

California High-Speed Train Project



Request for Proposal for Design-Build Services

RFP No.: HSR 11-16
Book 2, Part A: Special Provisions

Revision No.	Date	Description
0	3/19/2012	Initial Release

Note: Signatures apply for the latest technical memorandum revision as noted above.

Table of Contents

PART A – SPECIAL PROVISIONS	A-1
1 CONTRACT TYPE	A-1
2 NOTICE TO PROCEED.....	A-1
3 COMPLETION DEADLINES.....	A-2
4 MAINTENANCE OF ACCESS	A-2
5 AUTHORITY DELIVERABLES	A-2
5.1 Information to be Provided.....	A-3
5.2 Billboards	A-3
5.3 Master Agreements.....	A-3
6 UTILITIES.....	A-3
7 GENERAL OFFICE REQUIREMENTS FOR FACILITIES PROVIDED BY THE CONTRACTOR.....	A-3
7.1 Field Office for Authority’s Field Staff	A-5
7.2 Design Office for Authority’s Representative	A-6
7.3 Connectivity	A-6
7.4 Backup of Electronic Files and Protection of Hardcopy Files.	A-6
7.5 Site Identification Signing.....	A-6
7.6 Communication	A-6
8 PROVISIONAL SUMS	A-7
9 LIQUIDATED DAMAGES.....	A-7
10 RESERVED	A-7
11 ENVIRONMENT	A-7
11.1 Environmental Approvals and Permits	A-8
12 WARRANTY.....	A-9
13 LIMITATION ON TIME EXTENSIONS	A-10
14 RELIABILITY, AVAILABILITY AND MAINTAINABILITY (RAM) REQUIREMENTS.....	A-10
14.1 General	A-10
14.2 Reliability	A-10
14.3 Availability.....	A-11
14.4 Maintainability	A-11



PART A – Special Provisions

1 Contract Type

The design-build contract is a firm fixed price contract.

2 Notice to Proceed

Contractor shall not proceed with any Work under the Contract without a written notice to proceed for such Work from Authority. Any Work performed or expenses incurred by Contractor prior to Contractor's receipt of a written notice to proceed for such Work is Contractor's risk.

- NTP-1 authorizes Work on Construction Package 1A and Construction Package 1B
- NTP-2 authorizes Work on Construction Package 1C

If the Authority issues NTP-1 within 180 days after the Proposal Due Date, the Contract shall remain in full force and effect without escalation or any other modification to the terms and conditions hereof. If the Authority issues NTP-1 after 180 days after the Proposal Due Date due to no fault, negligence, act or failure to act of any Contractor-Related Party, the Contract shall remain in full force and effect, without any modification to the terms and conditions hereof, provided that the Contract Price may be subject to an adjustment using the following formula:

$$\{[(\text{Final Component Value CCI San Francisco}/\text{Base Component Value CCI San Francisco}) + (\text{Final Component Value CCI Los Angeles}/\text{Base Component Value CCI Los Angeles})]/2\} \times \text{Contract Price} = \text{Adjusted Contract Price}$$

Where:

- **Base Component Value CCI San Francisco** - the latest current Construction Cost Index (CCI) values published by Engineering News Record as of 180 days after the Proposal Due Date for San Francisco
- **Base Component Value CCI Los Angeles** - the latest current CCI values published by Engineering News Record as of 180 days after the Proposal Due Date for Los Angeles
- **Final Component Value CCI San Francisco** - the latest current CCI values published by Engineering News Record as of the date of issue of NTP-1 for San Francisco
- **Final Component Value CCI Los Angeles** - the latest current CCI values published by Engineering News Record as of the date of issue of NTP-1 for Los Angeles

If NTP-1 has not been issued within 360 days after the Proposal Due Date due to no fault, negligence, act or failure to act of any Contractor-Related Party, the Contractor may seek to



negotiate a Change Order including an extension in time for issuance of NTP-1 and an increase in the Contract Price mutually acceptable to the Contractor and Authority. If the Contractor does not wish to seek a Change Order as provided above or if the Authority fails to issue a Change Order acceptable to the Contractor, then the Contractor's sole remedy shall be to terminate the Contract, and such termination shall be deemed to be a termination for convenience under the "Termination for Convenience" clause (Section 41) of the General Provisions.

Any price increase under this Section 2 shall be amortized proportionally over all Work remaining to be performed, and shall be evidenced by a Change Order.

The Authority may issue NTP-2 no later than 120 days after NTP-1. If NTP-2 has not been issued within 120 days after NTP-1 due to no fault, negligence, act or failure to act of any Contractor-Related Party, Construction Package 1C will be deleted from the Work and the Contract Price will be reduced by the the price for Construction Package 1C set forth in the Signature Document.. Such changes shall be evidenced by a Change Order. At any time the Authority may seek to negotiate a Change Order regarding Construction Package 1C mutually acceptable to the Contractor and Authority.

3 Completion Deadlines

The Substantial Completion Deadline is thirty-six (36) months after NTP-1, as such deadline may be extended in accordance with the Contract Documents. The Contractor shall achieve Substantial Completion by the Substantial Completion Deadline.

The Final Acceptance Deadline is thirty-eight (38) months after NTP-1, as such deadline may be extended in accordance with the Contract Documents. The Contractor shall achieve Final Acceptance by the Final Acceptance Deadline.

4 Maintenance of Access

Contractor shall maintain access to the business at parcels APN 459-023-56, 459-023-57 and 459-023-59, commonly known as La Tapatia, through the driveway to East Belmont Street, approximately 400-feet east of North H Street, during construction and after completion of the Project.

5 Authority Deliverables

The Authority will provide the information described in the following sub-sections to the Contractor.



5.1 Information to be Provided

At NTP-1, the Authority will provide the Contractor with any design surveys, whole property surveys, executed Right of Entry documents, and executed Possession and Use Agreements that it has obtained. If any item is not available at NTP-1, the Authority will provide a target date for supplying the information, and will provide weekly updates to the Contractor until all the information has been provided.

5.2 Billboards

The Authority will provide a list of billboards currently located on the right-of-way that includes locations, license numbers, and the identification of the structures. Copies of license agreements will be provided. Encroachments are identified by type and location.

5.3 Master Agreements

See Book 3, Part D.

6 Utilities

Contractor may be entitled to a equitable adjustment in accordance with the “Changes” clause (Section 17) of the General Provisions, for additional costs resulting from certain inaccuracies in the RFP regarding existing utilities, provided that if Contractor fails to discover the inaccuracy during the first 180 days following NTP-1 (for Construction Packages 1A and 1B), or NTP-2 (for Construction Package 1C), such resulting Change Order shall be limited to an amount equal to 50 percent of Contractor’s increased costs and if Relocation costs for the affected Utility are chargeable against the Utility/Third Party Provisional Sum, the Contactor shall be entitled to charge only 50 percent of such additional costs.

7 General Office Requirements for Facilities Provided by the Contractor

For office trailers or spaces provided by Contractor, the Contractor shall provide offices in good repair and in a clean and sanitary condition, at least of the same quality as the facilities that Contractor provides its counterpart project management, design, and field staff. These facilities shall be available for occupancy as specified. Contractor shall secure sites, obtain all site permits, install, set up, and provide utility services, and maintain the facilities as part of the Work. The offices shall have at least two (2) exits from each building/trailer. Entrance to offices shall be secured with a door lock plus a dead bolt lock. All interior spaces shall have overhead lighting meeting OSHA and code requirements for office space. Each office space shall have at least two (2) duplex receptacles. Minimum circuit capacity shall be twenty (20) amps. Each office space shall be wired for phone and computer Local Area Network (LAN). The office space shall include a conference room large enough for twenty (20) people and separate restrooms for male and female. In the event that office spaces or appurtenant facilities are destroyed or damaged during the Contract period, except by fault of the Authority or its



personnel, Contractor shall, at its expense, repair or replace those items, which Contractor provided, to their original condition within ten (10) days. For the facilities it provides, Contractor shall have the following responsibilities:

- Be responsible for installing, maintaining, and paying all utilities.
- Provide daily janitorial service (except weekends and Holidays) and shall provide service and maintain trash containers and trash pickup service.
- Be responsible for maintenance of the exterior area of office spaces including access to parking areas.
- Include desks, chairs, filing cabinets, bookcases and telephones in all offices.
- Provide copying, computer, printing and facsimile equipment services.
- Be responsible for disposal or removal of all Contractor-provided facilities and any site restoration Work required.;
- Provide ventilation and air conditioning/cooling systems capable of maintaining temperature between seventy (70) and seventy-five (75) degrees Fahrenheit in all spaces throughout the year.
- Provide facilities that meet local code requirements for office space.
- Provide telephone service with outside lines for each office space in the field office facility. At least one (1) additional line will be dedicated for facsimile service and one (1) additional line will be dedicated to high speed data service. The phone system shall be capable of providing voicemail service to each extension. The Authority will pay all local and long distance phone charges after installation.
- Provide and maintain all Authority offices that it provides for at least thirty (30) Days after Final Acceptance of the Work included in the Contract or until facilities are no longer needed, whichever is earlier, unless otherwise agreed by the Authority in writing. Ownership of the field office, equipment, and telephone shall remain with Contractor and shall be removed when instructed by the Authority.



7.1 Field Office for Authority's Field Staff

Contractor shall provide a Field Office for Authority's field staff co-located with Contractor's construction management personnel. Not later than fifteen (15) Days prior to the start of construction, Contractor shall provide office space not less than the size indicated below:

Item	No. Required	Requirement
Private Office	1	Min 150 square feet, enclosed with lockable door
Staff Cubicles	20	Min 80 square feet each
Conference room	1	Min 500 square feet, enclosed, with lockable door
Visitor cubicles	5	Min 60 square feet each
Storage/filing space	1	250 square feet, enclosed, with lockable door
Restrooms	2	Men's & women's
Paved parking		Min 20 spaces including 5 visitor spaces
Break room	1	Min 150 square feet, 8 feet of counter space with sink
Server room space	1	TBD

Contractor shall provide a well-graded site for the office with access road and parking area. The parking area shall be reasonably level. The parking area, including visitor parking, shall have an all-weather surface.

Contractor shall equip the field office with the following:

- **Security** – Either a 24-hour security service or silent watchmen-type security system.
- **Lighting** – Contractor shall install sufficient exterior security lighting that is automatically activated at low light levels to maintain two footcandles of lighting in the office site area, including parking;
- A conference room with a large table and twenty (20) chairs
- Individual office file cabinets and twenty-five (25) total commercial grade 5-drawer vertical lockable file cabinets for project files.



7.2 Design Office for Authority's Representative

Contractor shall provide a design Office for Authority's Representative co-located with Contractor's design personnel. Not later than fifteen (15) Days post NTP-1, Contractor shall provide office space not less than the size indicated below:

Item	No. Required	Requirement
Private Office	1	Min 150 square feet, enclosed with lockable door
Staff cubicles	5	Min 80 square feet each
Conference room	1	Min 500 square feet, enclosed, with lockable door
Visitor cubicles	5	Min 60 square feet each
Storage/filing space	1	250 square feet, enclosed, with lockable door
Restrooms	2	Men's and women's
Paved parking		Min 20 spaces including 5 visitor spaces
Break room	1	Min 150 square feet, 8 feet of counter space with sink
Server room space	1	TBD

7.3 Connectivity

The Contractor shall make necessary arrangements for allowing access to the Authority-provided server, printers and other hardware either through "hardwiring" or remote access. Contractor shall also make arrangements for all of the Authority's computers to be linked directly to the Authority's network through a T1 internet connection.

7.4 Backup of Electronic Files and Protection of Hardcopy Files.

Contractor shall provide a secure, fireproof location in which to store electronic and hardcopy backup files. The Authority's representative will provide backup for their electronic files.

7.5 Site Identification Signing

Contractor shall provide site identification signing at all project offices and all sites of Work.

7.6 Communication

Contractor shall establish and maintain telephone and radio communications, as appropriate, to control the Work and maintain communications with Authority, Utility Owners, and local and regional emergency response agencies or entities. Contractor shall not use police or other emergency services' radio frequencies.

Contractor shall provide daily courier service between Contractor's main Project office and Authority's and any Authority field office on the Project at 10:00 a.m. and 3:00 p.m. each working day or as mutually agreed by Contractor and the Authority.



8 Provisional Sums

The Authority has reserved funds in the amount set forth in the Signature Document for the following Provisional Sums:

- Utility/Third Party Provisional Sum
- Construction Contract Work Provisional Sum
- Hazardous Materials Provisional Sum

Use of the Utility/Third Party Provisional Sum is described in the “Third Party Entities” clause (Section 49) of the General Provisions.

To the extent available funds remain in the Construction Contract Work Provisional Sum, the Authority may elect, in its sole discretion, to pay for an Owner Directed Change for any enabling Work that is identified to impact the Right-of-Way or limit the freedom of action of the Contractor during Construction with funds in the Construction Contract Work Provisional Sum.

To the extent available funds remain in the Hazardous Materials Provisional Sum and the Contractor is entitled to an equitable adjustment for additional costs under the “Hazardous Materials” clause (Section 44) of the General Provisions, the Authority may elect, in its sole discretion, to pay for Hazardous Materials remediation Work with funds in the Hazardous Materials Provisional Sum.

9 Liquidated Damages

In the event that the Contractor fails to achieve Final Acceptance by the Final Acceptance Deadline, Contractor agrees to pay Authority Liquidated Damages as set forth below:

- Before March 1, 2017: \$20,000/day (or any part thereof)
- On or after March 1, 2017: \$1 million/day (or any part thereof)

Liquidated damages will be subject to a cap set forth in the Signature Document.

10 Reserved

11 Environment

In August 2011, the Authority and the Federal Rail Administration (FRA) released for public review and comment 2 environmental documents: the California High-Speed Train, Merced to Fresno Section Draft Environmental Impact Report/Environmental Impact Statement



(DEIR/EIS), and the Fresno to Bakersfield Section DEIR/EIS. Information for the Merced to Fresno environmental document, including discussion of permitting requirements and proposed mitigation commitments, can be found on the Authority's website at:

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

Similarly, information for the Fresno to Bakersfield environmental document can be found on the Authority's website at:

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

The comment period for both environmental documents closed on October 13, 2011. Furthermore, in response to public input, the Authority and FRA plan to release a Revised Draft EIR/Supplemental Draft EIS (DEIR/EIS) for the Fresno to Bakersfield HST Project for additional public comment in late spring of 2012.

Following the close of the comment period on the Draft EIR/EIS, the Authority and FRA will consider all substantive comments, and identify a preferred alignment alternative to be included in the Final EIR/EIS for each High-Speed Train (HST) project. In spring of 2012, the Authority and FRA intend to release a Final EIR/EIS for the Merced to Fresno HST Project, with the Authority Board considering certification of the Final EIR/EIS and final decision in May 2012, along with filing of a Notice of Determination (NOD). The FRA is anticipated to issue a Record of Decision (ROD) following the Authority Board's action. The Fresno to Bakersfield Final EIR/EIS is anticipated before the end of 2012 after which Authority Board approval of the final document and subsequent ROD/NOD is anticipated.

11.1 Environmental Approvals and Permits

In preparing the environmental documents, the Authority has been working to obtain agency approvals needed for the ROD (e.g., issuance of a Section 7 Biological Opinion from the U.S. Fish and Wildlife Service and NOAA Fisheries) and initiated work to secure a Section 404 individual project permit from the U.S. Army Corps of Engineers. For the permits, in most instances, a two-step process has been adopted, with the first step consisting of the Authority obtaining a conditional permit for the entire HST section and assuming a minimum of 15 percent design. Subsequently the Contractor shall obtain the completed permit for the Construction Package. The Authority's approach to environmental approvals, permits, and the assignment of Authority and Contractor responsibilities for Construction Package 1 is shown in the Approach for Obtaining Initial Construction Segment (ICS) Environmental Approvals/Permits in Book 3.

Notwithstanding "Permits, Fees and Notices" (Section 7.7) and "Environmental Requirements" (Section 42) of the General Provisions, the Authority will directly implement all mitigation measures and permit conditions for short term and long term habitat acquisition, preservation, creation, restoration, enhancement and maintenance.



The geographic limits of Construction Packages 1A and 1B are evaluated in the Merced to Fresno EIR/S (i.e., from an area north of the San Joaquin River south to the end of the proposed Fresno HST Station track), while the geographic limits for Construction Package 1C are evaluated as part of the Fresno to Bakersfield EIR/S (i.e., from the Fresno station track south to East American Way in Fresno.)

12 Warranty

In addition to the warranties required by the “Warranty” clause (Section 7.8) of the General Provisions, the Contractor warrants that the Project remains in the same condition as it is in at Final Acceptance excluding normal wear and tear and any damage caused by other contractors working at the Site.

The warranties required by the “Warranty” clause (Section 7.8) of the General Provisions, as supplemented by this Section, commence upon Substantial Completion and continue for a period of two (2) years from Final Acceptance. This two (2) year warranty shall be priced in the Contractor’s lump sum. The Authority also has five options to extend the warranty period for each option by one year. The warranty option prices are set forth in the Signature Document. The Authority will exercise its warranty options, if at all, prior to the expiration of the initial two year warranty.

The Extended Warranty Price shall be the sum of the Warranty Options for the duration determined by the Authority up to five years.

For example, if the Authority elects to extend the Warranty by three years, the Extended Warranty Price shall be the sum of the Warranty Option 1st Year price, plus the Warranty Option 2nd Year price, plus the Warranty Option 3rd Year price.

The warranty on any repair, rework, or replacement as a result of a warranty claim or damage as a result of this clause shall extend beyond the original warranty period if necessary to provide at least a one (1) year warranty period from the date of acceptance of the repairs, rework, or replacement.

In the event the Contractor's warranty has expired, the Authority may bring suit at its expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

Upon Final Acceptance, the Contractor will have the right to replace the performance bond required hereunder with a replacement bond in the amount of 10% of the sum of the Total Contract Price in a form satisfactory to the Authority in its sole discretion guaranteeing due and punctual performance of Contractor’s obligations under the Contract that survive Final Acceptance, or with such other security as is approved by Authority in its sole discretion.

Contractor’s and Subcontractors’ warranties are assignable by Authority immediately upon providing written notice to Contractor.



13 Limitation on Time Extensions

Notwithstanding anything in the Contract Documents to the contrary, on or after March 1, 2017, the Contractor shall only be entitled to extension of the Completion Deadlines for delays resulting from the following (and no other delays):

- A written order designated to be a directive letter under the “Authority-Directed Changes” clause (Section 17.1) of the General Provisions,
- A suspension for convenience under the “Suspension for Convenience” clause (Section 40.2) of the General Provisions.
- Failure of the Authority to provide access to the real property identified in the ROW Acquisition Plan on or before the deadline for such access set forth therein as described under the “Right Of Way” clause.
- Failure of the Authority to provide responses to proposed schedules, design submittals or other submittals and matters for which response by the Authority is required within the time periods indicated in the Contract Documents.

14 Reliability, Availability and Maintainability (RAM) Requirements

14.1 General

The Contractor shall ensure the reliability, availability, maintainability (RAM) and accessibility of the Work for the future operating railroad system to the extent that there will be no service affecting failures caused by the Work during the normal operating hours of the railroad.

RAM shall be ensured through application of federal, state, and city codes and the best practices as per the Design Criteria, standard drawings, technical and performance specifications, other contract documents, and quality control and assurance process.

Accessibility for inspection and maintenance activities of the Work shall be ensured as per Design Criteria, standard drawings, technical and performance specifications, other contract documents, and quality control and assurance process.

14.2 Reliability

Reliability criteria for the Work are defined in terms of design life, codes and standards to be applied. It includes seismic design standards and flood level considerations together with appropriate maintainability features designed to prolong the service life of the equipment as per the Design Criteria, standard drawings, technical and performance specifications, other contract documents, and quality control and assurance processes.



14.3 Availability

The availability of the Work during the operating hours of the railroad for the duration of its design life shall be 100%. The Contractor shall identify the influences on the availability of the Work and shall demonstrate that these influences have been mitigated.

14.4 Maintainability

The Contractor shall provide the Work to minimize preventive and corrective maintenance requirements. The Contractor shall ensure that all required maintenance can be completed within the five (5) hour maintenance window of non-revenue time.

The following additional maintainability requirements shall be ensured in the design and construction:

Components which have a shorter design/service life than the whole subsystem, this includes bridge bearings and expansion joints, shall be replaceable or maintainable within the five (5) hour maintenance window of non-revenue time. The contractor shall conduct all the necessary analysis and submit the report to identify if there is any other similar element which is part of the Work.

The contractor shall assure and demonstrate these requirements as per the Contractor's Maintainability Program Plan, and Contractor's Maintainability Demonstration Plan and Procedures and demonstrate verification through the Contractor's Maintainability Demonstration Report as outlined in the RAMPP.

