for all determinations made by it under applicable laws, and for clearly and prominently marking each and every page or sheet of materials with "TRADE SECRET" or "CONFIDENTIAL" as it determines to be appropriate. Each Proposer is advised to contact its own legal counsel concerning the Public Records Act, FOIA, and other applicable laws, and their application to the Proposer's own circumstances.

In the event of litigation concerning the disclosure of any material submitted by the Proposer, the Authority’s sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court; and the Proposer shall be responsible for otherwise prosecuting or

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defending any action concerning the materials at its sole expense and risk. The Proposer shall reimburse the Authority for any expenses it incurs in connection with any such litigation.

7.10 Liability, Insurance, and Performance Security

The Contract will require the Contractor to assume liabilities, to provide performance and payment bonds and insurance coverage, and to indemnify and defend the Authority against third-party claims as specified in the Contract. The Authority will have the benefit of tort liability limitations to the extent provided by State law. Neither the State nor the Authority intends to waive their respective sovereign immunity protections under State law. Specific provisions concerning performance and payment bonds, guarantees, insurance, and indemnity can be found in Sections 12 and 28 of the General Provisions (Book 2, Part B) and Section 10 of the Special Provisions (Book 2, Part A).

7.11 Small Business Utilization/On-the-Job Training, Equal Employment Opportunity, and Nondiscrimination

7.11.1 Small Business Utilization

Pursuant to the Authority's Small Business Policy established in accordance with the Title VI of the Civil Rights Act of 1964 and related statutes, Executive Order S-02-06 and Best Practices of Title VI "Participation by Disadvantaged Business Enterprises in the Department of Transportation Assistance Programs," Small Businesses, including Disadvantaged Business Enterprises (DBEs), Disabled Veterans Business Enterprises (DVBEs), and Microbusinesses (MBs) (collectively, "Small Businesses" or "SBs") are to be provided fair and equitable access and the maximum practicable opportunities to participate in all phases of the Authority's contracting process.

The Authority is committed to implement a Small and Disadvantaged Business Enterprise Program consistent with the objectives set forth under Title VI, and Executive Order S-02-06.

For this Project, the Authority has established an overall project Small Business utilization goal of 30 percent as specified in the Authority's Small and Disadvantaged Business Enterprise Program.

The Proposal shall include the Proposer's Overall Project Small Business Goal Commitment Affidavit (Cert. 14, provided in Part B), confirming the Proposer's commitment to aggressively exercise Good Faith Efforts to the satisfaction of the Authority to meet or exceed the overall project Small Business goal of 30 percent. The Proposer is advised to review the Authority's Small and Disadvantaged Business Enterprise Program for further guidance.

More detailed information regarding the Authority's Small and Disadvantaged Business Enterprise Program is located in General Provisions, Section 47 and Book 3.

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7.11.2 Federal On-the-Job Training Participation Goal

This Project is subject to Federal On-the-Job (OJT) Training Participation provisions as set forth in 41 C.F.R. Part 60 § 1-999 and Exec. Order No. 11246, unless otherwise noted. The selected Contractor shall be prepared to submit its OJT goal to the Authority for approval, within 60 days of NTP, as otherwise noted in the Special Provisions.

7.11.3 Labor Compliance

The Proposers are advised that the Contractor must comply with all applicable California Labor Code sections, together with all applicable regulations, and the applicable Department of Fair Employment and Housing regulations, applicable Proposer Nondiscrimination and Compliance regulations.

This Project is also subject to U.S. Department of Labor, Contract Compliance Provisions as set forth in 41 C.F.R. Part 60 and Exec. Order No. 11246, unless otherwise noted. The selected Contractor shall comply with the Contract Compliance provisions set forth in the Technical Assistance Guide for Federal Construction Contractors and for a Mega Project.

The Contractor must also comply with all other applicable federal labor requirements, including those set forth in Book 2, Part B, General Provisions, Sections 46.14-16. Copies of the prevailing rate of per diem wages are on file at Authority's offices, and they will be made available to any interested party on request.

Proposers are advised that, subject to FRA approval, the Authority intends to develop a Community Benefits Agreement consistent with the Community Benefits Policy adopted by the CHSRA Board at its December 6, 2012 meeting with which the Contractor will be required to comply.

7.11.4 Equal Employment Opportunity and Nondiscrimination

The Proposer will be required to follow State and Federal Equal Employment Opportunity and Nondiscrimination laws and regulations.

The Proposer shall not discriminate against any employee or applicant for employment, or harass or allow harassment of any employee because of race, religion, color, ethnicity, gender, disability, sex, age or national origin. The Proposer shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, ethnicity, gender, disability, sex, age or national origin. Such actions shall include, but are not limited to, the following:

- Employment
- Upgrading
- Demotion or transfer
- Recruitment or recruitment advertising
- Layoff or termination

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- Rates of pay or other forms of compensation
- Selection for training, including apprenticeship

The Proposers are also advised that the Contractor must comply with Section 1735 of the California Labor Code, which reads as follows:

> A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

Nondiscrimination requirements are included in Book 2, Part B, General Provisions, Section 46.7.

7.12 Payment for Work Product

The Authority will make a payment for work product of up to $2 million to each Proposer who delivers an executed Proposal Agreement in the form provided as Form L to this ITP prior to either of the following events, whichever occurs first:

- The Proposal Agreement Submittal Deadline provided in Table 1
- Cancelation of this RFP

Any such payment shall be subject to the terms and conditions contained in the Proposal Agreement. This offer of payment entitles the Authority to use work product and ideas contained in any unsuccessful Proposal. The Authority acknowledges that the use of any of the work product by the Authority or the successful Proposer is at the sole risk and discretion of the Authority and the successful Proposer, and shall in no way be deemed to confer liability on the unsuccessful Proposer. All parties acknowledge that the due date for payment for work product will occur after the execution date of the Contract or cancelation of this RFP.

7.13 Protest Procedures

This section sets forth the exclusive protest remedies available with respect to this RFP. Each Proposer, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless wholly arbitrary. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the Proposers.

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7.13.1 Protest Regarding the RFP Documents or the Procurement Process

Prior to the deadline for submission of Proposals, a Proposer may submit a protest to the Authority regarding the procurement process or on items in the RFP or Contract Documents. Protests regarding this RFP shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the Authority Point of Contact in an effort to remove the grounds for protest. Such protests shall be filed in writing to the Protest Official with a copy to the Authority Point of Contact. The Protest Official for this RFP is:

Karen Greene Ross
Assistant Chief Counsel
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
E-mail: kgreeneross@hsr.ca.gov

Protests regarding this RFP shall completely and succinctly state the grounds for protest, and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury. Protests shall be filed as soon as the basis for protest is known to the Proposer, but in no event later than fourteen (14) days before the Proposal Deadline. The protesting Proposer shall have the burden of proving its protest by clear and convincing evidence.

There will be no hearing held on the protest. The Protest Official or his/her designee will decide the protest on the basis of written submissions. The decision shall be final and conclusive and not subject to legal challenge unless wholly arbitrary. The Protest Official or his/her designee will issue a written decision within five (5) Working Days regarding any protest to each Proposer. If necessary to address the issues raised in a protest, the Authority may make appropriate revisions to the RFP Documents by issuing addenda.

Notwithstanding the existence of a protest, the Authority may continue the procurement process or any portion thereof.

The failure of a Proposer to file a basis for a protest regarding the RFP Documents within the applicable period shall preclude consideration of that ground in any protest of a selection or qualification unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests. The Authority may extend the Proposal Deadline, if the Authority deems an extension necessary for any reason. In no event shall the Authority be liable for payment of the protesting Proposer's costs or attorneys' fees. The Authority shall not be liable for any damages to the Proposer filing the protest or to any participant in the protest, on any basis, express or implied.

7.13.2 Protest after Submission of Proposals

Protests based upon alleged improprieties in the procurement or the procurement process which can only be apparent after submission of Proposals must be filed within five (5) Working Days after the public announcement of the Contract award recommendation. The Proposer

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filing the protest shall concurrently file a copy of the protest with the other Proposers whose addresses may be obtained from the Authority. The notice of protest shall specifically state the grounds for the protest.

Within ten (10) Working Days after delivery of the notice of protest to the Authority, the protesting Proposer shall file a detailed statement of the grounds, legal authority, and facts, including all documents and evidentiary statements in support of the protest. The protesting Proposer shall concurrently file a copy of the detailed statement with the other Proposers. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Proposer shall have the burden of proving its protest by clear and convincing evidence. Failure to file a protest within the applicable period shall constitute a waiver of the right to protest based upon alleged improprieties in the procurement or the procurement process other than any protest based on facts not reasonably ascertainable as of such date.

Other Proposers may file statements in support of or in opposition to the protest within five (5) Working Days of the filing of the detailed statement of protest. The Authority will promptly forward copies of any such statements to the protesting Proposer. Any evidentiary statements shall be submitted under penalty of perjury. The Authority may also, at its option, submit a statement regarding the protest.

In the event of a protest of the Authority's contract award recommendation, the Protest Official or his/her designee will only consider, based on a preponderance of the evidence, whether the Authority's determination is arbitrary, capricious or contrary to law, and will either affirm or deny the Authority's original determination. The Protest Official or his/her designee will issue a written decision regarding the protest within twenty (20) Working Days after the filing of the detailed statement of protest. The decision shall be final and conclusive and not subject to legal challenge unless wholly arbitrary. Except as required by law or as determined by the Protest Official, in his/her sole discretion, to be necessary for the protection of the public interest or an express, legally recognized interest of a Proposer, no evidentiary hearing or oral argument shall be provided.

In no event shall the Authority be liable for payment of costs or attorneys' fees incurred by the protester or other Proposers. The Authority shall not be liable for damages to the Proposer filing the protest or to any participant in the protest.

7.14 Authority's Reserved Rights

The Authority reserves to itself all rights available to it under applicable law, including without limitation, the following, with or without cause and with or without notice:

- Modify, withdraw or cancel this RFP in whole or in part at any time prior to the execution of the Contract by the Authority, without incurring any costs obligations or liabilities
- Issue a new RFQ or RFP after withdrawal of this RFP
- Accept or reject any and all submittals, responses, and Proposals received at any time

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- Modify dates set or projected in this RFP
- Terminate evaluations of Proposals received at any time
- Require confirmation of information furnished by a Proposer, require additional information from a Proposer concerning its Proposal, and require additional evidence of qualifications to perform the work described in this RFP
- Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFP
- Waive any weaknesses, informalities, irregularities, or omissions in a Proposal, permit corrections, and seek and receive clarifications to a Proposal
- Accept other than the lowest Price Proposal
- Issue addenda, supplements, and modifications to this RFP
- Disqualify any Proposer that changes its Proposal without Authority approval
- Modify the RFP Process (with appropriate notice to Proposers)
- Establish a competitive range, hold discussions and/or request BAFOs
- Approve or disapprove changes to the Proposer Teams
- Revise and modify, at any time before the Proposal Deadline, the factors it will consider in evaluating Proposals and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the Authority shall circulate an addendum to all Proposers setting forth the changes to the evaluation criteria or methodology. The Authority may extend the Proposal Deadline if such changes are deemed by Authority, in its sole discretion, to be material and substantive
- Hold meetings, conduct discussions and communicate with one or more of the Proposers responding to this RFP to seek an improved understanding and evaluation of the Proposals
- Add or delete Work
- Negotiate with one or more Proposers concerning its Proposal and/or the Contract
- Suspend and/or terminate negotiations at any time, elect not to commence negotiations with any responding Proposer and engage in negotiations with other than the highest ranked Proposer
- Hold the Proposals and Proposal Bonds under consideration for a maximum of three-hundred-sixty (360) days after the Proposal Deadline or deadline to submit BAFOs until Contract execution unless there is mutual agreement to extend the three-hundred-sixty (360) day duration
- Retain ownership of all materials submitted in hard-copy and/or electronic format
- Exercise any other right reserved or afforded to the Authority under this RFP

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- Proposals received become the property of the State of California, California High-Speed Rail Authority.

This RFP does not commit the Authority to enter into a contract or proceed with the procurement described herein. The Authority assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties responding to this RFP. All such costs shall be borne solely by the Proposer. In no event shall the Authority be bound by, or liable for, any obligations with respect to the Project until such time (if at all) as a contract, in form and substance satisfactory to the Authority, has been authorized and executed by the Authority and, then, only to the extent set forth herein. The Authority makes no representation that the contract will be awarded based on the requirements of this RFP. Proposers are advised that the Authority may modify the procurement documents at any time.

7.15 General Requirements

The following section describes requirements that all Proposers must satisfy in submitting Proposals. Failure of any Proposer to meet these requirements may result in rejection of its Proposal.

7.15.1 Improper Conduct

7.15.1.1 Prohibited Activities

If the Proposer, or anyone representing the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe, or loan of any sort to the Authority, including its agents or anyone representing the Authority at any time during this procurement process, the Authority shall immediately disqualify the Proposer, the Proposer shall forfeit its Proposal Bond, the Proposer shall not be entitled to any payment otherwise available under Section 7.12, and the Authority may sue the Proposer for damages.

7.15.1.2 Non-Collusion

Neither the Proposer nor any Major Participant shall undertake any of the prohibited activities identified in the Non-Collusion Affidavit (Cert. 4, provided in Part B).

7.15.1.3 Organizational Conflicts of Interest

The Authority has adopted an Organizational Conflicts of Interest Policy (the "Policy") that will apply to this procurement and the resulting Contract, in addition to the Authority's Conflict of Interest Code and other applicable requirements. The Policy can be found on the Authority's website at:

http://www.cahighspeedrail.ca.gov/assets/0/152/281/84d5b5b0-c0a8-4c09-9d06-45a1ccc1136c.pdf

Proposers are advised to carefully review the Policy, and to have their team members review the Policy, since it includes provisions that:

- Preclude certain firms from participation in this procurement, and

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- Affect the ability of the Contractor, its Subcontractors, and their Affiliates (as defined in the Policy) to enter into business relationships with Authority consultants.

Failure to comply with the Policy in any respect, including the failure to disclose any actual, perceived or potential organizational conflict of interest, may result in serious consequences as described in Section V(2) of the Policy.

The Authority will only award a Contract to a Proposer whose objectivity is not impaired because of any past, present, or planned organizational conflict of interest, financial or otherwise. If any such conflict of interest is found to exist, the Authority may:

- Disqualify the Proposer, or
- Determine that it is otherwise in the best interest of the Authority to contract with such Proposer, and include appropriate provisions to mitigate or avoid such conflict in the Contract awarded.

Each member of the Proposer Team shall submit a separate Organizational Conflicts of Interest Affidavit, (Cert. 5) certifying that the Proposer Team member is aware of the Authority's Conflict of Interest Policy and the Proposer Team member's commitment to comply with said policy. Each Proposer shall fully disclose organizational conflicts of interest in its Proposal, using Organizational Conflicts of Interest Disclosure Statement (Form J) as provided in Part B of this ITP. The refusal to provide the required disclosure, or any additional information required, may result in disqualification of the Proposer. If nondisclosure or misrepresentation is discovered after award of the Contract through this procurement process, the resulting Contract may be terminated.

By submitting its Proposal, each Proposer agrees that, if an organizational conflict of interest is discovered following submittal of the Proposal, the Proposer will make an immediate and full written disclosure to the Authority that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts.

7.15.2 Licensing Requirements

The Contractor and Lead Engineering Firm shall be qualified to do business in the State of California and shall be properly licensed in accordance with the laws of the State of California at the time of the award.

In accordance with Public Contract Code Section 3300, the Authority has determined that the Contractor shall possess a valid Class A (General) License and other specialty licenses applicable to the Project at the time of execution.

Although a California contractor's license is not required as a condition to acceptance of the Proposal by the Authority, the Proposal must include information regarding California contractor's licenses held by the Contractor and its joint venture members, and regarding California professional licenses held by the Lead Engineering Firm's Key Personnel.

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7.15.3 Team Continuity and Changes to Organizational Structure

Proposers are advised that, in order for a Proposal to be considered responsive, unless otherwise approved in writing by Authority, Key Personnel, Major Participants, and Guarantors identified in the SOQ may not at any time be removed, replaced or augmented.

If there are any additions, deletions or other changes to a Proposer's team from those shown in the SOQ, the Proposer shall obtain written approval of the change from Authority prior to submitting its Proposal. Requests for removals, replacements, and additions must be submitted in writing to the Authority Point of Contact identified in Section 7.3 by the deadline specified in Section 3. To be considered for approval, the Proposer must submit a written request documenting how the proposed removal, replacement, or addition will be equally or better qualified than the Key Personnel, Major Participant, or Guarantor provided by the Proposer when it submitted its SOQ. Requests shall include supporting documentation, including legal and financial data as well as any other information necessary for qualitative evaluation, and consistent with the type of information that Proposers were required to submit in response to the RFQ.

If approved by Authority, the Proposer shall submit a copy of Authority's approval letter with the supporting information; provided, however, that Authority is under no obligation to approve such requests and may do so within its sole discretion.

7.15.4 Subcontractors

7.15.4.1 Non-Exclusiveness of Subcontractors

Subcontractors are not precluded from being on more than one Proposer's team, except that the Contractor, all Major Participants, and the Lead Engineering Firm shall only participate on one Proposer's team.

There is also no prohibition on Subcontractors being exclusive to one Proposer; however, exclusivity is discouraged for SB/DBE/DVBE/MB Subcontractors.

7.15.4.2 Listing of Subcontractors

The Subletting and Subcontracting Fair Practices Act, sections 4100 et seq. of the California Public Contract Code (the "Subcontracting Act") requires persons bidding on public works contracts to identify certain Subcontractors as part of their Proposals. Section 4109 of the Subcontracting Act permits a contractor to enter into subcontracts at a later date even though no subcontractor was designated in its Proposal, in the event of public necessity. Proposers are encouraged to review the provisions of the Subcontracting Act related to the imposition of penalties for a failure to observe its provisions by using unauthorized Subcontractors or by making unauthorized substitutions as such provisions will apply to this RFP, the Work and the Contract.

The Authority recognizes that, due to the nature of a design-build contract, certain Subcontractors can only be selected by the Contractor after a certain amount of the design work is completed. As a result, the Authority's Board has adopted a resolution determining that

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public necessity requires proposers for each design-build contract (including the Contract) be allowed to postpone identification of subcontractors who would otherwise be required to be identified under the Subcontracting Act at the time of bid submission, subject to the prime contractor's compliance with the procedure set forth in the referenced Board resolution and summarized below.

In accordance with the Authority's Subcontractor Listing Policy for Design Build Projects, Subcontractors not identified in the Proposals and whose respective Subcontract values are estimated to exceed one-half of one percent (0.5%) of the difference between (a) the Total Contract Price and (b) the amount bid for design services shall be selected through a fair and open competitive selection process, which procedure shall be subject to the review and approval of the Authority. Such procedure shall include times for each step of the process and shall provide that award of any Subcontract will go to the lowest responsive bid by a responsible Proposer approved by the Authority (which approval shall not be unreasonably withheld). The Contractor shall promptly notify the Authority in writing of the identity of each Subcontractor selected.

7.16 Alternative Technical Concepts

This Section sets forth a process for early review of Alternative Technical Concepts ("ATCs"). This process is intended to allow Proposers to incorporate innovation and creativity into their Proposals, in turn allowing the Authority to:

- Consider Proposer ATCs in making the selection decision
- Avoid delays and potential conflicts in the design associated with deferring reviews of ATCs to the post-award period, and, ultimately
- To obtain the best value for the public

If a Proposer is unsure whether a concept is consistent with the requirements of the RFP or if that concept would be considered an ATC by the Authority, the Authority recommends that the Proposer submit such concept for review as an ATC.

Any ATC that has been approved or conditionally approved may be included in the Proposal, subject to the conditions set forth herein.

7.16.1 Submittal and Review of ATCs

The Proposer may submit ATCs for review to the Authority until the deadline identified in Section 3. All ATCs shall be submitted in writing to the Authority Point of Contact, with a cover letter clearly identifying the submittal as a request for review of an ATC under this procurement. If the Proposer does not clearly designate its submittal as an ATC, the submission will not be treated as an ATC by the Authority.

The Authority will review each ATC submitted. If the Authority needs more information to determine whether or not the ATC will be approved or not approved, the Authority will submit

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written questions to the Proposer and/or request a one-on-one meeting in order to better understand the details of the ATC. The Authority may conditionally approve an ATC based on required revisions to a portion or portions of the ATC.

If an ATC is not approved or conditionally approved, and the Proposer feels that the non-approval or the conditions for approval were due to an incorrect conclusion on the part of the Authority, it may re-submit the ATC for one (1) additional review. If a re-submittal is made, it shall be accompanied by a cover letter that clearly (i) identifies such submission as an ATC submitted for an additional review and (ii) summarizes the clarifications to assist the Authority in its re-evaluation of the ATC.

7.16.2 Contents of the ATC Submittal

Each ATC submittal shall include six (6) copies and shall include each of the following:

- **Description** – A detailed description and schematic drawings of the configuration of the ATC or other appropriate descriptive information including, if appropriate, product details (e.g., specifications, construction tolerances, special provisions, etc.)
- **Usage** – Where and how the ATC would be used on the Project
- **Schedule Revisions** – Any change in the time period necessary to design and construct the Project resulting from implementing the ATC, including, as appropriate, a description of method and commitments
- **Cost Increases or Decreases** – A detailed estimate of the cost increases or decreases that would result should the ATC be approved and implemented, including life cycle cost impacts for repair, maintenance, and operations
- **Deviations** – References to any requirements of the RFP Documents or to any elements of the Contract Documents that are inconsistent with the proposed ATC, the specific proposed changes to such provisions in the Contract Documents, an explanation of the nature of the proposed deviation, and a request for approval of such deviations or a determination that the ATC is consistent with the requirements of the RFP Documents
- **Analysis** – An analysis justifying the ATC and why the deviations from the requirements of the RFP Documents should be allowed; a description of how the ATC is equal or better in quality and performance than the requirements of the RFP Documents; and a description of other projects where the ATC has been used under similar circumstances and the success of such usage. Include the name of other project owner(s) including contact name, phone number, and email address who can confirm the details of usage.
- **Impacts** – Discussion of potential impacts of the ATC on vehicular or rail traffic, rail operations, community impact, environmental, and safety and whether such impacts are consistent with the environmental analysis disclosed in the Final Environmental Documents for the applicable section. Discussion of whether and to what extent additional environmental compliance under CEQA and NEPA would be required. Include

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construction plan and equipment layout showing impacts. Also address if there are any special maintenance requirements associated with the ATC.

- **Right-of-Way** – If and what additional right-of-way will be required to implement the ATC. Proposers are advised that they shall (i) not be entitled to any additional time or money as a result of site conditions (i.e., hazardous materials, differing site conditions, geotechnical issues, Utilities, etc.) on such additional right-of-way; and (ii) not be entitled to any additional time or money as a result of any delay, inability, or cost associated with the acquisition of such right-of-way
- **Risks** – A description of added risks to the Authority and other Persons associated with implementing the ATC

7.16.3 Determination by the Authority

The Authority will make one of the following determinations with respect to each properly submitted ATC:

- The ATC is approved
- The ATC is not approved
- The ATC is conditionally approved, (i.e., the ATC is not approved in its present form or limited to a specific location/application, but is approved subject to satisfaction, in the Authority's sole judgment, of specified conditions)
- The submittal does not qualify as an ATC but may be included in the Proposal without an ATC (i.e., the concept complies with the RFP requirements)
- The submittal does not qualify as an ATC and may not be included in the Proposal

Each Proposer, by submittal of its Proposal, acknowledges that the opportunity to submit ATCs was offered to all Proposers, and waives any right to object to or protest the Authority's determinations regarding acceptability of ATCs. The Authority's rejection or conditional approval of an ATC will not entitle Proposer to an extension of the Proposal Deadline or the date that the ATCs are due; provided, however, that the foregoing shall not limit the Authority's absolute and sole right to modify the Proposal Deadline or any other date in connection with this procurement.

Approval of an ATC will constitute a change in the specific requirements of the Contract Documents associated with the approved ATC for that specific Proposer. Should the Contractor be unable to obtain required approvals for any ATC incorporated into the Contract Documents, or if the concept otherwise proves to be infeasible, the Contractor will be required to conform to the original RFP requirements, as such requirements may be amended by addenda.

7.16.4 Incorporating into Proposal

Subject to Section 7.16.3, a Proposer may incorporate one or more pre-approved and/or conditionally approved ATCs into its Proposal. Copies of the Authority's ATC approval letters for each incorporated ATC shall be included in the Proposal. Proposals with or without ATCs

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will be evaluated against the same technical evaluation factors. Proposals incorporating ATCs, including an ATC that provides technical enhancements, may or may not receive a higher technical rating.

The Price Proposal shall reflect any incorporated ATCs. Except for incorporating approved ATCs, the Proposal may not otherwise contain exceptions to or deviations from the requirements of the RFP Documents.

Following award of the Contract, the ATCs that were approved or conditionally approved by the Authority and incorporated in the Proposal by the successful Proposer shall be included in the Contract Documents. If the Authority responded to any ATC by stating that it would be acceptable if certain conditions were met, those conditions will become part of the Contract Documents. Notwithstanding anything to the contrary herein, if Contractor does not comply with one or more Authority conditions of approval for an ATC or Contractor fails to obtain a required third party approval for an ATC, Contractor will be required to comply with the original requirements of the RFP without additional cost or extension of time as set forth in the Contract.

Prior to execution of the Contract, ATCs from any unsuccessful Proposers that submitted agreements to receive compensation for work product as described in Section 7.12 and Form L may, in the Authority's sole discretion, be presented to the selected Proposer for possible incorporation in the Contract Documents during negotiation of the final terms of the Contract. In addition, following execution of the Contract, ATCs from unsuccessful Proposers may, in the Authority's sole discretion, be presented to the Contractor as an Authority Change in accordance with the "Changes" clause in Book 2, Part B, General Provisions, Section 17.

7.16.5 Confidentiality of ATCs

Except as provided in Section 7.16.4, ATCs properly submitted by a Proposer and all subsequent communications regarding its ATCs will be considered confidential subject to the Open Government Laws, until the Contract is awarded or the procurement is canceled as specified herein; provided, however, that, if the Authority, in its sole discretion, determines, based on a proposed ATC or otherwise, that the RFP contains an error, inconsistency, ambiguity or mistake, the Authority reserves the right to modify the RFP to correct the error, inconsistency, ambiguity or mistake, regardless of any impact on a proposed ATC.

7.16.6 Design Variances and ATCs

Contractor may rely on the Design Variances as preliminarily approved and included in Book 3. New Design Variances required as part of ATCs shall be subject to Authority review and preliminary approval as delineated in the Authority's Design Variance Guidelines and CHSTP Design Criteria in Book 3. Proposers shall therefore prepare, submit, and ensure approval of all new Design Variances to be included as part of ATCs. Design Variances are location and condition specific. New Design Variances required as part of ATCs shall be equal or better in performance and safety.

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8 Selection Procedures & Requirements

8.1 Two-Step Best Value Selection Process

The Authority is using a two-step best value procurement process to select a Contractor to deliver the Project. The Authority's goal is to create a fair and uniform basis for the evaluation of the Proposals in compliance with all applicable legal requirements governing this procurement. The procurement is being conducted in accordance with the Authority's contracting power, as described in California Public Utilities Code § 185036(a).

The Proposal evaluation process will include review of each Proposal for responsiveness and pass/fail criteria, a separate evaluation of the Technical Proposal and the Price Proposal, a ranking determination and a best value determination. The process may, at the Authority's sole discretion, include a request for proposal revisions and Best and Final Offers (BAFOs), and may include a limited negotiations phase with the selected Proposer(s). The steps in the process and evaluation criteria are set forth in Section 9. The evaluation and selection process is subject to modification by the Authority, in its sole discretion.

8.1.1 RFQ–First Step Evaluation Process

The RFQ was the first step of the selection process. The RFQ solicited information in the form of SOQs, which were evaluated to determine the qualified Offerors with the capabilities to successfully deliver the Project. After evaluating the SOQs based upon the evaluation criteria described in the RFQ, the Authority selected the Shortlisted Offerors eligible to receive this RFP.

8.1.2 RFP–Second Step Evaluation Process

This RFP is the second step of the selection process. In this second step, the Authority's role includes all of the following:

- Receive and respond to requests for information and clarifications, as described in Section 7.4
- Receive and evaluate the Technical Proposals according to the criteria contained in the RFP Documents
- Open and evaluate the Price Proposals
- Calculate a Total Proposal Score by combining the weighted scores for the Technical Proposals (30 percent weighting) and Price Proposals (70 percent weighting)
- Commence limited negotiations with the Apparent Best Value Proposer or recommend award of the Contract as set forth in the RFP, as determined by the Authority, at its sole discretion
- Recommend award of a contract to the Apparent Best Value Proposer following negotiations or proceed to negotiations with the next highest ranked Proposer

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8.2 Submittal Requirements

8.2.1 Compliant Proposal

The Proposal shall document the Proposer's technical approach to Project delivery, capability to deliver the Project, and proposed Project delivery price and pricing assumptions in light of the evaluation criteria.

The Proposal must contain sufficient detailed information to enable the Authority to make an adequate evaluation of the Proposer's understanding of the Project's scope, cost, and implementation challenges, the likelihood that the Proposer's technical approach will achieve the Project goals, and the Proposer's technical, organizational, and financial capability to perform in the design-build role for the Project and to complete the Project successfully. The Authority may ask Proposers individually or collectively for additional information or clarification regarding their Proposals.

Proposals which do not demonstrate complete compliance with the requirements of the following sections may be rejected by the Authority and result in disqualification of the Proposer(s). Documents shall be presented in the order specified in Section 8.2.7, Mandatory Documents for inclusion in the Proposal. All items requested in Section 8.2.7 are mandatory requirements.

8.2.2 General Requirements

The Proposal shall be submitted on the forms furnished, or copies thereof; shall be completed in ink or typewritten; and shall be manually signed. If erasures or other changes appear on the forms, each erasure or change shall be initialed and dated by the person signing the response. Scanned or faxed responses are not authorized. Electronic files submitted via e-mail will not be accepted. Proposers shall submit one (1) original hardcopy of the Technical Proposal, with ten (10) additional printed copies, and one (1) electronic copy in PDF format on DVD-R Disc . Three (3) hardcopies of the Price Proposal, and one (1) electronic copy in PDF format on CD-ROM disk, shall be provided in a separately sealed container.

The Price Proposal including all financial data required under Section 9.2.3 shall be submitted in a sealed container separate from the Technical Proposal and must be labeled accordingly. The Contract Price (Form F) must be accordingly distinguished in a separately sealed envelope within the Price Proposal and clearly marked as "Contract Price."

The Proposal shall comply with the following requirements:

- Shall contain all of the information required under Section 8.2.7 and be in the order as set forth in Form B, Proposal Checklist.
- The Technical Proposal, including the mandatory documents described in Section 8.2.7 and the information requested relating to the Technical Evaluation Criteria described in Section 9.4, shall be in 3-ring binders not to exceed two (2) inches in width.
- Documents shall be prepared in single-spaced type, 12 point font, on 8-1/2" x 11" sheets printed double-sided. Drawings or charts may be submitted on 11"x 17" and/or 8 ½ x 11"

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white paper. A page is considered to be a single side of an 8-1/2″ x 11″ or 11″ x 17″ sheet, as applicable.

- Pages shall be numbered at the bottom to show the page numbers and total number of pages in the response (e.g., Page 1 of 10, Page 2 of 10, etc.).
- Proposers shall present information clearly and concisely. Documentation that is illegible may be rejected and may lead to disqualification. Text for tables and graphics may be smaller than 12 point font, but must be readable. Text that is too small to be readable will not be evaluated as part of the submittal.
- The information must be easily reproducible by normal black and white photocopying machines. Color photographs, renderings, and brochures must be adequately bound and suitably protected for handling and circulation during review.
- The Technical Proposal shall be no more than 100 pages in length together (exclusive of resumes, information required by Section 8.2.7, Mandatory Documents for Inclusion in the Proposal, including but, not limited to schedules required by Section 9.3.1; "draft," "example," and "sample" plans requested; structural design solutions required by Section 9.3.4; the Executive Summary; and sketches, renderings, and drawings submitted as part of an approved ATC).
- The Executive Summary shall be no more than 10 pages in length and shall not be counted against the Technical Proposal 100-page count.
- Brochures and miscellaneous materials not specifically requested will not be evaluated.
- The Proposal shall include appropriate evidence that required forms and certifications have been duly authorized and validly executed and delivered as described below:
  - A response from an individual, sole proprietorship, or a proposed operation under a trade name, shall be signed by the business owner.
  - A response by a corporation shall be executed in the corporate name by the President or Vice-President (or another corporate officer accompanied by the evidence of authority to sign), and the corporate seal shall be affixed and attested by the corporate secretary or assistant secretary. The signature and corporate seal shall be placed on the Transmittal Letter.
  - A response by a partnership shall be executed in the partnership name and signed by all partners; the official address of the partnership shall be shown below the signatures.
  - A response submitted by a joint venture shall list the names of all joint venture members and each mailing address and shall be executed by all joint venture members in the same manner as if they were individually submitting responses. The signature portion of the response forms shall be altered as appropriate for execution by the joint venture.

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- Alternatively, if the entity signing is a joint venture or partnership, each joint venture member or partner may provide an original or certified copy of a notarized document granting a power of attorney to an individual authorized to act on behalf of the Proposer ("Proposer's Official Representative"), specifically stating that such individual has the authority to act as the authorized representative for each partner or joint venture member in its individual capacity.

- Unless otherwise provided, all names and applicable titles shall be typed or printed below the signatures.
- The Proposal shall be divided into sections as described below:
  - A blank page shall precede each section with an index tab extending beyond the far right side of the page; these blank pages will not be counted within the page count.
  - The index tab shall have the appropriate section number typed thereon.
  - At a minimum, the items described in each section below shall be addressed.

8.2.3 Late Submittals

The Proposal will be considered late if received at the Authority Point of Contact address any time after the Proposal Deadline, and shall be returned unopened.

8.2.4 Proposal Validity Period

The Proposal and Proposal Bond will remain valid for up to 360 days following the later of the Proposal Deadline or Deadline to submit BAFOs. After such period, the Proposals will cease to be valid unless the Proposer(s) and the Authority agree in writing to extend the Proposal Validity Period. The Proposal Validity Period as may be extended by the parties shall not affect the validity of the Proposal Bond without acquiescence by the Surety.

8.2.5 Escrowed Proposal Documentation

Each Proposer shall submit all documentary information generated in preparation of the Price Proposal. This requirement shall apply to information generated by the Proposer and by all Subcontractors. This documentary information is hereinafter referred to as "Escrowed Proposal Documents (EPDs)." Proposers shall submit the Escrowed Proposal Documents Certification (Cert. 15) with the EPD submittal, certifying to the accuracy of the information in the EPDs.

The EPDs shall contain information in accordance with Book 2, Part B, Section 25.4 of the General Provisions regarding the Proposer's assumptions made in calculating the prices included in the Price Proposal. The Proposer shall submit its EPDs in such format as it used in preparing its Proposal. The EPDs shall be organized in a logical fashion to reflect the organization of the Price Proposal.

In the event that the Authority requests revisions to Proposals and BAFOs or one or more Proposers are asked to clarify its Price Proposal, each Proposer shall submit one (1) copy of all additional documentary information generated in preparation of the Proposal revisions and

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BAFO or clarification (including Subcontractor pricing changes for Subcontractors). This additional documentation is considered as part of the EPDs.

EPDs shall be delivered to the Authority in a locked fireproof cabinet supplied by the Proposer. The cabinet shall be stored in the Authority's offices or in another location designated by the Authority, with the key held only by the Contractor. EPDs shall be delivered prior to 4:00 p.m. (PST) on the third Working Day following the Proposal Deadline (see Table 1). Release of EPDs will be in accordance with the Contract.

Representatives of the Authority and the Apparent Best Value Proposer shall review the EPDs of the Apparent Best Value Proposer prior to Contract award to determine whether they are complete and in compliance with Book 2, Part B, Section 25 of the General Provisions. The purpose of this examination is to ensure that the EPDs are authentic, legible, and complete. The Apparent Best Value Proposer shall correct any deficiencies to the EPDs within three (3) days of discovery. The examination will not include detailed review of, and will not constitute approval of, proposed construction methods, estimating assumptions, or interpretations of RFP Documents. Examination will not alter any condition or term of the Contract.

Representatives of the Authority and the Apparent Best Value Proposer shall also organize the EPDs, labeling each page so that it is obvious that the page is a part of the EPDs, and enable a person reviewing the page out of context to determine where it can be found within the EPDs. An index shall be compiled listing each document included in the EPDs and briefly describing the document and its location in the EPDs. The Authority shall have a right to retain a copy of the index.

The EPDs will be available for joint review by the Apparent Best Value Proposer and the Authority in conjunction with any pre-award discussions and negotiations. Following award of the Contract, the EPDs of the Apparent Best Value Proposer will be available for joint review as specified in the Contract.

EPDs for each unsuccessful Proposer will be available for collection after the Contract is signed with the successful Proposer. EPDs for all Proposers will be available for collection if all Proposals are rejected or withdrawn.

8.2.6 Currency

All required pricing and cost information shall be provided in United States Dollars only, except as otherwise provided in this ITP.

8.2.7 Mandatory Documents for Inclusion in the Proposal

The Proposal must include the following information, which will not be subject to page limitations set forth herein:

- Proposer Transmittal Letter (Form A). The Proposer's duly authorized Official Representative (if the Proposer has not yet been formed, the form shall be signed by the Official Representative designated by all the Principal Participants and specifically

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authorized to act on behalf of each Principal Participant in its individual capacity) must execute the transmittal letter in blue ink.

- General Proposer Certification (Cert. 1) shall be duplicated so that a copy is signed by the Proposer and by the Official Representative for each respective Proposer Team member or other financially liable party.
- Major Participant Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification (Cert. 2) shall be executed by the Proposer and by each Major Participant.
- Subcontractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification (Cert. 3) shall be executed by each subcontractor that does not qualify as a Major Participant.
- The Proposer shall provide a Proposal Bond as set forth in Form K.
- Equal Employment Opportunity Certification (Cert. 6) and Non-Discrimination Certification (Cert. 7) shall be duplicated so that it is signed by the Proposer and by the Official Representative for each respective Proposer Team member, unless an original or certified copy of a notarized document granting a power of attorney to and specifically authorizing the Proposer's Official Representative to act as the representative for each individual member of the Proposer team is provided.
- Certification Regarding Lobbying (Cert. 8), Drug Free Workplace Program Certification (Cert. 9), and Buy America Certifications (Cert. 10) shall be duplicated so that it is signed by the Proposer and by the Official Representative for each respective Proposer Team member, unless an original or certified copy of a notarized document granting a power of attorney to and specifically authorizing the Proposer's Official Representative to act as the representative for each individual member of the Proposer team is provided.
- Organizational Conflicts of Interest Affidavit (Cert. 5) shall be executed by each Proposer Team member.
- Organizational Conflicts of Interest Disclosure Statement (Form J) shall be signed by the Proposer.
- Iran Contracting Certification (Cert. 11) shall be duplicated so that it is signed by the Proposer and by the Official Representative for each respective Principal Participant, unless an original or certified copy of a notarized document granting a power of attorney to and specifically authorizing the Proposer's Official Representative to act as the representative for each Principal Participant is provided.
- Darfur Contracting Act Certification (Cert. 12) shall be executed by Proposer (if the Proposer has not yet been formed, the form shall be signed by the Official Representative designated by all the Principal Participants and specifically authorized to act on behalf of each Principal Participant in its individual capacity) and must be executed in blue ink.
- Non-Collusion Affidavit (Cert. 4) shall be executed by Proposer (if the Proposer has not yet been formed, the form shall be signed by the Official Representative designated by all the

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Principal Participants and specifically authorized to act on behalf of each Principal Participant in its individual capacity) and must be executed in blue ink.

- Certification Regarding Miscellaneous State Requirements (Cert. 13) shall be duplicated so that it is signed by the Proposer and by the Official Representative for each respective Principal Participant, unless an original or certified copy of a notarized document granting a power of attorney to and specifically authorizing the Proposer's Official Representative to act as the representative for each Principal Participant is provided.
- A letter from a licensed surety meeting the requirements listed below:

  The letter must be signed by an authorized representative as evidenced by a current certified power of attorney committing to provide a Performance Bond and a Payment Bond, each in substantially the form provided in RFP Documents, Book 2, Signature Document.

  - If multiple surety letters are provided, the Proposal shall identify which surety will be the lead surety.
  - The commitment letter shall not include any conditions, qualifications, or reservations for underwriting or otherwise, other than a statement that the commitment is subject to award of the Contract to Proposer within the validity period for Proposals.
  - The bonds required to be provided as a condition to execution of the Contract are to name Proposer as obligor. Accordingly, the surety letter must commit to issuance of a bond in such entity's name.
- Each bond required to be provided with the Proposal or prior to Contract execution shall be provided by a Surety:
  - Registered with the California State Insurance Commissioner,
  - Appearing on the current Authorized Insurance List in the State of California published by the Office of the Insurance Commissioner, and
  - With an A.M. Best and Company rating level of A- or better and Class X or better, or as otherwise approved by the Authority in its sole discretion
- Indicate whether or not the Surety has defaulted on any obligation within the past ten (10) years and the details in the event of such default. The Authority may require any Sureties to appear and qualify themselves at any time. If the Authority determines that a Surety is not qualified, the Authority may, upon written demand, require the Contractor to furnish a replacement bond or bonds from a qualified Surety. Until the replacement bond or bonds are furnished, payments on the Contract will stop.
- If the Proposer is a joint venture, the Proposer has provided a letter signed by each joint venture member indicating that it accepts joint and several liability for the Proposer's obligations under its Proposal and any resulting contract.
- Identification of Proposer Team Members (Form E).
- Escrowed Proposal Documents (EPDs) as described in Section 8.2.5, including the following:

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  - A copy of Contract Price (Form F)
  - Costs associated with the baseline aesthetic structural design solutions for the three bridges identified in Section 9.3.4

- The Price Proposal submitted in accordance with Section 8.2.2 and including the following:
  - Contract Price (Form F) executed by a person authorized to bind the Proposer
  - Financial statements and accompanying information as required by Section 9.2.3.
- Information regarding anticipated subconsultants and subcontractors (Form D)
- A statement of the Proposer's unequivocal commitment to comply with the Authority's "Verification, Validation and Self-Certification" requirements, which are stated in Book 2, Part B, Section 57 of the General Provisions. (Submit as Attachment 1 to Cert. 1).
- **Organizational Documents** - Each Proposer shall provide a copy of the articles of incorporation and bylaws, the joint venture agreement, partnership agreement, limited liability company operating agreement or equivalent organizational documents for the Proposer, each joint venture partner and Guarantor, which documents shall be consistent with the responsibilities to be undertaken by such parties under the Contract, if such organizational documents have been changed or modified since submittal of the SOQ.
- **Letter Approving Changes in Proposer's Organization** - If there are additions or other changes (including deletions) in a Proposer's organization from those shown in the SOQ, the Proposer must seek and obtain written approval of the change from the Authority prior to submitting its Proposal pursuant to the requirements of the ITP. The letter from the Authority approving such change must be included with the Proposal. If there are no additions or other changes (including deletions) in a Proposer's organization, a statement indicating as much from the Proposer shall be included.
- **No Legal Issues, Liabilities or Proceedings** – The Proposal shall include a certification stating that there have not been any additional legal issues, liabilities or proceedings since the SOQ submission.

  If there has been, or there is anticipated to be, any additional legal issues, liabilities or proceedings since the SOQ submission, then the Proposal shall include the following information regarding such legal issues, liabilities and proceedings:

  – **Legal Issues** – Identify and explain any significant anticipated legal issues which the Proposer must resolve in order to carry out the Project and its obligations under a Contract

  – **Legal Liabilities** – Provide a list and a brief description of all instances during the last five (5) years involving transportation civil infrastructure projects in which the Proposer or a Major Participant (or its parent company; its subsidiary companies; any company under joint ownership with such firm; any joint ventures or limited liability companies in which such firm is a member; and any partnership in which such firm is a general partner) was (i) determined, pursuant to a final determination in a court of law,

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arbitration proceeding or other dispute resolution proceeding, to be liable for a material breach of contract or (ii) terminated for cause. For each instance, identify an owner's representative with a current phone and fax number (and e-mail address if available).

- **Legal Proceedings** – Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board, and other dispute resolution proceeding occurring during the last five (5) years involving Proposer or a Major Participant (or its parent company; its subsidiary companies; any company under joint ownership with such firm; any joint ventures or limited liability companies in which such firm is a member; and any partnership in which such firm is a general partner) and involving an amount in excess of $500,000 related to performance in transportation civil infrastructure projects with a contract value in excess of $25 million.

- Key Personnel Matrix (Form G) listing the individuals designated as Key Personnel in the SOQ submitted by the Proposer or subsequently approved as a replacement by the Authority for the individual(s) identified in the Proposer's SOQ on Form D. Proposer shall submit a copy of Authority's letter approving any Key Personnel replacements as Attachment 1 to Form G.
- An express, written statement committing that the Key Personnel designated in the SOQ or their approved substitutes (if any)shall be available to serve the roles described in Section 6.4.3.6 of the RFQ so identified in connection with the Project as Attachment 2 to Form G.
- An executed Proposer's Overall Project Small Business Goal Affidavit (Cert. 14) confirming the Proposer will aggressively exercise Good Faith Efforts to the satisfaction of the Authority to meet or exceed the overall project Small Business goal of 30 percent, which shall be signed by the Proposer's duly authorized Official Representative on Cert. 1.
- Description of Proposer's approach to meeting the Overall Project Small Business goal for this Project shall be set forth in a detailed "Small Business Performance Plan." Areas to be addressed in the Small Business Performance Plan are to include, but are not limited to:
  - A description of the process used to identify and solicit SB/DBE/DVBE/MB firms, the areas of work to be performed by SB/DBE/DVBE/MB firms, and the list of firms selected for participation. Proposers shall also include outreach and networking forums held to inform, engage and solicit the participation of small businesses, as defined in the Authority's Small and Disadvantaged Business Enterprise Program.
  - For subcontracting work not yet awarded, but intended for future SB/DBE/DVBE/MB involvement, identify the work and the process that will be used to select the firms to perform the work.
- Specific information regarding utilization of SB/DVBE/DBE/MB firms on each of the Principal Participants' four (4) most recently completed projects including the following information:
  - Project Name
  - Owner

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- Owner's SB/DVBE/DBE/MB Compliance Officer
- Goal established
- Actual participation achieved
- Year work was completed
- Any SB/DVBE/DBE/MB firms with whom Principal Participants had formal partnering or mentoring relationships
- Scope and type of work performed (design and/or construction)
- A description of any innovative measures undertaken to involve SB/DVBE/DBE/MB firms.

8.2.8 Executive Summary

The Executive Summary shall contain sufficient information to familiarize reviewers with the Proposer's Project approach and its ability to satisfy the legal requirements of the Contract. The Proposer shall limit the Executive Summary to no more than ten (10) pages inclusive of text, selected photographs, and sketches. The Executive Summary page count is not counted toward the 100-page limit requirement of the Technical Proposal. The Proposer shall highlight those items which, in the opinion of the Proposer, represent significant value to the Authority and which may distinguish its Proposal from those of others.

At a minimum, the Executive Summary shall include the following:

- **Legal -** A description of the Proposer's form of organization, identifying the percentage interests held by the Principal Participants and identifying the lead entity, and identifying all entities that will have joint and several liability for the Contract or that will provide Guaranties (if required) to the Authority. Include a summary of any changes in the Proposer's organization since submission of the SOQ. All entities identified in the Executive Summary must be identified initially by their full and correct legal names.
- **Technical -** A description of the Proposer's understanding and approach to the Work, including design, construction, and coordination with third parties. Include a summary of (i) how the Proposer intends to achieve design and construction solutions that are efficient, schedule-sensitive, environmentally sound, durable, safe, and maintainable and (ii) the Project support concepts to be addressed in connection with the Work including support of public outreach, coordination with adjacent contracts, and concepts for mobilization, delivery of materials and mitigation of traffic and other impacts during construction.
- **Financial -** Information regarding the Proposer's financial strength and capability to undertake and complete the Work, as well as any other relevant information regarding the Proposer's financial approach to completing the Work.

The Proposer shall not include any information regarding price in the Executive Summary.

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9 Evaluation of Proposals

9.1 Overview

All Proposals will first undergo pass/fail and responsiveness review. Those Proposals that are found responsive and pass the pass/fail review will then undergo substantive evaluation to determine the apparent best-value Proposer. To facilitate substantive evaluation of Proposals that pass the pass/fail review and are found responsive, Proposers must divide the Proposal package into a separate Technical Proposal and Price Proposal. The submittal must be received by the Proposal Deadline in Section 3 by the Authority Point of Contact at the address shown in Section 7.3.

All Proposals that are determined to have provided the minimum elements required by the RFP's pass/fail criteria then undergo substantive evaluation. The Technical Proposals are evaluated before the Price Proposals are opened and evaluated.

Once the Proposers' Price Proposals are opened and evaluated, the weighted scores for the Technical Proposals (30 percent weighting) and Price Proposals (70 percent weighting) are combined, and the Proposer receiving the highest combined score for its Proposal will be recommended as the Apparent Best-Value Proposer.

The evaluation criteria and weighting for the Technical Proposals are summarized in Section 9.3.

9.2 Pass/Fail and Responsiveness Review

9.2.1 Responsiveness

Each Proposal will be reviewed for the following:

- Conformance to the RFP instructions regarding organization and format, including the presence of all required forms and attachments
- The responsiveness of the Proposer to the requirements set forth in this RFP
- Minor informalities, irregularities, and apparent clerical mistakes that are unrelated to the substantive content of the Proposal

Those Proposals not responsive to this RFP may be excluded from further consideration and the Proposer will be so advised. The Authority may also exclude from consideration any Proposer whose Proposal contains a material misrepresentation.

9.2.2 Pass/Fail Review

Following or in conjunction with evaluation of each Proposal for responsiveness, the Authority will evaluate each Proposal based upon the pass/fail criteria listed below. A Proposer must obtain a "pass" on all pass/fail items in order for its Proposal to be evaluated qualitatively under Section 9.3.

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- The Proposal contains an original executed transmittal letter as required in Section 8.2.7, above.
- The Proposer has provided a letter of commitment from a Surety (or Sureties) meeting the requirements specified in Section 8.2.7.
- The Proposer has provided Buy America Certifications (Cert. 10), certifying compliance with Buy America requirements as provided in Section 6 of this ITP and Section 46.12 of the General Provisions (Book 2, Part B).
- The Proposal contains Escrowed Proposal Documents Certification (Cert. 15) executed by a person authorized to bind the Proposer and submitted in accordance with Section 8.2.5.
- The information disclosed by members of the Proposer Team in the General Proposer Certification (Cert. 1), including the information required by Section 8.2.7 above, does not materially adversely affect the Proposer's ability to carry out the Project responsibilities potentially allocated to it.
- The Proposer has submitted the Proposer's Overall Project Small Business Goal Commitment Affidavit (Cert. 14), evidencing their commitment to meet or exceed the overall Project Small Business goal of 30 percent.
- The Proposer's approaches and innovative strategies delineated in the Proposer's Small Business Performance Plan demonstrate the Proposer's responsiveness in meeting the Authority's Small Business goal objectives, as required in Section 7.11.1.
- The Proposer provides the information and makes the express, written commitments as required in Section 8.2.7.

9.2.3 Financial Data

The Proposer shall not have incurred a Material Change since the time of its SOQ submission, such that Proposer continues to have the financial capability to design and construct the Project.

If it is determined that the Proposer has incurred a Material Change since the time of SOQ submission, then the Proposer may be given the opportunity to add a Guarantor to its Proposal and must submit all financial information required as part of the RFQ and RFP processes. Such opportunity is given solely at the discretion of the Authority and the additional Guarantor must be deemed acceptable by the Authority.

The Proposal must include the following information in order to demonstrate that the Proposer has not incurred a Material Change since its SOQ submission:

- **No Material Change Certification** – The Proposal shall include a statement from the Chief Financial Officer or Treasurer of the Proposer stating that there has not been a Material Change, and none are anticipated, in the financial condition, corporate form (i.e., significant mergers, acquisitions, reorganizations, etc.), market capitalization, or potential liabilities (e.g., current or pending claims or litigation) since the SOQ submission. If the Proposer is a joint venture or LLC, then the Proposal shall include a statement from the Chief Financial

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Officer or Treasurer of each joint venture member or LLC member stating that there has been no Material Change in the financial condition, corporate form, market capitalization, or potential liabilities since the SOQ submission. Reference to financial statements or notes to financial statements is not sufficient for purposes of meeting this requirement.

Additionally, if the Proposer, or in the event the Proposer is a joint venture or LLC then any joint venture member or LLC member, has provided a guaranty as part of its SOQ submission, then the Proposal shall include a certification from the Chief Financial Officer or Treasurer of each Guarantor stating that there has been no Material Change, and none are anticipated, in the financial condition, corporate form, market capitalization, or potential liabilities of the Guarantor since the SOQ submission. Reference to financial statements or notes to financial statements is not sufficient for purposes of meeting this requirement.

- **Material Change Disclosure** – If there has been, or there is anticipated to be, a Material Change in the financial condition, corporate form, market capitalization, or potential liabilities of the Proposer, or in the event the Proposer is a joint venture or LLC then the joint venture member or LLC member, or to any Guarantor since the SOQ submission, then the Chief Financial Officer or Treasurer of the affected entity must provide:

  - Statement describing each Material Change in detail,
  - The likelihood that the Material Change will continue during the period of performance of Project development, and
  - The projected full extent of the changes likely to be experienced in the periods ahead. Reference to financial statements or notes to financial statements is not sufficient for purposes of meeting this requirement.

  In addition, the Chief Financial Officer or Treasurer of the affected entity must provide an estimate of impact on the revenues, expenses and the change in capital structure (debt and equity) for each Material Change. Where a Material Change will have a negative impact on the financial condition of the affected entity, then the Proposal must include a discussion of the measures that would be undertaken to insulate the Project from any recent or anticipated Material Changes.

- **Recent Financial Statements** – If Financial Statements for the Proposer, or in the event the Proposer is a joint venture or LLC then for any joint venture member or LLC member, or for any Guarantor, have been issued since the SOQ submission then the Proposal must include three (3) hard copies, one (1) electronic copy in PDF format, and one (1) electronic copy in Microsoft Excel format of the recent Financial Statements.

  If Financial Statements have been issued for the Proposer, or in the event the Proposer is a joint venture or LLC, then for any joint venture member or LLC member, or for any Guarantor, since the SOQ submission, then the Proposal must include a statement from the Chief Financial Officer or Treasurer of the Proposer, or in the event the Proposer is a joint venture or LLC then each joint venture member or LLC member, or for each Guarantor, if

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applicable, stating that Financial Statements have been issued for its respective entity since the SOQ submission. The Financial Statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles (U.S. GAAP).

If Financial Statements are prepared in accordance with accounting principles other than U.S. GAAP, a letter must be provided from a certified public accountant discussing the areas of the Financial Statements that would be affected by a conversion to U.S. GAAP.

- **U.S. Dollars** – Financial Statements must be provided in U.S. dollars. If Financial Statements are not available in U.S. dollars, the Proposer must include summaries of the Financial Statements for the applicable time periods converted to U.S. dollars, specifying the conversion rate used.
- **Audited** – Financial Statements must be audited by an independent party qualified to render audit opinions (e.g., a certified public accountant). If audited Financial Statements are not available for an entity, the Proposal shall include unaudited Financial Statements for such entity, certified as true, correct, and accurate by the Chief Financial Officer or Treasurer of the entity.
- **English** – Financial Statements must be prepared in the English language. If audited Financial Statements are prepared in a language other than English, translations of all Financial Statements must be provided with the original Financial Statements.
- **Newly Formed Entity** – If the Proposer is a newly formed entity and does not have Financial Statements, Financial Statements for the equity owners of the newly formed entity shall be provided (and the Proposer shall expressly state that the Proposer is a newly formed entity and does not have Financial Statements).
- **SEC Filings** – If any entity for which Financial Statements are submitted files reports with the Securities and Exchange Commission, then such Financial Statements shall be provided through a copy of its annual report on Form 10K and any subsequent reports filed on Form 10Q or Form 8-K.
- **Confidentiality** – The Proposer may identify any information which it believes is entitled to confidentiality under the Public Records Act or Freedom of Information Act, by marking each page "CONFIDENTIAL" as described in Section 7.9.

- **Recent Credit Ratings** – If credit rating(s) for the Proposer, or in the event the Proposer is a joint venture or LLC then for any joint venture member or LLC member, and for any Guarantor, have been issued or changed, including credit rating outlook, since the SOQ submission then the Proposal must include a copy of the credit rating.

  If no credit rating(s), including credit rating outlook(s), have been issued or changed for the Proposer, or in the event the Proposer is a joint venture or LLC then for any joint venture member or LLC member, or for any Guarantor, since the SOQ submission, then the Proposal must include a statement from the Chief Financial Officer or Treasurer of the Proposer, or in the event the Proposer is a joint venture or LLC then each joint venture member or LLC member, and for each Guarantor, stating that no credit rating(s), including

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credit rating outlook, have been issued or changed for its respective entity since the SOQ submission.

- **Guarantor Letter of Support** – If the Proposer, or in the event the Proposer is a joint venture or LLC then any joint venture member or LLC member, has provided a guarantee as part of its SOQ submission, then the Proposal shall include a letter from each Guarantor stating that it will provide a performance guaranty in the form as set forth in (Book 2, Part A, Attachment G), and that it will financially support all the obligations of the Proposer with respect to the Project.

  In addition, if the Proposer is offered the opportunity, at the sole discretion of the Authority, to add a Guarantor to its Proposal in accordance with Section 9.2.2, then the Proposal shall include a letter from the additional Guarantor stating that it will provide a performance guaranty in the form as set forth in (Book 2, Part A, Attachment G), and that it will financially support all the obligations of the Proposer with respect to the Project.

9.3 Technical Proposal Evaluation Criteria

The criteria that will be evaluated as part of the Technical Proposal are summarized below. Also listed below is information the Authority expects all Proposers to provide so the Technical Proposals may be thoroughly and fairly evaluated.

Note that, as discussed in Section 9.1 above, the Technical Proposals will be evaluated before the Price Proposals are opened. Therefore, the Technical Proposals shall not include any information with regard to the Proposer's Price Proposal.

The Raw Score for the Technical Proposal will be used to calculate the Technical Proposal Score as described in Section 9.5. The Technical Proposal Score comprises 30 percent of the Total Proposal Score. The maximum Technical Proposal Score is 30 points.

Table 4: Summary of Technical Proposal Evaluation Criteria

Evaluation Criteria	Maximum Point Value
Ability to Meet Schedules	15 points
Project Approach	25 points
Anticipated Problems/Proposed Solutions	10 points
Conceptual Engineering	20 points
Quality/Self Certification	20 points
Safety and Security	10 points
Raw Score for Technical Proposal	**100 points**

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9.3.1 Ability to Meet Schedules (15 points)

The assessment criteria related to the Proposer's ability to meet schedule expectations are as follows:

- The proposal schedule demonstrates a complete understanding of the Scope of Work, inclusive of all phasing and sequencing considerations.
- The proposal schedule demonstrates a clear understanding of all relevant work constraints to performing the work including, but not limited to, right-of-way access constraints, accommodation of utility relocations, permitting restrictions, and environmental/seasonal constraints.
- The Proposer's schedule narrative demonstrates a feasible approach to achieving or beating the planned schedule.
- The Proposer's schedule narrative presents reasonable assumptions regarding mobilizations, phasing of the Work, risks to the schedule, and expectations of the Authority.
- The Proposer's schedule narrative explains how the project will be staffed with all required labor and resources, listing all assumptions.
- The Proposer's schedule narrative addresses its material procurement plan, identifying strategy for any long lead item(s).

Requested schedule information includes the following:

- **Proposal Schedule** – The Proposer shall prepare a schedule submitted in a Level 2 level of detail as defined within AACE International Recommended Practice No. 37R-06, "Schedule Levels of Detail – As Applied in Engineering, Procurement and Construction (TCM Framework: 7.2 – Schedule Planning and Development)" dated March 20, 2010, with a breakdown that outlines all major features or elements of the work for each geographical location of the Project, produced in the latest version of Primavera P6 (preferably Version 8.2 and provide an XER file of the entire proposal schedule to the Authority for review and assessment.
  - An electronic XER file copy of the proposal schedule
  - Hard Copy of the proposal schedule
  - Electronic lineal schedule of the work
- The Proposer's Critical Path Method (CPM) network analysis capabilities
- Schedule narrative outlining the Proposer's planned approach to performing the Work, which includes design development, construction work, and acknowledgement of all project constraints.
- Narrative on the qualifications of the Principal Scheduler

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- Approach to reporting progress and regular project meetings and workshops schedule with the Authority

9.3.2 Project Approach (25 points)

The assessment criteria related to the Proposer's approach to Project implementation are as follows:

- Information provided by the Proposer demonstrates a feasible and well-considered approach to fulfilling the Contractor's responsibility to perform its defined scope, deliver the Project according to the Authority's expectations, and meet Project goals.
- Information provided by the Proposer demonstrates feasible and well-considered approaches to meeting or exceeding the Authority's expectations with respect to specific activities addressed in information requested.
- Information provided by the Proposer demonstrates awareness of unique Project elements and challenges, and an understanding of the Project's local and regional environment.
- Information provided by the Proposer demonstrates awareness of sustainability in the context of the Project.
- Information provided by the Proposer demonstrates feasible and well-considered approaches to meeting or exceeding the Authority's expectations with regard to environmental sustainability, including a strategy for incorporating recycled materials into civil works and infrastructure and a strategy for reducing site energy use, with reference to strategies that were effective on other projects.
- Information provided by the Proposer demonstrates its ability to creatively and cost effectively comply with or exceed the sustainability requirements in time with the Project schedule.

Information requested regarding Project approach includes the following:

- An outline of the project management plan following the principles of ISO 9001 that summarizes the approach to fulfilling scope and meeting Project goals, and includes more detailed sections addressing:
  - Approach to, and implementation process for, overall Project governance
  - Approach and implementation process for achieving technical compliance using quality, verification, validation and self-certification in the design-build context.
  - Small Business Utilization
  - A Draft Small Business Performance Plan that delineates the Proposer's approaches and innovative strategies proposed to be undertaken, demonstrating the Proposer's responsiveness in meeting the Authority's Small Business goal objectives, as required in Section 7.11.1.

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- Approach to permitting and Governmental Approvals
- Identification of unique Project elements; understanding of Project limits and constraints
- Plan for packaging and sequencing Work
- Design coordination process
- Construction coordination process
- Detailed description of Proposer's approach to meeting the environmental mitigation requirements identified in the environmental documents
- Utility coordination process
- Other third-party coordination
- Draft Traffic Management Plan (protection and maintenance of traffic overview and approach)
- Process for addressing maintenance considerations (design and construction)
- Public involvement and community relations
- Stakeholder coordination
- Anticipated outreach
- Methods of mitigating negative Project impacts
- Communication tools to be used
- Draft Public Involvement and Community Relations Plan
- Organization chart for community relations

- Draft Sustainability Approach describing the Proposer Team's approach to sustainability and how it will meet the sustainability goals for the Project, including reference to other projects where the Contractor has successfully applied this approach.

- Draft Sustainability Plan addressing the Project goals and detailing how the Contractor will carry out the requirements detailed in Section 44.3.2 of the General Provisions (Book 2, Part B), cross-referencing the Construction Waste Management Plan.

- Draft Construction Waste Management Plan that, at a minimum, identifies the materials to be diverted from disposal and whether the materials will be sorted on-site or commingled. The goal for the Project is to divert a minimum of 75 percent of construction waste from landfill and 100 percent of steel and concrete demolition waste from landfill.

- Examples of the use of recycled materials in other projects, examples of successful site energy use reduction on other projects, innovative methods previously used to promote water efficiency and green stormwater management, examples of sustainability management and innovation on other civil works/infrastructure projects, and resumes of sustainability management personnel

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- A copy of the priority list of right-of-way parcels to be acquired and possession dates necessary to accommodate the Proposer's anticipated construction schedule required in Section 5.4.

9.3.3 Anticipated Problems and Proposed Solutions (10 points)

The assessment criteria related to anticipated problems and proposed solutions are as follows:

- Information provided by the Proposer demonstrates that the Proposer has identified and carefully considered anticipated problems addressed by the requested information.
- Information provided by the Proposer lays out feasible proposed solutions to the identified anticipated problems, including secondary options if the first choice solution is unsuccessful.

The information requested relating to these criteria include the following:

- Identification of potential resource shortfalls and proposed mitigation measures
- Identification of community coordination challenges and proposed solutions
- Identification of design issues and methods of resolving design conflicts
- Identification of construction issues and methods of resolving conflicts
- Identification of any issues raised by the Proposer Team and proposed solutions
- Identification of commodities risks and proposed mitigation strategy

9.3.4 Conceptual Engineering (20 points)

The assessment criteria related to conceptual engineering are as follows:

- Information provided demonstrates that the Proposer's approach for the design of Project elements, coordination of work activities, and integration of a baseline design achieves the objectives of the Scope of Work.
- Information provided demonstrates that the Proposer's approach for ensuring coordination and integration with future and adjacent projects including accommodation for the installation of future systems (including track, traction power system, train controls, communications) achieves the Project goals.
- Information provided demonstrates the Proposer's well-considered approach to meeting third-party design requirements and obtaining design approvals. This approach includes a plan to keep the Authority Representatives informed regarding coordination activities and ensuring that extraneous requirements or requests do not conflict with the Authority's design or operational requirements.
- Information provided for ATCs for innovative design efficiently meets or exceeds the Authority's design requirements.

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- Information provided demonstrates a well-considered approach for phasing construction of project elements as required if the right-of-way is not available at one time.
- Information provided demonstrates that Proposer has developed feasible, cost-effective design concepts that will achieve the stated Project requirements.
- Demonstration of overall compliance with Non-Station Aesthetic Design Guidelines.
- The separate "baseline" and "superior" aesthetic and structural design solutions provided for the San Joaquin River Bridge and UP structural spans and overpasses at S. Cedar Avenue, Golden State Boulevard, and SR-99 spans, demonstrate effective and creative use of curvilinear elements while ensuring cost-effective conformance with all technical requirements.

The information requested relating to these criteria include the following:

- Summary of Design Approach, including coordination and interfacing with the Authority's Representative and third-party entities.
- Description of any design advancement provided
- Identification of any Project specific design considerations, relating them to specific elements of proposed design
- Anticipated Design Packages and Submittal Dates
- Description of any efforts undertaken as of Proposal submittal date regarding coordination of design and construction
- Aesthetic solutions for non-station structures, including sketches, renderings, and drawings. Sketches, renderings, and drawings submitted as part of such aesthetic solutions will not be counted toward the 100-page limitation of the Technical Proposal.
- Provide a minimum of one high-quality, context-sensitive baseline design and one high-quality, context sensitive superior design for each of the following structures:
  - San Joaquin River Bridge and UP structural spans
  - Overpasses at S. Cedar Avenue, Golden State Boulevard, and State Route 99 (SR-99) spans
  - Both the "baseline" and "superior" designs shall satisfy engineering standards, technical requirements, be cost effective and conform to the aesthetic design guidance (Aesthetic Guidelines for Non-Station Structures included in Book 3), as well as the aesthetic mitigation measures in the Final Environmental Documents and the Mitigation Monitoring Reporting Plan.
- Approved or conditionally approved Alternative Technical Concepts, including copies of the Authority's ATC approval letter for each incorporated ATC and sketches, renderings, and drawings as desired. ATCs and sketches, renderings, and drawings submitted as part of

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an approved ATC will not be counted toward the 100-page limitation of the Technical Proposal.

9.3.5 Quality/Self Certification (20 points)

The assessment criteria related to quality and self-certification are as follows:

- Information provided by the Proposer demonstrates a clear understanding of the overall quality management of the Project inclusive of QA and QC functions following principles in ISO 9001.
- Information provided by the Proposer demonstrates the independence of the Proposer's QA function from the main Project team.
- Verification and validation plan (VVP) outline addresses requirements, design, interface and integration, construction, inspection and test, as well as change management.
- Information provided by the Proposer demonstrates prior experience with the verification, validation and self-certification process.

The information requested relating to quality and self-certification include the following:

- A description and diagram of the proposed design and construction quality management organizations. The diagram should depict the relationships between the Proposer's team functions.
- Approach to design and construction quality control process, inclusive of approach to inspection and testing sampling and testing and sharing of results; notice of defect and non-conformance procedures.
- Approach to quality assurance as it relates to environmental compliance, including the procedures for documenting inspection, testing and certification of materials and items.
- Approach to key coordination required between the Contractor and the Authority to ensure overall quality.
- Approach to third-party quality coordination with local agencies, resource agencies, and utility companies, as well as Federal oversight requirements.
- Approach to managing verification, validation and self-certification process:
  - VVP outline addressing requirements, design, interface and integration, construction, inspection and testing, as well as change management as defined in Book 3, Part B.
  - Proof of prior experience with the verification, validation and self-certification process.

9.3.6 Safety and Security (10 points)

The assessment criteria related to safety and security are as follows:

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- Information provided by the Proposer demonstrates an understanding of the safety and security certification goals and requirements of the Project, and that safety and security certification can be successfully achieved.
- Information provided by the Proposer demonstrates an understanding of the safety hazards and security vulnerabilities associated with the construction and warranty service phases of the Project, and that these hazards and vulnerabilities can be successfully mitigated.
- Proposer Team members meet the minimum threshold of safety experience and record to be insurable and acceptable to the Authority.

The information requested relating to safety and security include the following:

- Narrative describing the approach the Proposer intends to take with respect to safety and security certification.
- Narrative describing the approach the Proposer intends to take with respect to safety and security during the construction and warranty service phases of the project.
- Narrative on the experience and qualifications of proposed Safety and Security Managers
- Draft outline for a Safety and Security Certification Plan for the Project.
- Draft outline for a Site-Specific Health and Safety Plan for the Project.
- Draft outline for a Site-Specific Security Plan for the Project.
- Safety history of the Proposer Team members, especially Proposer Team members' Experience Modification Rates and identification of any violations and mitigation/remediation of such violations.
- Ending with calendar year 2011, Proposers shall submit a minimum five (5) years of Experience Modification Rate History for all Proposer Team members.
- The history of violations (and subsequent mitigations) shall include Federal and State OSHA violations (Serious, Willful and Repeat only), inclusive of Cal-OSHA violations. This history shall span a minimum of a five (5) year duration ending with calendar year 2011.

9.4 Price Proposal Evaluation

The Proposer's Contract Price (Form F) must be included in the Price Proposal. The Total Proposal Price specified on Form F will be used to evaluate the Price Proposal. The Price Proposal Score comprises 70 percent of the Total Proposal Score. The maximum Price Proposal Score is 70 points.

Please note, Proposers shall incorporate costs associated with only the superior aesthetic and structural design solutions for the three bridges identified in Section 9.3.4.

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9.5 Best Value Determination

The determination of apparent best value shall be based on a 70-30 point scale. The Price Proposal Score can be a maximum of 70 points. The Technical Proposal Score can be a maximum of 30 points. The Total Proposal Score can be a maximum of 100 points.

- The determination of the Apparent Best Value Proposer shall be based on the Proposal that receives the highest Total Proposal Score calculated based on the following formula:

$$\begin{array}{rl} \text{Price Proposal Score} & \text{max. 70 points} \\ +\ \text{Technical Proposal Score} & \text{max. 30 points} \\ \hline \text{Total Proposal Score} & \text{max. 100 points} \end{array}$$

- The Price Score will be based on the following formula:

$$70 \text{ points} \times \frac{\text{Lowest TPP}}{\text{TPP}} = \text{Price Proposal Score}$$

- Lowest TPP = Lowest Total Proposal Price submitted by a Proposer
- TPP = Proposer's Total Proposal Price specified on Form F

The Technical Proposal Score will be calculated based on the raw score for the Technical Proposal (maximum of 100 points) as described in Table 4 Summary of Technical Proposal Evaluation Criteria in Section 9.3. The Technical Proposal Score will be calculated using the following formula:

Technical Proposal Score = (Raw Score for Technical Proposal) x 30%

9.6 Additional References and Further Information

The Authority reserves the right to request such further information it deems necessary to properly evaluate the Proposals.

Proposers are cautioned that any falsification, misrepresentation or willful omission of facts shall be sufficient cause for disqualification.

9.7 Oral Interviews of Proposers

Proposers may be invited to present oral presentations for the purpose of introducing key members of the proposed implementation team, and allowing the Authority to fully understand the Proposer's ability to meet the evaluation criteria. If the Authority chooses to conduct oral interviews, these oral interviews are anticipated to occur within two (2) weeks of the Proposal Deadline. The Authority anticipates providing an agenda of presentation topics to the Proposers in advance of the oral interviews, if conducted.

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9.8 Requests for Clarifications

The Authority may engage in communications with the Proposers after receipt of Proposals, allowing Proposers to provide clarifications to their Proposals. This process will be initiated by delivery of a written request from the Authority to the Proposer identifying the information needed and a date and time by which the information must be provided. The Proposer shall provide the requested information in writing by the date and time indicated. If the requested information is not timely received, the Proposer's score may be adversely affected and/or the Proposal may be declared unacceptable.

9.9 Proposal Revisions and BAFOs

Although the Authority reserves the right to request proposal revisions and best and final offers ("BAFOs"), the Authority is under no obligation to do so. The Authority may make its selection and award based on the initial Proposals as submitted.

If the Authority issues a request for proposal revisions and BAFOs, Proposers will be informed of and requested and/or allowed to revise their Proposals in accordance with the terms of the request for proposal revisions and BAFOs. The request for proposal revisions and BAFOs will allow adequate time, as determined by the Authority, for the Proposers to revise their Proposals. The Authority will consider the revised information submitted as part of the proposal revision/BAFO process and reevaluate and revise ratings as appropriate.

More than one request for proposal revisions and BAFOs may be issued. In this case, evaluation of the proposal revisions and BAFOs will be repeated in order to incorporate the revised information into the scoring process.

In the event that any Proposer requested by the Authority to submit proposal revisions and BAFOs fails to provide a proposal revision or BAFO, or delivers a proposal revision or BAFO that is deemed unacceptable or late, the Authority shall have the right to consider as valid such Proposer's initial or subsequently revised Proposal and to award the Contract to such Proposer based on its initial or subsequently revised Proposal.

All terms and conditions of these Instructions to Proposers applicable to Proposals shall also be applicable to proposal revisions and BAFOs except as otherwise specified in the request for proposal revisions and BAFOs.

9.10 Limited Negotiations

Following receipt of initial Proposals or BAFOs (if any), the Authority may, at its sole discretion, elect to proceed with award of the Contract without negotiations, or it may proceed with limited negotiations prior to execution. Because the Authority also has the right to award a contract without negotiations, all Proposers must commit to entering into the Contract exactly as provided in the RFP.

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Any decision to commence limited negotiations regarding the Contract and any topics of negotiation are at the Authority's sole discretion. In such event, the Proposer may raise issues only to the extent they are interrelated with negotiated topics raised by the Authority. Limited negotiations would commence with the Apparent Best Value Proposer. If for any reason the Authority is unable to negotiate a contract with the Apparent Best Value Proposer, the Authority will terminate those negotiations in writing. The Authority may then enter into limited negotiations with the Proposer that received the next highest Total Proposal Score, following the above-described process, until a Contract is awarded or all of the Proposals are rejected.

10 Contract Award and Execution

10.1 Key Prerequisites to Award

The Authority will not make a recommendation for award of the Contract unless the successful selected Proposer has submitted the following:

- Escrowed Proposal Documents and corrected any deficiencies identified by the examination of the EPDs, and
- A letter of assent executed by the Proposer agreeing to be bound by the Community Benefits Agreement.

10.2 Contract Award Recommendation

The Contract award recommendation will be made to the Authority Board of Directors by the Authority's CEO.

10.3 Contract Award

The anticipated date for Board action on the CEO recommendation to award the Contract is included in the Procurement Schedule in Section 3. An award of Contract pursuant to this RFP shall not be binding on the Authority until the Contract is executed by the Authority.

The Authority shall be under no obligation to award the Contract to the Proposer submitting the lowest priced Proposal or to award the Contract at all.

Upon Award, the Proposal submitted by the selected Proposer will be incorporated into the Contract Documents as specified in Book 2, Part A, Subpart 2, Special Provision 18. Information provided by the selected Proposer on Form F (Contract Price) will be transferred to Attachment B (Prices) of Book 2, Part A, Subpart 1, Signature Document.

10.4 Contract Execution

By submitting its Proposal, each Proposer commits to enter into the form of Contract included in the RFP, without negotiation or variation, except to fill in blanks and include other

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information that the form of Contract indicates is required from the Proposal and any negotiations as provided in this RFP.

Following the Contract award recommendation, the Authority will finalize the Contract by filling in blanks and including information from the Proposal as contemplated by the form of Contract, and addressing any negotiated terms and conditions. If requested, Proposer shall meet with Authority to provide additional details for those items identified by the Authority as Proposal Commitments in Attachment C to the Signature Document. Within seven (7) calendar days after delivery by the Authority to the successful Proposer of the finalized form of Contract, the successful Proposer shall deliver to the Authority the following:

- Signed Contract (four (4) executed duplicate originals signed in blue ink)
- Evidence as to the authority of the signatories to the Contract
- Evidence of licensing (construction licenses held by the Proposer, and professional registration information for the Designer's officer, director, employee, or agent in responsible charge)
- Guaranties (if applicable)
- Performance Bond in the amount of 50 percent of the Total Contract Price and Payment Bond in the amount of 100 percent of the Total Contract Price (three (3) executed duplicate originals)
- Evidence of insurance as required in the Contract
- Evidence as to the authority of the signatories of the Performance Bond and Payment Bond and any Guaranties.
- Signed Standard 204, Payee Data Record

Failure to comply with the above may result in cancellation of the award recommendation and forfeiture of the Proposal Bond, in which case the Authority may (but is not obligated to) proceed to award the Contract to the next highest ranked Proposer.

The Contract shall not be effective until it has been signed by both the Proposer and the Authority.

10.5 Debriefing of Unsuccessful Proposers

Unsuccessful Proposers may be debriefed, at the Authority's sole discretion, upon their written request submitted to the Authority Point of Contact. Requests for debriefing shall be made no later than three (3) weeks following the award of the Contract for the Project. Debriefings will not be scheduled prior to award of the Contract for the Project.

A debriefing shall:

- Be limited to discussion of the unsuccessful Proposer's Proposal, and may not include specific discussion of a competing Proposal.

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- Be factual and consistent with the evaluation of the unsuccessful Proposer's Proposal.
- Provide information on areas in which the unsuccessful Proposer's Technical Proposal had weaknesses or deficiencies.

Debriefing may not include discussion or dissemination of the thoughts, notes, or rankings of individual evaluation committee members or advisors assisting in the evaluation process, but may include a summary of the rationale for the selection decision and Contract award.

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Part B. Certifications

List of Certifications

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Cert. 1 General Proposer Certification

Contingent Fee

Except for full-time bona fide employees working solely for the Proposer, the Proposer represents as part of its offer that it: (*mark one with an "x" per statement*)

☐ **has** ☐ **has not** employed or retained any company or persons to solicit or obtain this contract; **and**

☐ **has** ☐ **has not** paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

Covenant Against Gratuities

The Proposer represents, as part of its offer, that neither it nor any of its employees, representatives, or agents have offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any director, officer, or employee of the Authority with a view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performance of the contract. See General Provisions Section 9 (Interest of Public Officials).

Interest of Public Officials

The Proposer represents and warrants that no employee, official, or member of the Board (Executive Committee) of the Authority is or will have a pecuniary interest in or benefited directly or indirectly by this contract.

Small Business Concern

The Proposer represents as part of its offer that it (*mark one with an "x" per statement*):

☐ **is** ☐ **is not** a **small** business enterprise (SBE).

Per Title VI a Small Business Entity or SBE is defined as "a for-profit small business concern" that meets both of the following criteria:

- Is at least fifty-one (51) percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one (51) percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- A "socially and economically disadvantaged individual" is defined as any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who meets one or more of the following criteria:

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- Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis
- Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
- "Black Americans," which includes persons having origins in any of the Black racial groups of Africa
- "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race
- "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians
- "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong
- "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka
- Women
- Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective
- "Disabled Veterans" which, as provided by California Military and Veteran Code Section 999, includes: a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts, "Old Scouts," the Special Philippine Scouts, and "New Scouts," who has at least a 10 percent service-connected disability and who is domiciled in the State

Parent Company and Identifying Data

The Proposer represents, as part of its offer, that it (mark one with an "x"):

☐ is ☐ is not owned and controlled by a parent company.

A parent company, for purposes of this provision, is one that owns or controls the activities and basic business policies of the Proposer. To own the offering company means that the parent company must own more than fifty (50) percent of the voting rights in that company. A company may control a Proposer as a parent even though not meeting the requirements for such ownership if the company is able to formulate, determine, or veto basic policy decisions of the Proposer through the use of dominant minority voting rights, use of proxy voting, or otherwise.

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If the Proposer is **not** owned or controlled by a parent company, insert the Proposer's Employer's Identification number in the box provided.

If the Proposer is owned or controlled by a parent company, enter, in the boxes provided the information requested.

Name of Parent Company, Main Office Mailing Address, and Telephone

Parent Company Employer Identification Number

Type of Business

The Proposer represents that it operates as (mark one with an "x"):

☐ an individual ☐ a sole proprietorship ☐ a partnership ☐ a corporation
☐ a Limited Liability Company (LLC) ☐ a Joint Venture ☐ Other

If "Other", please explain: _____

If incorporated, enter the state under which laws the business is incorporated: _____

Age of firm: _____ years _____ Months

Annual gross receipts for previous year (indicate ☐ calendar or ☐ fiscal year):

☐ $100 to $500 Million ☐ $500 Million to $1 Billion ☐ >$1 Billion

Offering Organization Name, Address, and Telephone

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Additional Information

a. If the entity is a Joint Venture, Partnership, or Limited Liability Company, indicate the complete name and role of each member and each other financially liable party in the space below. Complete a separate copy of Cert. 1 for each member and financially liable party and attach it to the RFP.

Name of Firm	Role	Financial Liability

b. Is the firm under investigation by any agency of the Federal government (e.g., the Justice Department, SEC, Department of Defense, Federal Trade Commission, etc.) or by any agency of a State or foreign government?

☐ Yes ☐ No

If yes, please explain:

c. Have any banks refused to lend to the firm in the last two (2) years?

☐ Yes ☐ No

If yes, please explain:

Signature of Certifying Representative

Printed Name

Title

Offering Organization Name, Address, and Telephone

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Cert. 2 Major Participant Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification

Primary Covered Transactions

This certification applies to the offer submitted in response to this solicitation, and will be a continuing requirement throughout the term of the contract.

In accordance with the provisions of Appendix A to 49 C.F.R. Part 29, the undersigned certifies to the best of its knowledge and belief, that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

Have not within a 3-year period preceding this offer been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, state, or local) with commission of any of the offenses enumerated in item b of this certification.

Have not within a 3-year period preceding this offer had one or more public transactions (Federal, state, or local) terminated for cause or default.

(Mark one, below, with an "x")

☐ Certify to the above ☐ Cannot certify to the above.

If the "cannot certify" box is checked, attach an explanation of the reasons.

[Certification continued on next page]

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The Proposer shall require any subcontractor, at any tier, whose contract is equal to or greater than $25,000 to complete this certification form and retain this requirement throughout the term of the contract. A copy of a certification, for subcontractors, shall be furnished by the Contracting Officer upon request (see Cert. 3).

	Offering Organization Name, Address, and Telephone
Signature of Certifying Representative	
Printed Name	
Title	

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Cert. 3 Subcontractor Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification

Lower Tier Covered Transactions

This certification applies to a subcontract at any tier expected to equal or exceed $25,000, and will be a continuing requirement throughout the term of the contract.

In accordance with the provisions of Appendix B to 49 C.F.R. Part 29, the prospective lower tier participant (subcontractor) certifies to the best of its knowledge and belief, that it and its principals:

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

(Mark one, below, with an "x")

☐ Certify to the above ☐ Cannot certify to the above.

If the "cannot certify" box is checked, attach an explanation of the reasons.

	Offering Organization Name, Address, and Telephone
Signature of Certifying Representative	
Printed Name	
Title	

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Cert. 4 Non-Collusion Affidavit

State of _____ §
§
§
County of _____ §

The undersigned declares:

I am the _____ of _____ ,
(Position / Title) (Company)
the party making the foregoing Proposal, and that the Proposal is:

- NOT made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation
- Genuine and NOT collusive or a sham.

That the Proposer has NOT directly or indirectly induced or solicited any other Proposer to:

- Put in a false or sham Proposal; and
- Colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from bidding.

That the Proposer has NOT, in any manner directly or indirectly, sought by agreement, communication or conference with anyone to:

- Fix the Price Proposal of the Proposer or any other Proposer, or
- Fix any overhead, profit, or cost element of the Price Proposal, or of that of any other Proposer, or
- Secure any advantage against the public body awarding the contract or anyone interested in the proposed contract.

That all statements contained in the Proposal are true.

The Proposer has not and will not, directly or indirectly, for the purposes of effectuating a collusive or sham Price Proposal, submitted his or her Price Proposal or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, for payment to any corporation, partnership, company, association, organization, bid depository, or any member or agent thereof.

I have the full power to execute, and do execute this declaration on behalf of

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Select One

(Proposer)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on the _____ day of _____, 20 ____ at _____, _____
(city) (state).

_____
Signature of Affiant

Subscribed and sworn to before me on this _____day of _____, 20 _____

at _____, _____.
(City) (State)

Seal of Notary Public or
Officer Taking Oath

_____
Signature of Notary Public or
Officer Taking Oath

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Cert. 5 Organizational Conflicts of Interest Affidavit

Before me, the undersigned authority, personally appeared _____
who, after being by me duly sworn, on oath deposed as follows:

My name is _____ I am the _____
(Company Name) (Title)

of _____

I am of sound mind, capable of making this affidavit – over 21 years of age, and personally acquainted with the facts herein stated. I am duly authorized to make this affidavit and do hereby on oath state the following:

1. I am aware that the Conflict of Interest Policy, of the AUTHORITY prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest.

2. I am aware that Section II.9 of the AUTHORITY's Conflict of Interest Policy contains the following definition:

   > An **"Organizational Conflict of Interest"** means a circumstance arising out of a Contractor's existing or past activities, business or financial interests, familial relationships, contractual relationships, and/or organizational structure (i.e., parent entities, subsidiaries, Affiliates, etc.) that results in (i) impairment or potential impairment of a Consultant's ability to render impartial assistance or advice to the Authority, or of its objectivity in performing work for Authority; (ii) an unfair competitive advantage for any Contractor bidding or proposing on an Authority procurement; or (iii) a perception or appearance of impropriety with respect to any of the Authority's procurements or contracts, or a perception or appearance of unfair competitive advantage with respect to a procurement by the Authority (regardless of whether any such perception is accurate).

3. _____, its officers, employees, and agents, are subject
   (Company Name)
   to the provisions of the, AUTHORITY's Conflict of Interest Policy.

   A diligent search of the relationships and interests of _____
   (Company Name)

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its officers, employees, and agents, has been conducted to determine whether any Organizational Conflict of Interest may exist relating to or resulting from Request for Proposal No. 11-016 or any contract that may be entered as a result of this Request for Proposal.

4. _____, its officers, employees, and agents, do not
(Company Name)
have an Organizational Conflict of Interest under the AUTHORITY's Conflict of Interest Policy.

5. If an Organizational Conflict of Interest is discovered at any time in the future, _____ will submit an Organizational Conflicts of
(Company Name)
Interest Disclosure Statement (Form J), notifying the AUTHORITY of the existence and nature of the conflict within three (3) Working Days following the discovery of the Organizational Conflict of Interest.

Signed by Affiant: _____

Printed Name: _____

Title: _____

Company Name: _____

State of _____ §
§
§
County of _____ §

Subscribed and sworn to before me, the undersigned authority, this day personally appeared

_____ and on oath stated that the facts contained in this Affidavit are true to the best of his or her knowledge or belief.

Sworn to and Subscribed before me on this _____ day of _____ , 20 _____

[SEAL]

_____
Notary Signature

Notary Public in and for the: _____
(Name of State)

My commission expires on _____

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Cert. 6 Equal Employment Opportunity Certification

To be executed by the Contractor, all joint venture members of the Contractor, and all Subcontractors.

The undersigned certifies on behalf of _____ that:

_____
(Name of entity making certification)

Check one of the following boxes:

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 C.F.R. Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 C.F.R. Part 60-2 (Affirmative Action Programs).

Check one of the following boxes:

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114, or 11246, and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: _____

Date: _____

If not the Contractor, relationship to the Contractor: _____

ADDENDUM 9

Cert. 7 Non-Discrimination Certification

In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, the Proposer agrees that it will not discriminate against any individual because of race, color, national origin, or sex in any activities leading up to or in performance of the Contract.

	Offering Organization Name, Address, and Telephone
Signature of Certifying Representative	
Printed Name	
Title	

ADDENDUM 9

Cert. 8 Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that the following are true:

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

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

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

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

Executed this _____ day of _____, 20 ____.

Company Name: _____

By: _____
(Signature of Company Official)

_____
(Title of Company Official)

Note:
1) If Joint Venture, each Joint Venture member shall provide the above information and sign the certification.

ADDENDUM 9

Cert. 9 Drug Free Workplace Program Certification

(This certification applies to construction work sites only.)

By submission of an offer, the Proposer certifies and agrees that, with respect to the Proposer and all employees of the Proposer to be utilized in the performance of any contract resulting from this solicitation, it will establish a drug-free workplace program that complies with the provisions of the Drug-Free Workplace Program clause of the General Provisions (Book 2, Part B, Section 27).

Failure of the Proposer to have a drug-free workplace program that complies with this certification and the clause in the General Provisions, and which is available for Authority review and approval as part of the Authority's pre-award responsibility survey, will be deemed a lack of responsibility rendering the Proposer ineligible for award.

	Offering Organization Name, Address, and Telephone
Signature of Certifying Representative	
Printed Name	
Title	

ADDENDUM 9

Cert. 10 Buy America Certifications

The Proposer/Contractor shall comply with 49 U.S.C. § 24405(a), which provides that Federal funds may not be obligated unless steel, iron, and manufactured products used in FRA-funded projects are produced in the United States, unless a waiver has been granted.

Certificate of Compliance with 49 U.S.C. § 24405(a)

The Proposer/Contractor hereby certifies that it will comply with the FRA Buy America requirements of 49 U.S.C. § 24405(a) (1).

Date: _____

Signature: _____

Printed Name: _____

Company Name: _____

Title: _____

Certificate of Non-Compliance with 49 U.S.C. § 24405(a)

The Proposer/Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. 24405(a) buy it may meet the requirements for a waiver pursuant to 49 U.S.C. 25505(a) (2) and has provided the Authority with a written Buy America waiver justification.[3]

Date: _____

Signature: _____

Printed Name: _____

Company Name: _____

Title: _____

[3] *Note: The written justification, as required by the "Certificate of Non-Compliance with 49 U.S.C. § 24405(a) above, shall be provided as an attachment to this Certification form.*

ADDENDUM 9

Cert. 11 Iran Contracting Certification

Section 2200 et seq. of the California Public Contract Code prohibits a person from submitting a proposal for a contract with a public entity for goods and services of $1,000,000 or more if that person is identified on a list created by the Department of General Services (DGS) pursuant to Section 2203(b) of the California Public Contract Code. The list will include persons providing goods or services of $20,000,000 or more in the energy sector of Iran and financial institutions that extend $20,000,000 or more in credit to a person that will use the credit to provide goods or services in the energy sector in Iran. DGS is required to provide notification to each person that it intends to include on the list at least 90 days before adding the person to the list.

In accordance with Section 2204 of the California Public Contract Code, the undersigned hereby certifies that

It is not identified on a list created pursuant to Section 2203(b) of the California Public Contract Code as a person engaging in investment activities in Iran described in Section 2202.5(a), or as a person described in Section 2202.5(b), as applicable; or

It is on such a list but has received permission pursuant to Section 2203(c) or (d) to submit a bid or proposal in response to this RFP HSR 11-016 Design Build Services for Construction Package #1 of the Initial Construction Segment of the California High-Speed Train System.

Note: Providing a false certification may result in civil penalties and sanctions.

Date: _____

Entity: _____

Signature: _____

Printed Name _____

Title: _____

Note: Duplicate this form so that it is signed by the Proposer and all joint venture members of the Proposer.

ADDENDUM 9

Cert. 12 Darfur Contracting Act Certification

Pursuant to Public Contract Code section 10478, if a Proposer currently or within the previous three (3) years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please complete only **one** of the following three paragraphs (via initials for Paragraph No. 1 or Paragraph No. 2, or via initials and certification for Paragraph No. 3):

1. _____ Initials We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

OR

2. _____ Initials We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ Initials We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company below as defined in Public Contract Code section 10476.

CERTIFICATION for Paragraph No. 3

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Proposer to the clause listed above in Paragraph No. 3. This certification is made under the laws of the State of California.

Proposer Firm Name (Printed)	*Federal ID Number*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	*Executed in the County and State of*

ADDENDUM 9

Cert. 13 Certification Regarding Miscellaneous State Requirements

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Proposer Firm Name (Printed)	*Federal ID Number*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	*Executed in the County and State of*

CONTRACTOR CERTIFICATION CLAUSES:

- **Statement of Compliance** - Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

- **National Labor Relations Board Certification** - Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

- **Expatriate Corporations** - Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

- **Domestic Partners** - For contracts over $100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

ADDENDUM 9

Cert. 14 Proposer's Overall Project Small Business Goal Commitment Affidavit

AFFIDAVIT

STATE OF _____ §
§
§
COUNTY OF _____ §

The undersigned, being first duly sworn, deposes and says that:

_____ is the Official Representative of Select One _____ ,
(Contact Name) (Proposer's Name)
the Proposer submitting the foregoing Proposal.

(If the Proposer has not yet been formed, modify this form as appropriate to include the names of all of the Principal Participants and to indicate that the Official Representative is signing the form on behalf of all of the Principal Participants.)

The Proposer has carefully examined all documents that form this Request for Proposal and is aware that California High-Speed Rail Authority (Authority) has established an overall project Small Business goal of 30 percent, inclusive of Small Businesses, Disadvantaged Business Enterprises, Disabled Veteran Business Enterprises and Microbusinesses for Construction Package No. 1 of the Initial Construction Segment of the California High-Speed Train System, in conformance with Executive Order S-02-06, Title VI of the Civil Rights Act of 1964, and related statutes and Best Practices of Title VI, as set forth in the Authority's Small and Disadvantaged Business Enterprise Program.

The Proposer will aggressively exercise Good Faith Efforts to the satisfaction of the Authority to meet or exceed the overall project Small Business goal of 30 percent, consistent with the Proposer's approved Performance Plan developed in accordance with the Authority's Small and Disadvantaged Business Enterprise Program.

_____
Signature

_____
Printed Name

_____
Title

ADDENDUM 9

Subscribed and sworn to before me this _____ day of _____, 20 _____.

_____ [Seal]

Notary Public in and for said County and State
My commission expires: _____

SURETY COMPANY ATTORNEY-IN-FACT

State of _____ §
§
§
County of _____ §

On the ____ day of _____ , 20 ____ , before me, the undersigned, a Notary Public in and for the State, personally appeared _____ known to me to be the duly authorized Attorney-in-Fact of the corporate Surety named in the within instrument, known to me to be authorized to execute that instrument on behalf of said corporation, known to me to be the person whose name is subscribed to such instrument as the Attorney-in-Fact of said corporation, and acknowledged to me that he (she) subscribed the name of said corporation thereto as Surety, and his (her) own name as Attorney-in-Fact and that said corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL:

(SEAL)

_____
Notary Public for the State of California

Note: Acknowledgement by Attorney-in-Fact must be attached.
Corporate seals of Principal and Surety must be attached.

ADDENDUM 9

Cert. 15 Escrowed Proposal Documents Certification

The undersigned does hereby certify that s/he has personal knowledge of the preparation of the proposal cost and pricing documents, that s/he has examined the documents, and that, to the best of his/her knowledge, the documentation is complete and accurate and otherwise complies with the Authority's "Escrowed Proposal Documents" clause relating to this solicitation.

	Offering Organization Name, Address, and Telephone
Signature of Certifying Representative	
Printed Name	
Title	

ADDENDUM 9

Cert. 16 Not Used

ADDENDUM 9

Part C. Forms

List of Forms

Form Title		Page Count
Form A	Transmittal Letter	2
Form B	Proposal Checklist	6
Form C	Proposer's RFQ/Proposal Manager Substitution	1
Form D	Schedule of Subcontractor(s)/ Subconsultant(s)	1
Form E	Identification of Proposer Team Members	1
Form F	Contract Price	1
Form G	Key Personnel Matrix	1
Form H	Request for Information and Clarification	2
Form I	Proposer's List of Critical Right-of-Way Parcels	1
Form J	Organizational Conflicts of Interest Disclosure Statement	2
Form K	Proposal Bond	3
Form L	Proposal Agreement	24

ADDENDUM 9

Form A. Transmittal Letter

PROPOSER: Select One

Proposal Date: _____

California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Attn: _____

The undersigned Proposer submits this proposal in response to that certain Request for Proposals No. HSR 11-16 dated as of March 22, 2012, as amended (the "RFP"), issued by the California High Speed Rail Authority (the "Authority"), as described in the RFP.
Enclosed, and incorporated herein and made a part of this proposal, are the documents listed in Part A.8.2.7.

Proposer acknowledges receipt, understanding, and full consideration of all materials posted on and the Project Website.

Proposer represents and warrants that it has read the RFP and agrees to abide by the contents and terms of the RFP and proposal.

Proposer acknowledges receipt of the following Addenda and sets of questions and responses:

Addenda	Release Date
Addendum No. 1	April 30, 2012
Addendum No. 2	June 5, 2012
Addendum No. 3	July 2, 2012
Addendum No. 4	August 22, 2012
Addendum No. 5	October 29, 2012
Addendum No. 6	November 13, 2012
Addendum No. 7	December 14, 2012
Addendum No. 8	December 26, 2012
Addendum No. 9	January8, 2013

The Authority's responses to the Proposer's Request for Information and Clarification No. 1 through No. 736 were issued in a series of emails to all Proposers to the addresses on file with the Authority.

Proposer certifies that this Proposal is submitted without reservation, qualification, assumptions or conditions. Proposer certifies that it has carefully examined and is fully familiar with all of the provisions of all of the RFP Documents, has reviewed all materials posted on the Project Website, the Addenda and the Authority's responses to questions, and is satisfied that the RFP Documents provide sufficient detail regarding the obligations to be performed by the

ADDENDUM 9

Contractor and do not contain internal inconsistencies; that it has carefully checked all the words, figures and statements in this Proposal; that it has conducted such other investigations and additional design development which are prudent and reasonable in preparing this Proposal; and that it has notified the Authority of any deficiencies in or omissions from any RFP Documents or other documents provided by the Authority.

Proposer represents that all statements made in the Statement of Qualifications (SOQ) previously delivered to the Authority (as amended by any approved changes to the Proposer's organization) are true, correct and accurate as of the date hereof, except as otherwise specified in the enclosed Proposal. Proposer agrees that such SOQ, except as modified by the enclosed Proposal, is incorporated as if fully set forth herein.

If the Authority decides to use a community service agreement for the Project, Proposer agrees to execute a letter of assent agreeing to be bound by the Community Benefits Agreement.

Proposer authorizes the Authority to make any inquiries necessary to verify the information presented in this form and attachments, and to obtain any financial information necessary to evaluate Proper Team's capability to supply the necessary financial support to the Project.

Proposer understands that the Authority may reject each proposal the Authority may receive.

Proposer further understands that all costs and expenses incurred by it in preparing this proposal and participating in the Project procurement process will be borne solely by the Proposer.

Proposer agreed that the Authority will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in this proposal.

This proposal shall be governed by and construed in all respects according to the laws of the State of California.

Proposer's business address:

No. Street Floor or Suite

City State or Province ZIP or Postal Code Country

State or Country of Incorporation/Formation/Organization: _____

Note: Proposer signature block to be added. The Transmittal Letter is to be executed by the Proposer's duly authorized Official Representative identified on Cert. 1. If the Proposer has not yet been formed, each Principal Participant must designate the same Official Representative on Cert. 1, and the Transmittal Letter must be executed by the Official Representative on behalf of each of the Principal Participants.

ADDENDUM 9

Form B. Proposal Checklist

This Form B, Proposal Checklist, is provided to establish the organization of the Proposals. The information contained in the Proposal Checklist is not intended to substitute for or to supersede the requirements of the ITP. In the event of a conflict between the Proposal Checklist and the ITP, the ITP shall prevail. Form B is for Proposer's use in preparing its Proposal and is not required to be submitted with the Proposal.

	Required Document Description	Document Requirements
	Technical Proposal	
☐	Proposer Transmittal Letter (Form A).	The Proposer's duly authorized Official Representative (if the Proposer has not yet been formed, the form shall be signed by the Official Representative designated by all the Principal Participants and specifically authorized to act on behalf of each Principal Participant in its individual capacity) must execute the transmittal letter in blue ink.
☐	Identification of Proposer Team Members (Form E)	
☐	General Proposer Certification (Cert. 1)	Shall be duplicated so that a copy is signed by the Proposer and by the Official Representative for each respective Proposer Team member or other financially liable party.
☐	A statement of the Proposer's unequivocal commitment to comply with the Authority's "Verification, Validation, and Self-Certification" requirements.	Submit as Attachment 1 to Cert. 1
☐	Major Participant Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification (Cert. 2)	Executed by the Proposer and each Major Participant.
☐	Subcontractor Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification (Cert. 3)	Executed by each subcontractor that does not qualify as a Major Participant.
☐	Proposal Bond (Form K)	The Proposer shall provide a Proposal Bond as set forth in Exhibit 2 in the amount of 5 percent of the Total Contract Price.
☐	Equal Employment Opportunity Certification (Cert. 6)	Shall be duplicated so that it is signed by the Proposer and by the Official Representatives for each respective Proposer Team member, unless an original or certified copy of a notarized document granting a power of attorney to and specifically authorizing the Proposer's Official Representative to act as the representative for each individual
☐	Non-Discrimination Certification (Cert. 7)	
☐	Certification Regarding Lobbying (Cert. 8)	
☐	Drug Free Workplace Program Certification (Cert. 9)	

ADDENDUM 9

	Required Document Description	Document Requirements
☐	Buy America Certifications (Cert. 10)	member of the Proposer team is provided.
☐	Organizational Conflicts of Interest Affidavit (Cert. 5)	Shall be duplicated so that it is separately executed by each Proposer Team Member.
☐	Organizational Conflicts of Interest Disclosure Statement (Form J)	Shall be signed by the Proposer
☐	Iran Contracting Certification (Cert. 11)	Shall be duplicated so that it is signed by the Proposer and by the Official Representative for each respective Principal Participant, unless an original or certified copy of a notarized document granting a power of attorney to and specifically authorizing the Proposer's Official Representative to act as the representative for each Principal Participant is provided.
☐	Darfur Contracting Act Certification (Cert. 12)	Shall be executed by Proposer's duly authorized Official Representative (if the Proposer has not yet been formed, the form shall be signed by the Official Representative designated by all Principal Participants and specifically authorized to act on behalf of each Principal Participant in its individual capacity) and must be executed in blue ink.
☐	Non-Collusion Affidavit (Cert. 4)	
☐	Certification Regarding Miscellaneous State Requirements (Cert. 13)	Shall be duplicated so that it is signed by the Proposer and by the Official Representative for each respective Principal Participant unless an original or certified copy of a notarized document granting a power of attorney and specifically authorizing the Proposer's Official Representative to act as the representative for each Principal Participant is provided.
☐	A letter from a licensed surety meeting the requirements stated in the RFP	– Letter must be signed by an authorized representative as evidenced by a current certified power of attorney committing to provide a Performance and a Payment Bond, – Each in substantially the form provided in RFP Documents, Book 2, Signature Document. – If multiple surety letters are provided, the Proposal shall identify which surety will be the lead surety. – The commitment letter may include no conditions, qualifications, or reservations for underwriting or otherwise, other than a statement that the commitment is subject to award of the Contract to Proposer within the validity period for Proposals. – The bonds required to be provided as a condition to execution of the Contract are to name Proposer as obligor. – Accordingly, the surety letter must commit to issuance of a bond in such entity's name.

ADDENDUM 3

	Required Document Description	Document Requirements
☐	Surety Default	For each surety providing a letter, Proposer shall indicate in a separate attachment to be submitted with the surety letter whether or not the Surety has defaulted on any obligation within the past ten (10) years and the details in the event of such default.
☐	Letter accepting joint and several liability for Proposer's obligations under its Proposal and any resulting contract, if Proposer is a joint venture that is not a legal entity.	Must be signed by each joint venture member
☐	Information regarding anticipated subconsultants and subcontractors (Form D).	
☐	Relevant Organizational Documents	Each Proposer shall provide a copy of the articles of incorporation and bylaws, the joint venture agreement, partnership agreement, limited liability company operating agreement or equivalent organizational documents for the Proposer, each joint venture partner and Guarantor. These documents shall be consistent with the responsibilities to be undertaken by such parties under the Contract, if such organizational documents have been changed or modified since submittal of the Statement of Qualifications.
☐	Letter Approving Changes in Proposer's Organization	Any additions or other changes (including deletions) in a Proposer's organization require written approval from the Authority. The letter from the Authority approving such change(s) must be included with the Proposal If there are no additions or other changes (including deletions) in a Proposer's organization, a statement indicating as much from the Proposer shall be included.
☐	No Legal Issues, Liabilities or Proceedings Certification OR Information Regarding Additional Legal Issues, Liabilities or Proceedings (if any since SOQ submission)	The Proposal shall include a certification stating that there have not been any additional legal issues, liabilities or proceedings since the SOQ submission. OR If there has been, or there is anticipated to be, any additional legal issues, liabilities or proceedings since the SOQ submission, then the Proposal shall include specific information regarding legal issues, liabilities and proceedings. The Proposal shall include the following information regarding such legal issues, liabilities and proceedings: – Legal Issues – Identify and explain any significant anticipated legal issues which the Proposer must resolve in order to carry out the

ADDENDUM 9

	Required Document Description	Document Requirements
		Project and its obligations under a Contract – Legal Liabilities – Provide a list and a brief description of all instances during the last five (5) years involving transportation civil infrastructure projects in which the Proposer or a Major Participant (or its parent company; its subsidiary companies; any company under joint ownership with such firm; any joint ventures or limited liability companies in which such firm is a member; and any partnership in which such firm is a general partner) was (i) determined, pursuant to a final determination in a court of law, arbitration proceeding or other dispute resolution proceeding, to be liable for a material breach of contract or (ii) terminated for cause. For each instance, identify an owner's representative with a current phone and fax number (and e-mail address if available). – Legal Proceedings – Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board, and other dispute resolution proceeding occurring during the last five (5) years involving Proposer or a Major Participant (or its parent company; its subsidiary companies; any company under joint ownership with such firm; any joint ventures or limited liability companies in which such firm is a member; and any partnership in which such firm is a general partner) and involving an amount in excess of $500,000 related to performance in transportation civil infrastructure projects with a contract value in excess of $25 million.
☐	Key Personnel Matrix (Form G) Letter approving any replacements of Key Personnel (Attachment 1 to Form G)	Listing the individuals designated as Key Personnel in the SOQ submitted by the Proposer or subsequently approved as a replacement by the Authority for the individual(s) in the Proposer's SOQ on Form D.
☐	Commitment of designated Key Personnel (Attachment 2 to Form G)	An express, written statement committing that the Key Personnel designated in the SOQ submitted by the Proposer for the positions or roles described in Section 6.4.3.6 of the RFQ shall be available to serve the role so identified in connection with the Project
☐	Proposer's Overall Project Small Business Goal Commitment Affidavit (Cert. 14)	Shall be executed by the Proposer's duly authorized Official Representative identified in Cert. 1.
☐	Small Business Performance Plan describing Proposer's approach to meeting the Overall Project Small Business goal for this Project.	Areas to be addressed include but are not limited to:

ADDENDUM 3

Required Document Description			Document Requirements
			A description of the process used to identify and solicit SB/DBE/DVBE/MB firms, the areas of work to be performed by SB/DBE/DVBE/MB firms, and the list of firms selected for participation. Proposers shall also include outreach and networking forums held to inform, engage and solicit the participation of small businesses, as defined in the Authority's Small and Disadvantaged Business Enterprise Program. For subcontracting work not yet awarded, but intended for future SB/DBE/DVBE/MB involvement, identify the work and the process that will be used to select the firms to perform the work.
☐	Specific information regarding utilization of SB/DVBE/DBE/MB firms on each of the Principal Participants' four (4) most recently completed projects.		The information must include: – Project Name – Owner – Owner's SB/DVBE/DBE/MB Compliance Officer – Goal established – Actual participation achieved – Year work was completed – Any SB/DVBE/DBE/MB firms with whom Principal Participants had formal partnering or mentoring relationships – Scope and type of work performed (design and/or construction) A description of any innovative measures undertaken to involve SB/DVBE/DBE/MB firms.
Price Proposal			
☐	Contract Price (Form F)		As described in Section Part A.9.2.3
☐	Financial Statements & Accompanying Information		See Section Part A.9.2.3.
	☐	No Material Change Certification or Material Change Disclosure	Statement from the CFO or Treasurer meeting the relevant requirements of Part A.9.2.3. Reference to financial statements or notes to financial statements is not sufficient for purposes of meeting these requirements.
	☐	Recent Financial Statements	If Financial Statements for any of the parties identified in Part A.9.2.3 have been issued since the SOQ submission; – Then the Proposal must include three (3) hard copies, one (1) electronic copy in PDF format, and one (1) electronic copy in Microsoft Excel format provided in separately sealed container;

ADDENDUM 9

Required Document Description			Document Requirements
			and – The Proposal must include a statement from the appropriate party identified in Part A.9.2.3 stating that the Financial Statements have been issued for the respective entity since the SOQ submission. – The Financial Statements must be prepared in accordance with U.S. GAAP. If Financial Statements are prepared in accordance with accounting principles other than U.S. GAAP, a letter must be provided from a certified public accountant discussing the areas of the Financial Statements that would be affected by a conversion to U.S. GAAP.
	☐	Recent Credit Ratings	If credit rating(s), including credit rating outlook(s), for any of the parties identified in Part A.9.2.3 have been issued or changed since the SOQ submission then the Proposal must include a copy of the credit rating. If no credit rating(s) have been issued or changed, including credit rating outlook, then the Proposal must include a statement from the appropriate party identified in Part A.9.2.3 stating such.
	☐	Guarantor Letter of Support (if guaranty provided as part of SOQ submission)	Stating that Guarantor will provide a performance guaranty in form as set forth in Book 2, Part A, Attachment G and that it will financially support all the obligations of the Proposer with respect to the Project.
Escrowed Proposal Documents			
☐	Escrowed Proposal Documentation (EPDs)		EPDs shall be delivered not later than 3:00 p.m. PST on the third Working Day after the Proposal Deadline.
☐	Escrowed Proposal Documents Certification (Cert. 15) to be included with EPD submittal.		Proposer shall certify to the accuracy of the information in the EPDs.

ADDENDUM 3

Signature of Team Representative

Printed Name

Title

Offering Organization Name, Address, and Telephone

Form C. Proposer's RFQ/Proposal Manager Substitution

CALIFORNIA HIGH-SPEED RAIL AUTHORITY
INITIAL CONSTRUCTION SEGMENT, CONSTRUCTION PACKAGE #1
FRESNO, CALIFORNIA
CONTRACT NO. HSR 11-16

Name of Proposer:

Select One

Proposer's RFQ/Proposal Manager (Proposed):

Name: _____

Title: _____

Firm/Company: _____

Address: _____

Telephone No.: _____ **Fax No.**: _____

Email address: _____

Fax and e-mail this form to:

California High-Speed Rail Authority
Attention: Elizabeth Stone, Contracts Office
770 L Street, Suite 800
Sacramento, CA 95814
E-Mail: RFPCP01@hsr.ca.gov
FAX: (916) 322-0827

Note: Any substitution of Proposer's RFQ/Proposal Manager for the RFP process shall be made in writing to and approved by the State, and shall subject the Proposer to re-evaluation. Submit written request to the above address.

ADDENDUM 9

Form D. Schedule of Subcontractor(s)/ Subconsultant(s)

Names and Addresses of Subcontractor(s)/Subconsultant(s)		Type of Work to be Performed	Small Business Status (Check all that apply)	Previous Year's Annual Gross Receipts
Name:			☐ Yes	☐ < $500K
Street Address:				
City, State Zip:			☐ No	☐ $500K-$2 Mil
Phone:				
Fax:			If "Yes": ☐ DBE ☐ SB	☐ $2 Mil-$5 Mil
Tax ID:				
Contact Person:		Age of Firm:	☐ Micro B ☐ DVBE	☐ > $5Mil
Email:				
Name:			☐ Yes	☐ < $500K
Street Address:				
City, State Zip:			☐ No	☐ $500K-$2 Mil
Phone:				
Fax:			If "Yes": ☐ DBE ☐ SB	☐ $2 Mil-$5 Mil
Tax ID:				
Contact Person:		Age of Firm:	☐ Micro B ☐ DVBE	☐ > $5Mil
Email:				
Name:			☐ Yes	☐ < $500K
Street Address:				
City, State Zip:			☐ No	☐ $500K-$2Mil
Phone:				
Fax:			If "Yes": ☐ DBE ☐ SB	☐ $2Mil-$5Mil
Tax ID:				
Contact Person:		Age of Firm:	☐ Micro B ☐ DVBE	☐ > $5Mil
Email:				

(Add rows/pages as needed)

Attach to this form copy(s) of applicable Small Business Certificates for those Subcontractor/Subconsultants that are designated as Small Business Entities.

Offering Organization Name, Address, and Telephone

Signature of Team Representative

Printed Name

Title

ADDENDUM 9

Form E. Identification of Proposer Team Members

Proposer: Select One

NAME OF EACH TEAM MEMBER	ROLE IN ORGANIZATION[4]

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[4] Principal Participant, Lead Engineering Firm, Subcontractor for construction, Subcontractor for design.

Form F. Contract Price

Contract Price[1] : _____

Class I Hazardous Waste[2]: *72,165* *tons ×* *$* _____ *[price per ton]=* _____

Class II Hazardous Waste[2]: *144,328* *tons ×* *$* _____ *[price per ton]=* _____

Variable Price [Class I Hazardous Waste + Class II Hazardous Waste]: _____

Total Proposal Price [Contract Price + Variable Price] _____

Utility Provisional Sum	$	25,000,000
Construction Contract Work Provisional Sum	$	20,000,000
Building Hazardous Materials Provisional Sum	$	8,000,000
Total Provisional Sums:	$	53,000,000

Total Contract Price[3] [Contract Price + Total Provisional Sums]: _____

_____
Signature of Team Representative

_____
Printed Name

_____
Title

Offering Organization Name, Address, and Telephone

[1] Lump sum price for Contract Packages 1A, 1B, and 1C

[2] See definition in Book 2, Part B, General Provisions.

[3] Note: Total Contract Price does not include the Variable Price.

ADDENDUM 9

Form G. Key Personnel Matrix

Authority's Title	Proposer's Title	Employing Firm	Proposed Individual	Years of Experience	License/ Registration	Commitment Percentage (%)
Officer-in-Charge						
Project Manager/Director						
Design Manager						
Construction Manager						
Quality Manager						
Verification and Validation Manager						
Environmental Compliance Manager						
Safety Manager						
SB/DVBE/DBE/MB Manager						
Warranty Manager						

ADDENDUM 9

Form H. Request for Information and Clarification

RFI FORM SUBMISSION INSTRUCTIONS:

1. **ALL** fields **MUST** be filled in.
2. ONE (1) question or request per form. NO MULTIPLE PART QUESTIONS.
3. The RFI form document **MUST** be in the native file format and emailed to the Authority's point of contact. Responses to all RFI requests will be posted for review by all short listed proposers.
4. Use additional copies of page two of this form if more space is required to detail Proposer's question/clarification request.
5. Formatted text cannot be recorded by the Authority's RFI system all RFI's must be provided in **PLAIN TEXT** format **ONLY**. **DO NOT** enter text that has been struck out, underlined, *italicized*, **bolded**, colored, etc.
6. If a field does not apply to your question (i.e. Drawing Number) insert "N/A" in the field.
7. Forms that are handwritten, re-scanned or not submitted according to these instructions shall be rejected.

Date: _____
(MM/DD/YYYY)

Proposer's Team Name: Select One
(Use drop-down list)

Proposer's E-mail Address: _____
(As on file with the Authority)

Proposer's RFI Attachment File Name: _____
(Example: "ABC Builders RFI 12 – Attachment 1.dgn")

Classification Number(s): Select One
(Use drop-down list)

Addendum Number(s): _____
(Provide the addendum(s) that is associated with the following document(s) references.)

Book Number(s): Select One **Part and Subpart(s):** _____
(Use drop-down list) *(Example: "A.1")*

Section Number(s): _____ **Sub-Section Number(s):** _____
(Example: "10") *(Example: "10.1")*

Section Title: _____
(Example: "Contract Award/Execution")

Sub-Section Title: _____
(Example: "Contract Award")

RFP Page Number(s): _____
(Example: "57-60, 75, 77, 80")

Drawing Number(s): _____
(Example: "SV1893, SV1893-A5"

Form continued on the following page.

ADDENDUM 9

Request for Information Clarification Description:

(PLAIN TEXT ONLY, insert a copy of this page if more space is required)

ADDENDUM 9

Form I. Proposer's List of Critical Right-of-Way Parcels

Based on the data in the Right-of-Way Maps, the Proposer is requested to identify an indicative list parcels that it considers to be critical to their Project Approach. This shall be delivered to the Authority within sixty (60) days of receipt of RFP.

Proposer Name: Select One

Proposer's Return Email Address: _____ **Date:** _____

Construction Critical Parcels	Parcel Description	Proposed Required Acquisition Date	Comments

Note: Provide attachments as necessary

ADDENDUM 9

Form J. Organizational Conflicts of Interest Disclosure Statement

CALIFORNIA HIGH SPEED RAIL AUTHORITY

1. Definition

The Authority's Conflict of Interest Policy defines organizational conflicts of interest as follows:

"Organizational Conflict of Interest" means a circumstance arising out of a Contractor's existing or past activities, business or financial interests, familial relationships, contractual relationships, and/or organizational structure (i.e., parent entities, subsidiaries, Affiliates, etc.) that results in (i) impairment or potential impairment of a Consultant's ability to render impartial assistance or advice to the Authority or of its objectivity in performing work for Authority, (ii) an unfair competitive advantage for any Proposer with respect to an Authority procurement; or (iii) a perception or appearance of impropriety with respect to any of the Authority's procurements or contracts or a perception or appearance of unfair competitive advantage with respect to a procurement by the Authority (regardless of whether any such perception is accurate).

2. Disclosure

In the space provided below, and on supplemental sheets as necessary, identify all relevant facts relating to past, present or planned interest(s) of the Proposer and its team (including Proposer, Proposer Team members, and all Subcontractors identified at the time of the submittal of its Proposal, and their respective personnel) which may result, or could be viewed as, an organizational conflict of interest in connection with the RFP.

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3. Explanation

In the space below, and on supplemental sheets as necessary, identify steps that have been or will be taken to avoid or mitigate any organizational conflicts of interest described herein.

4. Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Organizational Conflicts of Interest Disclosure Statement, other than as disclosed above.

Signature of Certifying Team Representative

Printed Name

Title

Offering Organization Name, Address, and Telephone

ADDENDUM 9

Form K. Proposal Bond

KNOW ALL PEOPLE BY THESE PRESENTS that:

WHEREAS the undersigned, _____

as Principal and _____
as Surety, are held and firmly bound unto the California High-Speed Rail Authority, a political subdivision of the State of California (hereinafter called "Authority") in the penal sum of five (5) percent of the Total Contract Price ("Bonded Sum") of the Principal above named, submitted by said Principal to Authority for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that a Proposal to Authority for performance of that certain work described as

DESIGN BUILD SERVICES
FOR
CONSTRUCTION PACKAGE #1
INITIAL CONSTRUCTION SEGMENT
FOR THE
CALIFORNIA HIGH-SPEED TRAIN SYSTEM

has been submitted by Principal to Authority.

NOW THEREFORE, the condition of this bond is such that, if the aforesaid Principal withdraws its proposal or any revised proposal or best and final offer ("BAFO") in a manner not permitted by the Instructions to Proposers ("ITP"), or if Principal or anyone representing the Principal performs any prohibited activities specified in the ITP, or if Principal is awarded a contract in response to the RFP or any request for revised proposals or BAFOs and does not execute and deliver to Obligee such contract and provide all other documents (including, but not necessarily limited to, performance and payment bonds and insurance) set forth in the ITP, or if it is selected for negotiations and fails to negotiate in good faith or fails to execute and deliver the Contract and provide all other documents set forth in the ITP upon conclusion of negotiations in accordance with the ITP, then the Bonded Sum will be forfeited to Obligee as liquidated damages and not as a penalty, within ten (10) days after such failure; otherwise this obligation shall be null and void.

Surety, for value received, hereby stipulates and agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of Principal's proposal and Surety waives notice of any such extension(s).

ADDENDUM 9

Surety agrees that this bond shall automatically apply to any revised proposals or best and final offers submitted in response to a request for revised proposals issued as described in the ITP, and that if the Principal fails to provide a revised proposal in response to such a request, this bond shall remain valid with respect to the Principal's original proposal.

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

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____ , 20 ____.

PRINCIPAL:	**SURETY:**
_____	_____
Company Name	Company Name
_____	_____
Signature	Signature
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title

NOTE: Signatures of those executing for Surety must be acknowledged by a Notary.

NOTE TO SURETY COMPANY:

The following form of acknowledgement should be used. If any other form of acknowledgement is used, there must be submitted a certified copy of unrevoked resolution of authority for the attorney-in-fact.

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SURETY COMPANY ATTORNEY-IN-FACT

State of _____ §
§
§
County of _____ §

On _____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me to be the duly authorized Attorney-in-Fact of the corporate Surety named in the within instrument, known to me to be authorized to execute that instrument on behalf of said corporation, known to me to be the person whose name is subscribed to such instrument as the Attorney-in-Fact of said corporation, and acknowledged to me that he (she) subscribed the name of said corporation thereto as Surety, and his (her) own name as Attorney-in-Fact and that said corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL:

(SEAL)

_____
Notary Public for the State of California

Acknowledgement by Attorney-in-Fact must be attached. Corporate seals of Principal and Surety must be attached.

ADDENDUM 9

Form L. Proposal Agreement

STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER
HSR 11-16
REGISTRATION NUMBER

1. This **Agreement** is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California High-Speed Rail Authority

CONTRACTOR'S NAME

Select One

2. The term of this Agreement is: **Upon Approval** through **4/15/13**
3. The maximum amount of this Agreement is: **2,000,000.00**
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

CONSTRUCTION PACKAGE 1 OF THE INITIAL CONSTRUCTION SEGMENT OF THE CALIFORNIA HIGH-SPEED TRAIN SYSTEM

EXHIBIT A	SCOPE OF SERVICES	Pages 2-5 of 24
EXHIBIT B	BUDGET DETAIL AND PAYMENT PROVISIONS	Pages 6 of 24
EXHIBIT C	GENERAL TERMS AND CONDITIONS	Pages 7-11 of 24
EXHIBIT D	SPECIAL TERMS AND CONDITIONS	Pages 12-19 of 24
EXHIBIT E	SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS	Pages 20-23 of 24
EXHIBIT F	REQUEST FOR PROPOSAL	Page 24 of 24

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto
These documents can be viewed at http://www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

Contractor		**California Department of General Services Use Only**
Contractor's Name (If other than an individual, state whether a corporation, partnership, etc.)		
By (Authorized Signature)	Date signed (Do not type)	
Printed Name and Title of Person signing		
Address		
State of California		
Agency Name California High Speed Rail Authority		
By (Authorized Signature)	Date Signed (Do not type)	
Printed name and title of person signing		
Address 770 L Street, Suite 800, Sacramento, CA 95814		☐ **Exempt Per:**

ADDENDUM 9

EXHIBIT A: SCOPE OF SERVICES

A. BACKGROUND, GOALS AND PURPOSE

1. The California High-Speed Rail Authority (Authority) requires professional design-build services to be performed in connection with Request For Proposal No. HSR No. 11-16, as amended (RFP), to design and construct Construction Package 1 of the Initial Construction Segment of the California High-Speed Train System (the "Project"). The RFP is incorporated into this agreement (Agreement) by reference and made a part hereof as if set forth in full.

   The Project is located within the Counties of Madera to the north and Fresno to the south, and the City of Fresno in the southern area and, subject to completion of the environmental process, is composed of one base alignment and two alignment options:

   a. Construction Package (CP) 1A (including the hybrid alternative) – Approximately twenty-three (23) miles, from south of Avenue 17 to north of Stanislaus Street (base alignment)

   b. CP 1B – Approximately one (1) mile, from north of Stanislaus Street to south of Santa Clara Street (option)

   c. CP 1C – Approximately five (5) miles, from south of Santa Clara Street to south of East American Avenue (option)

   The Project will extend from twenty-three (23) to twenty-nine (29) miles in length depending on the final alignment selected through the environmental process. The Project alignment will include at-grade, aerial structures, and trench sections and one short tunnel. Also, the Project will include approximately seventeen (17) or twenty-five (25) grade separations and one (1) or three (3) bridges depending on the chosen alignment.

   Refer to the Scope of Work in Book 2, Part C of the RFP for a more detailed description of the Project, including other major elements of Work.

2. The Authority has been authorized by its Board of Directors pursuant to Section 185036(a) of the California Public Utilities Code to select a Contractor to complete the design and construction of the Project.

3. The Authority has selected Select One (Contractor) to participate in a competition with four other proposers for the design and construction of the Project as described in the RFP.

ADDENDUM 9

4. Information regarding the technical and design requirements of the Project is contained in the RFP.

5. The Authority agrees to pay Contractor an amount not to exceed $2,000,000.00 as specified herein upon the completion of all tasks described below to the satisfaction of the Authority.

6. Contractor desires to participate in the design-build solicitation process for the Project by submitting a proposal ("Proposal") in response to the RFP.

7. The Authority shall review the Proposal submitted by the Contractor for adherence to the requirements in the RFP and may provide the Contractor with recommendations and require the Contractor to revise the original Proposal.

8. The Authority intends to enter into an agreement for the design and construction of the Project (the "Design-Build Contract") with the proposer that submits the Proposal providing the "best value" to the Authority, in accordance with the Instructions to Proposers ("ITP") included in the RFP.

9. The Authority reserves the right to reject any and all Proposals and makes no guarantee that it will award a Design-Build Contract for the Project. The award of the Design-Build Contract is subject to Public Works Board approval regardless of price or scope.

10. The Authority reserves the right to re-advertise the RFP.

11. Contractor is advised that execution of this Agreement by the Authority does not constitute a commitment to undertake the Project or enter into a Design-Build Contract for all or any portion of the Project. It is possible that the environmental process will result in the selection of a no-build alternative for the Project or an alignment that differs from the preferred alignment identified in the Final EIR/EIS, as described above. Nothing contained in this Agreement is intended to modify, limit, or otherwise constrain the environmental process, or commit the Authority or any other entity to undertake any action with respect to the Project, including the selection of a design-build contractor for the Project or the design and construction of the Project.

B. SERVICES

1. Contractor agrees to prepare and submit a responsive Proposal for the Project by the due date specified in the ITP, in conformance with the terms of the RFP and with the requirements, terms, conditions, rules, and regulations of the solicitation process, identified in the RFP.

2. The documents included in the RFP and designated as the Contract Documents are provided by the Authority to establish the scope, level of quality and design intent for the development, design and construction of the entire Project. The Contractor shall not

ADDENDUM 9

provide any exceptions to the RFP. The Contractor may propose Alternative Technical Concepts as described in ITP Part A, Section 7.16.

3. Contractor shall furnish all material, labor, tools, equipment, apparatus, and facilities necessary to perform and complete in a workmanlike manner the services called for in this Agreement. Contractor warrants that all design and engineering services under this Agreement will be performed by firms and/or individuals holding appropriate professional licenses with the State of California (State).

4. Contractor agrees to execute and deliver the Design-Build Contract in the form provided by the Authority, as well as other documents required by Part A, Section 10.4 of the ITP, if it is selected for award without negotiations. If Contractor is selected for negotiations, it agrees to negotiate in good faith with the Authority to finalize the Design-Build Contract terms, to execute and deliver the Design-Build Contract and to deliver other documents as required by Part A, Section 10.4 of the ITP.

5. Contractor shall not have any contact or discussion with any appointed official, employee or staff member of the Authority California Department of Transportation, California Department of General Services, Federal Railroad Administration, or any of the firms identified in Table 3 of the ITP as being subject to Proposer ex parte communications regarding any element of the design-build proposal solicitation process or the Project except as specifically permitted by the RFP. Failure of Contractor to comply with this requirement shall constitute a material breach of this agreement, thereby relieving the Authority of any and all obligations for payment to Contractor and may result in Contractor's dismissal from further participation in the solicitation process as provided in ITP Part A, Section 7.7. Such dismissal shall not constitute "Termination" for which Contractor may be entitled to payment as described in Exhibit D herein.

6. Contractor has been selected to perform the services identified herein, in part, because of the skills and expertise of key individuals and/or firms listed in the Contractor's Statement of Qualifications (SOQ) submitted in response to Authority's Request for Qualifications (RFQ), dated November 15, 2011. Substitution of any of the individuals and/or firms identified in Contractor's SOQ shall result in re-evaluation of Contractor's SOQ and is not allowed except with prior written approval of the Authority. If any substitution occurs without such approval, the Authority reserves the right to dismiss Contractor from further participation in the solicitation process. Such dismissal shall not constitute "Termination" for which Contractor may be entitled to payment as described in Exhibit D herein.

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C. SCHEDULE OF SERVICES

1. All services shall be completed by April 15, 2013 unless an amendment to this agreement is executed which modifies the term of this Agreement.

2. This Agreement shall become effective upon the date of final approval by the Authority and shall continue until satisfactory completion of all services described herein unless otherwise terminated as herein provided.

D. AUTHORITY REPRESENTATIVE

1. For the purpose of this Agreement, Authority's representative (Authority Representative) authorized to direct services shall be the individual designated as the Authority's Point of Contact in the RFP.

2. The Authority Representative is not authorized by the Authority to make any commitments or changes that will affect the price, terms or conditions of this Agreement absent an amendment.

3. The Project representatives during the term of this Agreement will be:

California High-Speed Rail Authority:	**Contractor:**
770 L Street, Suite 800 Sacramento, CA 95614 Attention: Elizabeth Stone, Contracts Office Phone: (916) 431-2929 Fax: (916) 322-0827 Email: RFPCP01@hsr.ca.gov	

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EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

A. Compensation

1. The consideration to be paid Contractor, as provided herein, shall be full compensation for all of Contractor's services and expenses, direct or indirect, including costs incidental to providing the services.

2. Total compensation for the services of this Agreement shall not to exceed the sum of **$2,000,000**.

3. Neither Authority's review, approval of, nor payment for any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of actions arising out of the performance of this Agreement.

B. Method of Payment

1. In consideration of and upon the full performance of the Services under this Agreement by Contractor, Authority hereby agrees to pay Contractor an amount not to exceed the sum of $2,000,000.00, to be paid within 60 days of approval of Contractor's invoice requesting payment except that no payments will be distributed until after the date of execution of the Design-Build Contract. Payment of such sum is conditioned upon Contractor's full conformance with all of the requirements of the Services as described in this Agreement and the RFP (including the timely delivery of the Proposal, including all drawings and other materials specified in the RFP), and no payment will be due if Contractor fails to meet any such requirement.

2. The amount of the payment shall be based upon the Contractor's documented costs incurred in performance of the Services and shall not exceed the lesser of $2,000,000.00 or the value of the work product delivered, as determined by the Authority. All costs shall be subject to audit by the Authority. Notwithstanding the foregoing, if Authority enters into a Design-Build Contract with Contractor, Contractor will not be entitled to compensation under this Agreement but instead will receive compensation as specified in the Design-Build Contract.

3. Contractor shall not be eligible to receive any payment hereunder if it files a protest after submission of Proposals in response to the RFP or otherwise contests the award of the Design-Build Contract.

4. Contractor shall not submit an invoice until one business day after the earlier to occur of (i) receipt of notification that the Authority has entered into a Design-Build Contract with another proposer, (ii) receipt of notification that the Authority will not award a Design-Build Contract, or (iii) expiration of the time period for award stated in the RFP, as the same may have been extended by the Authority pursuant to the terms of the RFP, without award having been made. Contractor may not submit an invoice if it has been

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advised by the Authority that its Proposal is non-responsive or otherwise failed to comply with any requirement of this Agreement.

5. Upon payment of said sum to Contractor, dismissal of Contractor from further participation in the solicitation process as provided herein or in the RFP, or upon delivery of the fully executed Contract to the Design-Build Contractor if it is selected for award, Authority will have no further financial obligation to Contractor under this Agreement, and Contractor agrees not to make or pursue any claim for additional compensation through any remedy or for any reason.

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EXHIBIT C: GENERAL TERMS AND CONDITIONS

PART B: GENERAL TERMS AND CONDITIONS (GTC 610)

A. APPROVAL

This Agreement is of no force or effect until signed by both parties and, if required, approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

B. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

C. ASSIGNMENT

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

D. AUDIT

Contractor agrees that the Authority, the Department of General Services, the Bureau of State Audits, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

E. INDEMNIFICATION

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

F. DISPUTES

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Contractor shall continue with the responsibilities under this Agreement during any dispute.

G. TERMINATION FOR CAUSE

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

H. INDEPENDENT CONTRACTOR

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

I. RECYCLING CERTIFICATION

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

J. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

K. CERTIFICATION CLAUSES

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

L. TIMELINESS

Time is of the essence in this Agreement.

M. COMPENSATION

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

N. GOVERNING LAW

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

O. ANTITRUST CLAIMS

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

1. The Government Code Chapter on Antitrust claims contains the following definitions:

   a. "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

   b. "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

2. In submitting a bid to a public purchasing body, the Proposer offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the purchasing body pursuant to the

ADDENDUM 9

bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Proposer. Government Code Section 4552.

3. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

4. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

P. CHILD SUPPORT COMPLIANCE ACT

For any Agreement in excess of $100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

1. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

2. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

Q. UNENFORCEABLE PROVISION

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

R. PRIORITY HIRING CONSIDERATIONS

If this Contract includes services in excess of $200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

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S. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

1. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

2. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

T. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

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EXHIBIT D: SPECIAL TERMS AND CONDITIONS

A. TERMINATION

1. The Authority reserves the right to cancel the RFP in which case this Agreement shall be considered terminated for convenience upon delivery of notice of cancellation of the RFP.

2. Notwithstanding any provisions to the contrary in this Agreement, if this Agreement is terminated for convenience, the Contractor will be compensated for costs incurred up to the notice of the termination, not to exceed the lesser of the current Agreement amount or the value of the work product delivered, as determined by the Authority. All costs shall be subject to audit by Authority. No payments due hereunder will be distributed until sixty (60) days after the date of cancelation of the RFP.

3. Authority may terminate this Agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided.

4. In the event of termination, whether for convenience or failure to perform, Contractor shall deliver forthwith to Authority all finished or unfinished studies, reports, special forms, schedules, designs, data, surveys, calculations, drawings, maps, models, photographs, electronic files and any other pertinent information prepared by Contractor under the terms of this Agreement. Such materials shall become the property of the Authority as described in Section D – Ownership of Materials.

5. Thereafter, if Authority should determine to complete the Project or substantially the same Project, Authority shall have the right to use any original tracings, drawings, calculations, specification estimates and other construction documents prepared under this Agreement by Contractor who shall make them available to Authority upon request without additional compensation.

B. LICENSING

Contractor, shall, without expense to Authority, be responsible for obtaining and maintaining any licenses and permits and for complying with any applicable Federal, State and municipal laws, codes and regulations, as necessary for the prosecution of Contractor's work.

C. RELEASE OF INFORMATION

Contractor shall not make any public information release in connection with services performed under this Agreement without advance written permission of Authority.

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D. OWNERSHIP OF MATERIALS

1. All materials and documents developed in the performance of this Contract are the property of the Authority. The Authority shall have unlimited rights, for the benefit of the Authority, in all drawings, designs, calculations, reports, specifications, notes and other work developed in the performance of this Contract, including the right to use same on any other Authority work at no additional cost to the Authority.

2. The Contractor shall deliver to the Authority, upon request, electronic copies of the documentation and design deliverables in both Portable Document Format (PDF) files and, where applicable, in editable native file format for the software applications used to prepare the deliverables required under this Contract. This includes, but is not limited to standard office software applications (word processing, spreadsheet, and presentations), technical analysis and modeling applications, graphics presentation applications and Computer Aided Design and Drafting (CADD) applications. CADD format files shall be fully editable by software specified by the Authority and conform to the Authority approved layering and naming conventions. Electronic files shall be delivered on removable compact disk (CD) or digital video disk (DVD) media as specified by Authority.

3. The Authority agrees to make no demand on the Contractor for responsibility for the Authority's use of such materials for any other Authority work which is not the subject of an agreement between the Authority and the Contractor for such use.

4. The Authority does not assume any obligation to employ the Contractor's services or pay Contractor any payments, fees, or royalties of any type as to future programs which may result from the services performed under this Contract.

5. Any works developed by the Contractor during and/or pursuant to this Contract including all related copyrights and other proprietary rights therein, as may now exist and/or which hereafter come into existence, shall belong to the Authority upon creation, and shall continue in the Authority's exclusive ownership upon termination of this Contract. The Contractor further intends and agrees to assign to the Authority all right, title and interest in and to such materials as well as all related copyrights and other proprietary rights therein.

6. The Contractor agrees to cooperate with the Authority and to execute any document or documents that may be found to be necessary to give the foregoing provisions full force and effect, including, but not limited to, an assignment of copyright.

7. If the works developed hereunder are dependent upon any original works of authorship or intellectual property rights of third parties, the Contractor shall grant to or obtain for the Authority a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license to use, reproduce, sell, modify, publicly and privately perform,

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publicly and privately display and distribute, for any purpose whatsoever, any such prior works.

8. Contractor acknowledges that all written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to the Authority during the procurement process, excluding only the EPDs, are, upon their receipt by the Authority, the property of the Authority and are subject to the California Public Records Act (Chapter 3.5, commencing with Section 6250, of Division 7 of Title I of the Government Code).

E. INTELLECTUAL PROPERTY

1. Except as otherwise specified in the RFP with respect to Escrowed Proposal Documents (EPDs), all work performed by Contractor and its team members pursuant to this Agreement shall be considered work for hire, and the products of such work , including all related copyrights and other proprietary rights therein, as may now exist and/or which hereafter come into existence, shall belong to Authority upon creation, and shall continue in Authority's exclusive ownership upon termination of this Agreement without restriction or limitation on their use. Contractor further intends and agrees to assign to Authority all right, title and interest in and to such materials as well as all related copyrights and other proprietary rights therein.

2. Contractor agrees to cooperate with Authority and to execute any document or documents that may be found to be necessary to give the foregoing provisions full force and effect, including, but not limited to, an assignment of copyright.

3. Contractor shall place a copyright notice, as specified by Authority, on all design deliverables and documentation prior to issuance or publication so as to preserve Authority's copyright interests to the maximum extent permitted by law.

4. Contractor agrees not to incorporate into or make the works developed dependent upon any original works of authorship or Intellectual Property Rights of third parties without first (a) obtaining Authority's prior written permission, and (b) granting to or obtaining for Authority a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license to use, reproduce, sell, modify, publicly and privately perform, publicly and privately display and distribute, for any purpose whatsoever, any such prior words.

F. WAIVER

No waiver of any condition, requirement or right expressed in this Agreement shall result from any forbearance of the Authority to declare a default.

G. BROKERAGE OR CONTINGENT FEES

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Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon understanding or contract for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or established commercial or selling agencies maintained by Contractor for the purpose of securing business. For breach or violation of this warranty, Authority shall, in addition to other remedies provided by law, have the right to terminate this Agreement without liability and shall be relieved of the payment of any consideration to Contractor.

H. RELEASE OF CLAIMS

The acceptance by Contractor of final payment shall be and shall operate as a release to Authority of all claims and all liability to the Contractor for everything done or furnished in connection with this Agreement and for every act and neglect of Authority and others relating to or arising out of this Agreement.

I. INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, his agents, representatives, or employees.

1. Minimum Scope of Insurance

   Coverage shall be at least as broad as:

   a. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).

   b. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).

   c. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

2. Minimum Limits of Insurance

   Contractor shall maintain limits no less than:

General Liability: (Including operations, products & completed operations, as applicable.)	$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.

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Automobile Liability:	$1,000,000 combined single limit per accident for bodily injury and property damage.
Employer's Liability:	$1,000,000 per accident for bodily injury or disease.
Professional Liability:	$1,000,000 per occurrence and annual aggregate.

3. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions applying to General Liability and Automobile Liability must be declared to and approved by Authority. At the option of Authority, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Authority, its officers, officials, employees and volunteers; or Contractor shall provide a financial guarantee satisfactory to Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.

a. Commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

   i. The Authority, its officers, agents, officials, employees and volunteers are to be added as additional insureds to the Contractor's general liability policy as respects for liability arising out of work or operations performed by or on behalf of Contractor. The Contractor must evidence an additional insured endorsement along with the certificate of insurance indicating the Authority has been added as an additional insured. For the Contractor's automobile liability policy, the definition of "who is an insured" must include entities from which the Contractor is working for as additional insureds.

   ii. For any claims related to this Project, Contractor's insurance coverage shall be primary insurance as respects Authority, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Authority, its officers, officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

   iii. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by U.S. mail.

b. The workers' compensation and employer's liability policy shall be endorsed to contain the following provisions:

   i. The insurer waives any right of recovery the insurer may have against Authority, its officers, officials, employees and volunteers because of payments the insurer makes for injury or damage arising out of the work done under Agreement with Authority.

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ii. Verification of Coverage: Contractor shall furnish Authority with original certificates and all related endorsements as required in this section. All certificates and endorsements are to be received and approved by Authority before work commences. Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

c. Insurance companies issuing any of the policies required by these provisions shall have an AM Best Key Rating Guide rating of "A-" or better and a financial size category rating of "VII" or better. Any other rating classification requires Authority approval.

d. Contractor shall ensure that all Subcontractors procure insurance meeting the requirements of these provisions.

e. Authority Remedies: Should Contractor fail to keep the insurance required to be carried by these provisions in full force and effect at all times, Authority, may, in its sole discretion, terminate this Agreement.

J. COMPUTER SOFTWARE USE

Contractor certifies that it has appropriate systems and controls in place to ensure that Authority funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

K. LABOR PROVISIONS

1. To the extent that the work performed by Contractor hereunder includes construction work as defined in the Labor Code (including inspection and land surveying), Contractor warrants that all mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices employed by Contractor or any subcontractor at any tier for any work hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent deduction or rebate on any account (except such payroll deductions as are permitted or required by federal, State or local law, regulation or ordinance), the full amounts due at the time of payment, computed at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates and rates of payments, contributions or costs for any fringe benefits contained in the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial Relations of the state of California, (as set forth in the Labor Code of the state of California, commencing at Section 1770 et seq.), or as established by the Secretary of Labor (as set forth in Davis-Bacon Act, 40 U.S.C. 267a, et seq.), regardless of any contractual relationship which may be alleged to exist between Contractor or subcontractor and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on file at Authority's offices and will be

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made available to Contractor upon request. Contractor shall post a copy thereof at each job site at which work hereunder is performed.

2. In addition to the foregoing, Contractor agrees to comply with all other provisions of the Labor Code of the State of California, the Federal Contract Work Hours and Safety Standards Act, (40 U.S.C. 327-333), and the Copeland regulations of the Secretary of Labor (29 CFR 3), which are incorporated herein by reference, pertaining to workers performing work hereunder including, but not limited to, those provisions for work hours, payroll records and apprenticeship employment and regulation program. Contractor agrees to insert or cause to be inserted the preceding clause in all subcontracts which provide for workers to perform construction work as defined in the Labor Code, regardless of the subcontractor tier.

L. ENTIRE AGREEMENT

This is the final, complete and entire agreement between the parties and it supersedes any and all prior or contemporaneous agreements, communications or representations between the parties, either oral or in writing, relating to the subject matter of this Agreement, except as expressed herein.

M. CLAIMS AND DISPUTES

The parties hereto mutually agree that the resolution of any claim or disputes arising under this Agreement shall be resolved pursuant to the following:

1. If Contractor disputes any action by Authority's Representative arising under or out of the performance of this Agreement, Contractor shall notify Authority's Representative of the dispute in writing within seven (7) calendar days of the Authority's action and request a claims decision. Authority's Representative shall issue a decision within 30 days of Contractor's notice. If Contractor disagrees with Authority Representative's decision, Contractor shall submit a claim to the Contracting Officer. The Contracting Officer shall issue a decision within 15 days of receipt of Contractor's claim. The decision of the Contracting Officer shall be final and conclusive on the claim unless the decision is arbitrary, capricious, or grossly erroneous or if any determination of fact is unsupported by substantial evidence. The decision may encompass facts, interpretations of the Agreement and determinations or applications of the law. The decision shall be in writing following an opportunity for Contractor to present oral or documentary evidence and arguments in support of the claim. This administrative process must be followed before taking any court action.

2. In the event of litigation between Contractor and Authority after all administrative remedies have been exhausted, litigation shall be commenced in an appropriate court of competent jurisdiction within Sacramento County, State of California.

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Contractor agrees to proceed with all work ordered by Authority pending the outcome of any dispute, claim or litigation.

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EXHIBIT E: SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS

A. ARRA-Funded Project

Funding for this contract has been provided through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

B. Enforceability

Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

C. Prohibition on Use of ARRA Funds

Contractor agrees in accordance with ARRA, Provision 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.

D. Wage Rate Requirements

The Contractor assures that it and its sub-recipients shall fully comply with ARRA, Provision 1606, and 49 U.S.C. § 24405(c)(2), and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by, or assisted in whole or in part by, and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of 40 U.S.C. Chapter 31 (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code. For Project components that use or would use rights-of-way owned by a railroad, the Grantee shall comply with the provisions of 49 U.S.C. § 24405(c)(2), with respect to the payment of prevailing wages consistent with the provisions of 49 U.S.C. § 24312. For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements. For Project components that do not use or would not use rights-of-way owned by a railroad, the Grantee will comply with the provisions of 40 U.S.C. § 3141 et seq.

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E. Inspection of Records

In accordance with ARRA Sections 902, 1514, and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative, or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to perform the following:

1. Examine any records that directly pertain to, and involve transactions relating to, this contract; and

2. Interview any officer or employee of the Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

Contractor shall include this provision in all of the contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA-funded work.

F. Whistleblower Protection

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of any of the following:

1. Gross mismanagement of a contract relating to ARRA funds

2. A gross waste of ARRA funds

3. A substantial and specific danger to public health or safety related to the implementation or use of ARRA funds

4. An abuse of authority related to implementation or use of ARRA funds

5. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds

Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

G. False Claims Act

Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has

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committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

H. Reporting Requirements

Pursuant to Section 1512(c) of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a quarterly basis:

1. The total amount of ARRA funds received by Contractor during the Reporting Period

2. The amount of ARRA funds that were expended or obligated during the Reporting Period

3. A detailed list of all projects or activities for which ARRA funds were expended or obligated, including the following:

   a. The name of the project or activity

   b. A description of the project or activity

   c. An evaluation of the completion status of the project or activity

   d. An estimate of the number of jobs that were either created or retained or both by the project or activity

4. For any contracts equal to or greater than $25,000, the following information must be included:

   a. The name of the entity receiving the contract

   b. The amount of the contract

   c. The transaction type

   d. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number

   e. The Program source

   f. An award title descriptive of the purpose of each funding action

   g. The location of the entity receiving the contract

   h. The primary location of the contract, including the city, state, congressional district, and country

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i. The DUNS number, or name and zip code for the entity headquarters

j. A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another

k. The names and total compensation of the five (5) most highly compensated officers of the company if it received all of the following:

- 80 percent or more of its annual gross revenues in Federal awards
- $25 million or more in annual gross revenue from Federal awards
- If the public does not have access to information about the compensation of senior executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of Internal Revenue Code of 1986

5. For any contracts of less than $25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of the Contractor that the information contained in the report is accurate

6. Any other information reasonably requested by the State of California or required by State or federal law or regulation.

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.federalreporting.gov. The additional requirements will be added to this contract(s).

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EXHIBIT F: REQUEST FOR PROPOSAL

RFP No. HSR 11-16 is incorporated herein by reference as if attached hereto.

The RFP includes the following 4 Books (RFP Documents):

- Book 1 – Instructions to Proposers (ITP)
- Book 2 – Contract Requirements
- Book 3 – Supplemental Contract Requirements
- Book 4 – Reference Documents

The RFP may be amended during the course of the RFP process. All references to the RFP in this Agreement are to the most recent version of the RFP, as amended, unless expressly stated otherwise.

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