



June 12, 2014

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TO: All Interested Parties
FROM: California High-Speed Rail Authority

SUBJECT: ADDENDUM #2 TO THE REQUEST FOR PROPOSAL (RFP) FOR
FINANCIAL ADVISOR SERVICES, RFP HSR#14-01

The California High-Speed Rail Authority is issuing this Addendum to provide notification with regard to the following revisions and additions to this solicitation as follows:

In the key RFP dates section; the deadline to submit Proposals is revised to read:

June 24, 2014 by 4:00 p.m.

Major revisions to the RFP include the following. Please see attached redlined version of the RFP for all changes.

Section IV – Evaluation Process and Criteria was modified.

Section V – Proposal Format, Required Documents and Delivery
Volume I, Administrative Response
Cover Letter was revised

Section V, Volume II – Technical Proposal
G: Small Business/DVBE Participation was added

Section V, Volume II – Cost Proposal
#5 was deleted

Section VI - Administration
Small and Disadvantaged Business Enterprise Program

Notice of the Proposed Award has been revised to read:
Notice of Intent to Award, in order to be consistent with the State Contracting Manual (SCM) I.

EDMUND G. BROWN JR.
GOVERNOR



June 12, 2014

SUBJECT: ADDENDUM #2 TO THE REQUEST FOR PROPOSAL (RFP) FOR
FINANCIAL ADVISOR SERVICES, RFP HSR#14-01

Page 2

Major revisions to the sample agreement include the following. Please see attached redlined version of the sample agreement for all changes.

Exhibit B – Invoicing and Payment Provisions were revised to include retention amounts

Exhibit D – Supplemental State Terms and Conditions

VI – Ownership of Data

B was deleted

XVII – Administration was added to include:

Small and Disadvantaged Business Enterprise Program

Redlined versions of the RFP and sample agreement are attached which contain all changes made in this Addendum.

The Authority's Designated Point-of-Contact for communications concerning this Addendum and sample Standard Agreement shall be as follows:

Andrea Mack, Contracts Analyst
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
Telephone: (916) 403-6925
FAX: (916) 322-0827
E-mail: andrea.mack@hsr.ca.gov



CALIFORNIA

High-Speed Rail Authority

REQUEST FOR PROPOSALS

FINANCIAL ADVISOR SERVICES

RFP HSR#14-01
State of California

May 9, 2014

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EXHIBIT	
A	Sample Cost Proposal Format
ATTACHMENTS	
Form A	Schedule of Subcontractor(s)/Subconsultant(s)
Form B	Organizational Conflict of Interest Disclosure Statement
Cert. 1	Certification Regarding Miscellaneous State Requirements
Cert. 2	Consultant’s Overall Contract Small Business Goal Commitment Affidavit
Cert. 3	Iran Contracting Certification
Cert. 4	Darfur Contracting Act Certification
Cert. 5	Major Participant Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification
Cert. 6	Subcontractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification
Cert. 7	Non-Collusion Affidavit
Cert. 8	Equal Employment Opportunity Certification
Cert. 9	Non-Discrimination Certification
Cert. 10	Certification Regarding Lobbying



I. OVERVIEW AND GENERAL INFORMATION

PURPOSE OF RFP

The following list provides a general overview of information related to the subject of this Request for Proposals (RFP):

- The California High-Speed Rail Authority (Authority) is issuing this RFP to receive proposals from qualified firms (Bidders) for Financial Advisor Services. The purpose of this RFP is to award a contract to one (1) Bidder to assist the Authority in providing financial analysis of the Authority's existing funding plans and prospective funding sources, business planning and analysis of delivery models and procurement options and potential financing sources, among other tasks appropriate for the high-speed rail system.
- The estimated dollar value for this contract is \$9 million (\$9,000,000.00) for a not-to-exceed budget. The term is estimated for a period of three (3) years. There will be one (1) two-year (2) option to renew.
- Bidders will be required to commit to exercise good faith efforts to achieve the Authority's 30 percent utilization goal for Small Business and Disadvantaged Business Enterprises.
- The RFP will be available in electronic format on the State's Contract Register at (www.bidsync.com) and on the Authority's website at (www.hsr.ca.gov).
- All questions regarding this RFP must be submitted in writing through the State's Contract Register (www.bidsync.com) by **5:00 p.m. (PDT) on May 26, 2014**, for the benefit of all Bidders.
- The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessments or assumptions contained in this RFP through the issuance of an addendum or clarification posted on BidSync.



I. OVERVIEW AND GENERAL INFORMATION

AUTHORITY'S DESIGNATED POINT-OF-CONTACT

The Authority's Designated Point-of-Contact for communications concerning this RFP shall be as follows:

Andrea Mack, Contracts Analyst
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, California 95814
Telephone: (916) -403-6925
FAX: (916) 322-0827
E-mail: andrea.mack@hsr.ca.gov

All questions or communications related to this RFP shall be addressed through BidSync. Persons intending to submit proposals for this contract shall not contact or discuss any items related to this process with any Authority Board member or Authority staff other than Ms. Mack. The integrity of the selection process is of the utmost importance to the Authority. Failure to comply with the stated process will most likely result in disqualification.

Any verbal communication with an Authority employee concerning this RFP is not binding on the State and shall in no way alter a specification, term, or condition of the RFP.

KEY RFP DATES

Key activities and times for this RFP are presented below. All times are Pacific Daylight Time.

ACTIVITY	ACTION DATE
RFP Release	May 9, 2014
Deadline for Written Questions by 5:00 p.m.	May 26, 2014
Deadline to Submit Proposals by 4:00 p.m.	June 19 24, 2014
Interviews	July 7-10, 2014
Notice of the Proposed Award Intent to Award	July 17, 2014
Contract Start Date (Anticipated)	August 1, 2014
Contract Termination Date	June 30, 2017

RESPONSES TO THIS RFP

Responses to this solicitation shall be in the form of an Administrative Proposal and Technical and Cost Proposal according to the format described in this RFP. The Administrative Proposal shall provide the required administrative documentation as described in this RFP, and the Technical and Cost Proposal shall document the Bidder's experience, qualifications, management capabilities, project organization, technical expertise, etc., and costs to perform the tasks described in the Scope of Work.



I. OVERVIEW AND GENERAL INFORMATION

Please refer to **Section V. Proposal Format, Required Documents, and Delivery** to ensure your RFP complies with all requirements. The responses must be received no later than **4:00 PM, June 19 24, 2014**, addressed as follows:

MAILED OR HAND-DELIVERED TO:

Attention: Andrea Mack, Contracts Analyst
RFP HSR#14-01
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

AMENDMENTS TO REQUEST FOR PROPOSALS

The Authority reserves the right to amend the RFP by addendum before the final date of submission.

NON-COMMITMENT OF THE AUTHORITY

This RFP does not commit the Authority to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure or contract for services or supplies. The Authority reserves the right to accept or reject any or all responses received as a result of this request, to negotiate with any qualified Contractor, or to modify or cancel in part or in its entirety the RFP if it is in the best interest of the Authority to do so.

PROPERTY RIGHTS

All submissions to this RFP received within the prescribed deadline become the property of the Authority and all rights to the contents therein become property of the Authority. All material developed and produced for the Authority under the contract shall belong exclusively to the State of California. All products used or developed in the execution of any contract resulting from this RFP will remain in the public domain at the completion of the contract.

BUDGET CONTINGENCY CLAUSE

Only if sufficient funds are made available to the Authority by the U.S. Government or the California State Legislature for the purpose of this program is a contract valid and enforceable. Prior to execution or commencement of any contract resulting from this RFP, if sufficient funds are not made available for the current year and/or any subsequent years covered under a contract resulting from this RFP, then that agreement shall be of no further force and effect. In addition, a contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms, or funding of this contract in any manner.

After execution or commencement of any contract resulting from this procurement, if Congress or the State Legislature does not appropriate sufficient funds for the program, the Authority shall have the option to either: 1) cancel the contract with no further liability occurring to the Authority; or 2) amend the contract reduce the scope of work to reflect any reduction in funds.



II. BACKGROUND

The Authority is responsible for the planning, design, construction and operation of the first high-speed rail system in the nation. The California High-Speed Rail System (System) will connect the mega-regions of the State, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. Phase 1 service will connect San Francisco Bay Area to the Los Angeles Basin in under three hours at speeds of over 200 miles per hour. The System will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a statewide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the State's 21st century transportation needs.

The Authority intends to finance the High-Speed Rail Project (Project) with State and Federal funding, including funds provided by the Federal Railroad Administration (FRA) and funding made available through the American Recovery and Reinvestment Act of 2009 (ARRA). The Authority will act as the FRA-designated recipient for federal transportation funds.

Bidders acknowledge by submitting a proposal that any services or work performed is consistent and/or compliant to the conditions set within the following:

- California State Budget Act 2012-13, SB1029 (Chapter 152, Statutes of 2012)
http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1029_bill_20120718_chaptered.pdf
- California High-Speed Rail Program 2014 Business Plan (April 2014)
http://www.hsr.ca.gov/About/Business_Plans/2014_Business_Plan.html
- US DOT FRA Grant/Cooperative Agreement FR-HSR-009-10-01 (and subsequent amendments)
http://www.hsr.ca.gov/docs/about/funding_finance/funding_agreements/FR-HSR-0009-10-01-05.pdf

The Authority is moving forward to complete Phase 1 of the HSR system and place in operation by 2020. It is recognized by the general public and the State leadership that the scale of this Project requires a large component of public financing, both State and Federal, but it is also the objective of the program to leverage private investment wherever possible and maximize the opportunities for public/private partnerships (PPP's).



III. SCOPE OF WORK AND DELIVERABLES

SCOPE OF WORK

The Consultant shall include the following tasks in the proposal Scope of Work to be submitted. The Consultant shall plan for the completion of these required tasks in the proposed program budget and schedule. The Consultant shall describe how the subcontractors, including the 30% small business participation will be involved in each task.

1. Perform financial assessment and analysis of the Project or segments of the Project.

The Consultant shall perform financial analysis for the Project and segments of the Project based on the construction, operating and maintenance cost estimates and revenue and ridership projections provided by the Authority. This task includes, but is not limited to:

- a. Develop a section assessment for the Initial Operating Segment and prepare a section-level financial analysis followed by assessments and financial analyses for each remaining section within the planned system. The plans shall include section development options and cashflow analyses.
- b. Participate in informational meetings with the Ridership and Revenue Model Enhancement consultants, Peer Review Panel, and/or other entities as requested to facilitate timely coordination of effort, identify and address issues of concern and share information.
- c. Assess the existing financial plan, key data sources, and assumptions and identify potential gaps.
- d. Perform financial analysis that analyzes the costs, revenue/ridership projections and financing and delivery alternatives.

2. Assess existing financial plans and develop future funding plans for the Project or segments of the Project.

The Consultant shall assess the existing financial plans, including funding sources, and develop future funding plans for the Project consistent with the financial planning requirements imposed on the Authority by applicable state and federal laws.

3. Identify and analyze potential funding and financing sources for the Project or segments of the Project.

The Consultant shall identify, analyze and develop implementation plans for prospective funding and financing sources. This task includes, but is not limited to:

- a. Analyze potential financing sources and structuring plans, including alternative and innovative financing. Sources may include governmental purposes tax-exempt bonds, tax-exempt Private Activity Bonds, Transportation Infrastructure



III. SCOPE OF WORK AND DELIVERABLES CONTINUED

Finance and Innovation Act (TIFIA), private financing including taxable bonds and bank loans, private placement financing, private equity, vendor financing, infrastructure banks, tax credit bonds, RRIF loans, federal credit enhancement structures and lines of credit, and foreign export development banks.

- b. Assist the Authority in coordinating meetings with potential equity investors, lenders, and international and domestic developers and investors in high-speed rail systems.

4. Analyze and evaluate delivery methods for the Project.

The Consultant shall analyze and evaluate various delivery models for the Project. As part of this task, the Consultant shall prepare a delivery options report that discusses the various delivery models and provides qualitative and quantitative considerations for the Authority to use in finalizing future delivery models for segments and elements of the Project.

5. Provide financial procurement assistance during Project procurements.

The Consultant shall provide financial and commercial assistance during the procurement of innovative delivery and contract models, such as Design-Build (D-B), Design-Build-Maintain (DBM), Design-Build-Operate-Maintain (DBOM), and Design-Build-Finance-Operate-Maintain (DBFOM). Led by Authority staff, the Consultant shall work with other Authority advisors including legal and technical advisors, to help plan and structure procurements.

This task includes:

- a. Assist with review and development of documents.
- b. Evaluation of financial capacity of RFQ and RFP respondents.
- c. Assist with discussions with industry respondents and evaluation of commercial alternatives.
- d. Assist with activities related to commercial and financial close processes.

6. Prepare analysis for the Authority's Business Plan and other Authority planning documentation and reports

The Consultant shall assist the Authority in preparing its biannual Business Plan and other planning documents. The Consultant shall prepare drafts of funding and financing plans, financial analysis, and delivery options analysis to support the Business Plan and other planning documents, as requested.



III. SCOPE OF WORK AND DELIVERABLES CONTINUED

7. Develop non-ticket and other revenue analyses and plans

The Consultant shall develop analysis and plans for ancillary and non-ticket revenue which shall include analyzing the potential revenue generation from these types of opportunities, based on inputs provided by the Authority and Authority consultants.

8. Analyze financial elements of major contracts, contract data, processes and potential gaps

The Consultant shall analyze financial elements of major contracts, financial and construction contract data, processes, systems and alternatives. As directed by the Authority, the Consultant will assist in analysis, support and workshops related to procurement processes, risk allocation, contract administration, invoice review and approval, project cost tracking, reporting and forecasting, contract change processes, systems assessment, organization and project reporting.

9. Contract Management

Consultant shall produce the products and services necessary to meet the Scope of Work. Within 30 days of notification that the contract has been approved and notification to proceed has been provided by the Authority's Contract Manager, the Consultant and the Authority shall confirm the project policy objectives and priorities; and agree upon a management plan with detailed tasks, deliverable, schedule and budget.

CONTRACT MANAGEMENT

Key contract management tasks include, but are not limited to: a kick-off meeting, progress reports, and a final meeting. Please note that prior to the submission of any final document or deliverable, a review period will be required of the draft incorporating comments and direction from the Authority and any other designated parties.

Kick-off Meeting

The Consultant shall attend a "kick-off" meeting with the Authority Contract Manager (ACM) and other staff as required. The Consultant's Project Manager, Contract Administrator, and Accounting Officer shall attend this meeting. The administrative and technical aspects of this contract will be discussed. Prior to the kick-off meeting, the ACM will provide an agenda to all potential meeting participants. The ACM shall designate the date and location of this meeting.

The administrative portion of the meeting shall include, but not be limited to, the following: Terms and Conditions of the Agreement and Invoicing, including format, timing and requirements.



III. SCOPE OF WORK AND DELIVERABLES CONTINUED

The technical portion of the meeting shall include, but not be limited to, the following:

- The Authority Contract Manager's expectations for accomplishing tasks described in the Scope of Work
- An updated Schedule of Deliverables
- Processes for submitting, reviewing and approving Progress Reports, Task Deliverables and Final Report

Progress Reports

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of the contract. Progress reports will be not be required more frequently than monthly. Progress reports may include the following: major milestones, contract schedules, progress by task to date, description of the progress, including identification of problems, proposed solutions and revised completion dates if necessary. Detailed instructions will be provided prior to the requirement for the first report.

INSURANCE REQUIREMENTS AND LIMITATION OF LIABILITY

- A. Consultant's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to four times the annual Contract Price of \$3 million.
- B. The foregoing limitation of liability shall not apply (i) to any liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to real or tangible personal property caused by Consultant's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- C. The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the \$10 million, as that term is defined in subsection A above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- D. In no event will either the Consultant or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Consultant's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Consultant's liability for such damages arises out of sub-section B(i), B(ii), or B(iv) above.



IV. EVALUATION PROCESS AND CRITERIA

ABOUT THIS SECTION

This section explains how the proposals will be evaluated. It describes the evaluation stages, preference points, and scoring of all proposals. A Bidder's proposal will be evaluated and scored based on its response to the information requested in this RFP.

The entire evaluation process from receipt of proposals to the posting of the Notice of **Proposed Award Intent to Award** is confidential.

PROPOSAL EVALUATION

Proposals received will be evaluated and the contract awarded in the following manner, in accordance with Public Contract Code section 10344:

Stage One: Fulfillment of RFP Mandatory Format

After the period has closed for receipt of proposals, each proposal received in accordance with the time and date set for receipt of proposals is opened and examined to determine compliance with the RFP format requirements and grounds for rejection. If a proposal is not rejected for technical reasons stated in Grounds for Rejection, it may still be rejected if it does not meet minimum administrative requirements.

Stage Two: Evaluation of Proposals

To review eligible proposals, the Authority will organize an Evaluation Committee. The Authority reserves the right to solicit technical input from other internal and external sources. This technical input will be utilized by the Evaluation Committee during the evaluation of the proposals.

Those proposals that meet the format requirements shall be submitted to the Evaluation Committee. The Evaluation Committee will evaluate and score proposals using the methods specified in this RFP. The contract will be awarded to the responsible bidder whose proposal is given the highest combined score by the evaluation committee.

The Evaluation Committee will evaluate and score all eligible proposals based on the Evaluation Criteria. The Evaluation Committee may, at its discretion, seek clarification of any point in the written technical proposal through a conference call or interview with the affected bidder. Proposals must attain 85 percent of the combined possible total points in the technical and costs sections to be considered for the interviews. After the technical and cost evaluation, those bidders who pass the minimum required combined score of 680 points (85%) will be scheduled for an interview by the Committee.

Note on the Cost Proposal Evaluation: The Bidder shall submit a Cost Proposal (see Exhibit A for sample). A Cost Proposal can receive a maximum of 300 points.



IV. EVALUATION PROCESS AND CRITERIA

~~The lowest Cost Proposal submitted will be awarded the full 300 points. The remaining Cost Proposals will be awarded cost points based on the Cost Proposal Formula below:~~

~~$(\text{Lowest Cost Proposal} / \text{Other Cost Proposal}) \times 300 \text{ points} = \text{Other Cost Proposal Score}$~~

Cost Proposals will be scored according to the evaluation criteria in Section IV. The Cost Proposal score will be added to the Technical Proposal score.

Those bidders not meeting the minimum combined technical and cost score of 680 points will not be interviewed.

Stage Three: Presentation

Bidders passing the technical and cost evaluation will be scheduled for a mandatory interview to be conducted at the Authority headquarters, 770 L Street, Suite 800, Sacramento, California. The Evaluation Committee will use patterned questions to conduct the interviews. Bidder responses will be scored in accordance with the criteria contained within the following pages. All scores are final at this time.



IV. EVALUATION PROCESS AND CRITERIA

HOW WILL THE PROPOSAL BE SCORED?

The Evaluation Committee will award points based upon the information provided in the Bidder's Proposal according to the following scoring scale.

Scoring Scale

The Evaluation Committee will score each Proposal independently. The scores will then be multiplied by a weighting factor to obtain the total points for that criterion. The final score for each Bidder will reflect the average of the combined scores of all Evaluation Committee members. Scores will be assigned in accordance with the following guidelines:

0 Points	<ul style="list-style-type: none">✓ Is not in substantial accord with the RFP requirements.✓ Has a potential significant effect on the amount paid or net cost to the State or the quality or quantity of product and/or service.✓ Provides an advantage to one competitor over the other competitors, for example, not paying minimum wages.
1-3 Points	<ul style="list-style-type: none">✓ The proposal states a requirement, but offers no explanation of how or what will be accomplished.✓ The response contains a technical deficiency which is an inaccurate statement or reference concerning the how, what, where, or when, which is part of an overall statement or description.
4-6 Points	<ul style="list-style-type: none">✓ Satisfies the minimum requirements and describes generally how and/or what will be accomplished.
7-9 Points	<ul style="list-style-type: none">✓ Satisfies the minimum requirements and specifically describes how and/or what will be accomplished in an <u>exemplary manner</u>, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).
10 Points	<ul style="list-style-type: none">✓ Exceeds the minimum requirements and specifically describes how and/or what will be accomplished both quantitatively and qualitatively, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).



IV. EVALUATION PROCESS AND CRITERIA

TECHNICAL EVALUATION CRITERIA	WEIGHT FACTORS	X	MAX POINTS (0-10)	WEIGHTED SCORE
1. Approach to Tasks in Scope of Work				
<ul style="list-style-type: none"> • Completeness and thoroughness of proposal (addresses all of the tasks defined). • Recommended approach to meet contract objectives. • Proposal demonstrates the ability to complete all aspects of the contract. • Proposal demonstrates experience in administering contract costs, maintaining schedules, and quality control of deliverables. • Proposal demonstrates clear understanding of Project and deliverables to meet contract goals. 	10			
2. Consultant / Team Experience and Qualifications				
<ul style="list-style-type: none"> • Proposal demonstrates efficient contract management and administrative methods. • Proposal provides an appropriate and effective contract management team with experience in financial planning. • Demonstrates effective and appropriate contract management. • Proposal demonstrates clear roles and responsibilities among team. • Proposal team education and experience are relevant to the requirements of the Scope of Work. • Team has prior experience working together. • Proposal management team demonstrates commitment and availability. • Proposal team experience in working with state agencies. • References exhibit past satisfactory performance. 	10			



IV. EVALUATION PROCESS AND CRITERIA

3. Responsiveness to Project Requirements				
<ul style="list-style-type: none"> • Proposal demonstrates a thorough knowledge of the Project in its current state of development. • Proposal demonstrates understanding of necessary steps required to develop a robust financial strategy. • Proposed strategy presents a clear and logical framework. • Proposal illustrates knowledge and understanding of federal, state, regional, local and general public issues relative to Project. • Scope of Work is specific and consistent with State objectives. • Proposal shows clear understanding of contract Terms and Conditions. 	25			
4. Example of Prior Work				
<ul style="list-style-type: none"> • Ability to deliver relevant, meaningful work products, financial analysis is easily understood. 	5			
Minimum Points for Technical			425	
Maximum Points for Technical			500	



IV. EVALUATION PROCESS AND CRITERIA

COST CRITERIA	MAX POINTS WEIGHT FACTOR	MAX POINTS (0-10)	ACTUAL SCORE
5. Cost			
<ul style="list-style-type: none"> • Hourly rates and total hours are reasonable and appropriate to complete each task. • Fully loaded fees are appropriate and reflective of industry standards. • Budget is consistent with Scope of Work. • Demonstrates policies to reduce costs (including travel) to the State. • Budget allocations are appropriately and adequately justified. <p style="margin-left: 20px;">Cost Proposal Total: (Lowest Cost Proposal/Proposer's Cost Proposal) x 300 =</p>	300		
Total Cost Score		300	
Total Technical Points		500	
Maximum Points		800	

Minimum points required to participate in Interviews: 680 (85%) Proposals not attaining a minimum score from the Technical **and Cost** sections **combined** will be eliminated from further competition.



IV. EVALUATION PROCESS AND CRITERIA

PRESENTATION EVALUATION CRITERIA WORKSHEET

The following criteria will be used for scoring the interview/oral presentations:

PRESENTATION EVALUATION CRITERIA	WEIGHT FACTORS	X	MAX POINTS (0-10)	WEIGHTED SCORE
<ul style="list-style-type: none"> • Demonstrated knowledge of financing megaprojects. • Demonstrated clear understanding of public and private financing mechanisms. • Demonstrated understanding of the critical project success factors (identification of viable and feasible financing options, accurate and timely financial projections). • Demonstrated evidence of prior project experience with challenges of this magnitude and complexity. • Bidder's ability to integrate their ideas into the Authority's Goals and Objectives. • Response to Evaluation Committee's questions pertaining to the presentation. • Professionalism of presentation. 	20			

Evaluator's Subtotal (sum of weighted scores)		
Minimum Points Required to Pass Presentation (70%)	140	
Maximum Points Available for Presentation	200	

Total Technical and Cost Evaluation Score - MAX 800	800	
Presentation - MAX 200	200	
TOTAL SCORE (Technical Evaluation + Cost Evaluation + Presentation)	1000	



IV. EVALUATION PROCESS AND CRITERIA

SMALL BUSINESS PARTICIPATION

For this solicitation, the Authority has established a 30 percent Small Business Enterprise goal **and a 3% DVBE goal requirement** in accordance with the Authority's Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts, adopted August 20, 2012 (SB/DBE Program). A copy of the policy is located on the Authority's website:

http://www.hsr.ca.gov/Programs/Small_Business/index.html

RFPs will be evaluated for compliance with the SB/DBE Program in meeting the goal commitment of 30 percent and Consultant's approach to ensuring this goal is met during performance of the contract.

Within the proposal each Bidder should list the name of each SBE/DBE/DVBE subconsultant it will use during the course of the Work, the services each will provide, and the percentage of the Work each is anticipated to perform.

Describe the Consultant's approach and processes to be employed during the performance of the contract to ensure that the goals of the Authority's Revised Small Business Enterprise Program for Professional Services Contracts are met. It is expected that the approach and processes identified will be incorporated into the Consultant's Small Business Performance Plan which will be a contract deliverable.

Describe Consultant's approach to meeting the Authority's Small Business (SB) goal commitment of 30 percent for this contract. Provide examples of Consultant's utilization of small businesses on previous projects. Consultant shall provide the schedule of subcontractors/subconsultants to be used to meet the goal (Form A), and the Consultant's Overall Project Small Business Goal (Cert. 2).

If subcontractors are to be used, submit a description of key personnel for each subcontractor and the work to be done by each. Provide resumes, no longer than two (2) pages for each key personnel member.



V. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY

This section contains the format requirements and instructions on how to submit a proposal. The format is prescribed to assist the Bidder in meeting State bidding requirements and to enable the Authority to evaluate each proposal uniformly and fairly. Bidders must follow all Proposal format instructions, answer all questions, and supply all requested data.

REQUIRED FORMAT FOR A PROPOSAL

1. Documents shall be prepared in single-spaced type, 12 point font, on 8-1/2" x 11" sheets printed double-sided. A page is considered to be a single side of an 8-1/2" x 11" sheet. Should the Consultant wish to submit materials that benefit from larger format paper sizes such as charts, drawings, graphs and schedules then they should do so sparingly.
2. 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.).
3. Brochures and miscellaneous materials not specifically requested will not be evaluated.
4. Unnecessarily elaborate responses and/or lengthy presentations are not desired or required by the Authority.
5. Unless otherwise provided, all names and applicable titles shall be typed or printed below the signatures.

NUMBER OF COPIES

Bidders must submit the original and 6 copies of the Administrative Response (Volume 1), and Technical and Cost Proposal (Volume 2).

Bidders must also submit electronic files of the proposal on CD-ROM diskette along with the paper submittal. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Electronic files submitted via e-mail will not be accepted.

PACKAGING AND LABELING

The original and copies of each volume must be labeled "Request for Proposal HSR#14-01," and include the title of the proposal and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Technical and Cost Proposal



V. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY

Include the following label information and deliver your proposal, in a sealed package:

Person's Name, Phone #	
Bidder's Name	
Street Address	
City, State, Zip Code	
FAX #	
	RFP HSR#14-01
	California High Speed Rail Authority
	Contracts Office
	ATTN: Andrea Mack
	770 L Street, Suite 800
	Sacramento, California 95814

PREFERRED METHOD FOR DELIVERY

A Bidder may deliver a proposal by:

- U. S. Mail
- Personally
- Courier service

Proposals must be received no later than **4:00 p.m. (PDT), June 19 24, 2014**, to the Authority Contracts Office during normal business hours and prior to the date and time specified in this RFP.

LATE SUBMITTALS

In accordance with Public Contract Code section 10344, proposals received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not accepted under any circumstance-and are not acceptable toward meeting the submission deadline for proposal delivery. A Proposal is late if received any time after **4:00 p.m. (PDT) on June 19 24, 2014**. Proposals received after the specified time will not be considered and will be returned to the Bidder.



V. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY

ORGANIZE YOUR PROPOSAL AS FOLLOWS:

VOLUME 1, Administrative Response

Cover Letter	
Table of Contents	
Schedule of Subcontractor(s)/Subconsultant(s)	Form A
Organizational Conflict of Interest Disclosure Statement	Form B
Certification Regarding Miscellaneous State Requirements	Cert. 1
Consultant's Overall Project Small Business Goal Commitment Affidavit	Cert. 2
Iran Contracting Certification	Cert. 3
Darfur Contracting Act Certification	Cert. 4
Major Participant Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification	Cert. 5
Subcontractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification	Cert. 6
Non-Collusion Affidavit	Cert. 7
Equal Employment Opportunity Certification	Cert. 8
Non-Discrimination Certification	Cert. 9
Certification Regarding Lobbying	Cert. 10

VOLUME 2, Technical Response

- A: Approach to Tasks in Scope of Work
- B: Team Organizational Structure
- C: Project Team Experience and Qualification
- D: Schedule of Tasks
- E: Previous Work Products
- F: Client References

G: Small Business / DVBE Participation

VOLUME 2, Cost Proposal

- Total Labor Costs for the Project
- Total Other Direct Costs for the Project (i.e., Travel, etc.)
- Labor Costs by Task
- Other Direct Costs by Task (i.e., Travel, etc.)



V. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY

VOLUME 1, Administrative Response

Cover Letter

The **RFP-Proposal** shall be transmitted with a cover letter that must be signed by an official authorized to bind the Consultant contractually and shall contain a statement that indicates the **RFP-Proposal** is complete and accurate. The cover letter shall provide the names, titles, addresses and telephone numbers of individuals authorized to negotiate and contractually bind the Consultant.

VOLUME 2, Technical Proposal

A. Approach / Methodology.

The prospective Consultant/Team shall describe:

1. The overall approach of the Financing Strategy,
2. Specific techniques that will be used,
3. Specific administrative, operational and management expertise that will be employed, and
4. The allocation of resources to various tasks as a percentage of the total budget.

B. Team Organizational Structure

The prospective Consultant/Team must have experience developing innovative financing programs for large infrastructure projects. The Consultant/Team must have knowledge of various funding alternatives needed to implement a project of this magnitude. The Consultant/Team must demonstrate their ability to develop dynamic financing models. The Consultant/Team must provide detailed descriptions and documented results of previous work and experience.

1. Describe the organizational structure of the Bidder, including an organizational chart of the entire contract team.
2. Identify the location of the Bidder's and Subcontractor's headquarters and satellite office(s) and proposed methods of minimizing costs to the State.
3. Provide a short description of each firm and key members of the team. Indicate any history of a working relationship between the team members noting any significant success stories
4. Describe the organization, composition, and functions to be performed by staff members of the Bidder and any subcontractors and how the staff pertains to this contract.
5. Identify a primary contact person. This person should attend the oral interview session. At least one person from each subcontractor should also attend the interview.



V. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY

C. Proposal Team Experience and Qualifications

1. Describe the qualifications of all professional personnel to be employed, including a summary of similar work or studies performed, and a resume for each professional.
2. Include an estimate of how many hours each professional will be assigned to the contract and what tasks each professional will perform including subcontractor hours. The Consultant/Team shall not cause members of the proposal team to be substituted without prior approval of the Authority.

D. Schedule of Tasks

1. The proposal shall contain a detailed schedule identifying major tasks to be undertaken to conduct the work, timeframe and deliverable due dates for each task.
2. The schedule shall specify the estimated hours to accomplish each task.
3. The schedule shall be in accordance with the milestones listed in the Scope of Work section.

E. Previous Work Products

Describe and provide at least one example of a similar financial analysis plan that demonstrates successfully completed relevant work by your organization or team.

F. Client References

1. Names, current addresses and telephone numbers for a minimum of three (3) clients for whom the Bidder (i.e. the prime Bidder submitting a Proposal, the joint venture submitting a Proposal, or each individual prime member of a joint venture) has performed similar work.
2. Include the title of the project or assignment, scope of the assignment, name of each proposed consultant team member working on that project or assignment, and the date of service of the agreement.
3. Briefly describe how the past project or assignment identified provide the experience preferred in this RFP.

G. Small Business / DVBE Participation

In this section, list the name of each SB/DBE/DVBE subcontractor that the Proposer will use during the course of the Work, the services each will provide, and the percentage of the Work each is anticipated to perform. Describe the Proposer's approach and processes to be employed during the performance of the contract to ensure that the goals of the Authority's Revised Small Business Enterprise Program for Professional Services Contracts are met.



V. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY

VOLUME 2, Cost Proposal

The Consultant must submit Cost Proposal information as suggested in Exhibit A, and will be deemed the equivalent of a formal bid submission under the Public Contract Code. Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the Consultant for this RFP.

The Consultant must submit total costs of the contract and by task, with a detailed breakdown showing how the costs were determined as follows:

1. Identification of position/classification titles funded
2. Percentage of time devoted to the work
3. Loaded rate (including fringe and operating costs)
4. Travel and per diem expenses
- ~~5. Overhead or indirect expenses~~
- ~~6.5.~~ Subcontractors with the same type of cost details
- ~~7.6.~~ Other costs (if any)

NOTE: The cost information provided will not be kept confidential.

The Authority shall compensate the successful Bidder for actual hours worked. The cost information will become a part of the final contract. The entire term of the contract and projected rate increases must be considered when preparing the budget. The rates bid are considered capped and shall not change during the term of the contract. The Consultant shall only be reimbursed for the actual billing rates up to the rate cap identified in the Cost Proposal.

All Cost Proposals must include anticipated reimbursable expenses. The rates listed on the Cost Proposal Worksheet shall be fully loaded and include all direct and indirect costs, including overhead and taxes incidental to the specified rates.

Travel

Consultants shall be reimbursed for travel and per diem expenses using the same rates provided to non-represented state employees. Consultant must pay for travel in excess of these rates. Any travel must be pre-approved by the Authority's Contract Manager. Contractor may obtain current rates at the following web site:

<http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>



VI. ADMINISTRATION

COST OF DEVELOPING PROPOSAL

The Bidder is responsible for the cost of developing a proposal, and this cost cannot be charged to the State.

ERRORS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify the Authority of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice to all parties who requested the RFP, without divulging the source of the request for clarification. The Authority shall not be responsible for failure to correct errors.

CONFIDENTIAL INFORMATION

The Authority will not accept or retain any Proposals that are marked confidential in their entirety and Bidders are strongly discouraged from requesting confidential treatment for any of the information contained in a submittal.

DARFUR CONTRACTING ACT OF 2008

Effective January 1, 2009, all Requests for Proposals (RFP) must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A “scrutinized” company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency.

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b).

LOSS LEADER

Per Public Contract Code 10302, (b) (1) 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.



VI. ADMINISTRATION

RFP CANCELLATION AND AMENDMENTS

If it is in the State's best interest, the Authority reserves the right to do any of the following:

- Cancel this RFP;
- Amend this RFP as needed; or
- Reject any or all Proposals received in response to this RFP

If there is an addendum to the RFP, it will be posted to Bidsync and the Authority's website.

CONTRACT AMENDMENT

The agreement resulting from this RFP may be amended to make changes, including without limitation; additional funds, additional time, additional or modified tasks, and additional or modified terms. Amendments may be made without competitively bidding, so long as the amendment is exempt from competitive bidding pursuant to Public Contract Code section 10335, Government Code section 11010.5 and the State Contract Manual.

MODIFYING OR WITHDRAWAL OF PROPOSAL

A Bidder may, by letter to the Contact Person at the Authority, withdraw or modify a submitted Proposal before the deadline to submit proposals. Proposals cannot be changed after that date and time. A Proposal cannot be "timed" to expire on a specific date. For example, a statement such as the following is non-responsive to the RFP: "This proposal and the cost estimate are valid for 60 days."

IMMATERIAL DEFECT

The Authority may waive any immaterial defect or deviation contained in a Bidder's proposal. The Authority's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

DISPOSITION OF BIDDER'S DOCUMENTS

On the Notice of ~~the Proposed Award Intent to Award~~ posting date all proposals and related material submitted in response to this RFP become a part of the property of the State and public record. Bidders who want any work examples they submitted with their proposals returned to them shall make this request and provide either sufficient postage or a Courier Charge Code to fund the cost of returning the examples.

NOTICE OF ~~PROPOSED AWARD INTENT TO AWARD~~

After scoring, the Notice of ~~the Proposed Award Intent to Award~~ will be posted for five (5) working days at the Authority's headquarters in Sacramento, and on the Authority's web site. In addition, each Bidder under this solicitation will be mailed a copy of the Notice of ~~the Proposed Award Intent to Award~~ for this solicitation.



VI. ADMINISTRATION

CONTRACT REQUIREMENTS

The Authority will not consider any changes to the Contract “terms and conditions” contained in this RFP. If, for any reason, a successful Bidder does not sign the Contract documents within the time allotted, the Authority may eliminate that Proposal from its award list and select the next highest ranked Proposal for funding from the rank order of eligible proposals under the Solicitation.

The content of this RFP shall be incorporated by reference into the final contract.

NO CONTRACT UNTIL SIGNED & APPROVED

No contract between the Authority and the successful Bidder is in effect until the contract is signed by the Consultant, signed by the Authority, and approved by the Department of General Services.

AUDIT

The Bureau of State Audits and the Authority may audit a Contract awarded under this RFP up to a period of three years after the final payment or termination of the Contract.

SUBCONTRACTORS

The Bidder must submit the information required in the Team Qualifications and Experience section of the proposal for all Subcontractors including SB/DBE subcontractors as well as the budget forms.

UNSUCCESSFUL PROPOSALS

After the Notice of the ~~Proposed Award~~ **Intent to Award** is posted, each unsuccessful Bidder may request a debriefing meeting with the Authority Contracts Office. The debriefing meeting is an opportunity for an unsuccessful Bidder to learn why their particular proposal was not successful and may provide insight to improving proposal preparation for future solicitations.

AWARD PAYMENTS AND INVOICING

Award payments shall be subject to the following conditions:

Payments will be made on a reimbursement basis, after the recipient submits the appropriate invoice(s) to the Authority.

Ten percent (10%) of the contract amount will be withheld as retention until the final report is received from the Consultant and the Authority’s Contract Manager determines the contract has been satisfactorily completed. Typically, the Authority withholds 10% from each invoice throughout the program period, and then the bidder submits a retention invoice once all contract deliverables have been satisfactorily completed.

All invoices must be submitted with a completed payment request form, as specified by the Authority, and accompanied by all backup documentation. The backup documentation must include copies of paid invoices and receipts detailing the specific equipment purchased, the services produced, and personnel time records where appropriate.



VI. ADMINISTRATION

Authority staff must approve all invoices. Such approval is subject to the Consultant's acceptable submittal of the required progress reports, other specified products, and the appropriateness of the invoiced expenses under the contract.

BIDDERS' ADMONISHMENT

This RFP contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the technical information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire RFP, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the RFP are followed and appropriately addressed, and carefully reread the entire RFP before submitting a proposal.

GROUNDINGS TO REJECT A PROPOSAL

A Proposal shall be rejected if:

- It is received after the exact time and date set for receipt of Proposal's pursuant to Public Contract Code, Section 10344.
- It is considered non-responsive to the Authority's Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts, adopted August 20, 2012.
- It is lacking any properly executed Certification Clauses. The Bidder is responsible for confirming all fields and necessary signatures are completed before submitting.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- The Proposal is intended to erroneously and fallaciously mislead the State in its evaluation of the Proposal and the attribute, condition, or capability that is a requirement of this RFP.
- There is a conflict of interest as contained in Public Contract Code Sections 10410-10412 and/or 10365.5 or as defined in the Authority's Organizational Conflict of Interest Policy.



VI. ADMINISTRATION

A Proposal may be rejected if:

- It is not prepared in the mandatory format described.
- It is unsigned.
- The firm or individual has submitted multiple proposals for each task.
- It does not literally comply or contains caveats that conflict with the RFP and the variation or deviation is not material, or it is otherwise non-responsive.

PROTEST PROCEDURES

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Authority cancels the RFP, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
- During the five working days that the Notice of the ~~Proposed Award~~ **Intent to Award** is posted, protests must be filed with the DGS Legal Office and the Authority Contracts Office.
- Within five days after filing the protest, the protesting Bidder must file with the DGS Legal Office and the Authority Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Authority for the DGS hearing officer consideration.

SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM LANGUAGE

The Authority's Small and Disadvantaged Business Enterprise (SB/DBE) Program Policy has established an overall 30 percent goal for small business utilization, to include within the 30 percent goal, a 10 percent goal for DBE and 3 percent Disabled Veteran Business Enterprise (DVBE) in the Authority's contracting and procurement program. The SB/DBE Program is in compliance with the Best Practices of 49 C.F.R. Part 26, Executive Order S-02-06, Military and Veterans Code 999 and Title VI of the Civil Rights Act of 1964 and related statutes.



VI. ADMINISTRATION

The SB/DBE Program has incorporated California Executive Order D-43-01; Public Contract Code 10115(c), and Military and Veterans Code 999 et. seq, as applicable, on 100 percent State funded contracts.

This contract is 100 percent State funded and is governed by the referenced DVBE laws. For this contract, the Authority has established a three (3) percent DVBE goal requirement as authorized by Military and Veterans Code 999 et. seq.

Proposers are required to meet the DVBE goal requirement and are encouraged to make efforts to retain SB and DBEs on the proposal as well. The Proposer will provide a SB Performance Plan on how the DVBE goal requirement, inclusive of SB and DBE good faith effort participation, will be met throughout the contract duration. More detailed information regarding what components should be in the SB Performance Plan may be found in the SB/DBE Program for Professional Services Contracts on the Authority's website. The Authority's SB/DBE Program requirements, include the SB Performance Plan expectations, submission of monthly SB utilization and narrative reporting, Substitution/Termination processes, Prompt Payment Provisions, Recognized SB Roster of Certifying Agencies, and other performance related factors, as identified in the Authority's Small and Disadvantaged Business Enterprise Program—August 2012. The Authority SB Program Plan, by reference, is incorporated in whole into the contract when executed. The Proposer is advised to read and become familiar with the Authority SB Program Plan; it may be found on the Authority's Small Business Policy and Program web page:

http://www.hsr.ca.gov/Programs/Small_Business/policy.html

The Proposer shall submit the Schedule of SB/DBE/DVBE Subcontractors/Subconsultants Commitment (Form A), the SB Performance Plan and the Consultant's Overall Project Small Business Goal Commitment Affidavit (Cert 2), at the time of the proposal submittal.

The submittal will be evaluated for compliance with the SB/DBE Program for meeting the DVBE goal requirement and or providing a Small Business Performance Plan (Technical Response, Volume 2, Section G) that describes how the DVBE goal, inclusive of SB and DBE good faith effort participation, will be met throughout the contract duration.

Upon the Notice to Proceed, the Consultant shall provide monthly SB utilization and narrative reports as described in the Authority's SB Program Plan, to reflect the level of DVBE, including SB and DBE utilization through the duration of the contract and including any amended portion of the contract.

Civil rights

The following requirements apply to this Solicitation/Agreement:

For State Funded Contracts



VI. ADMINISTRATION

In accordance with State non-discrimination program requirements as set forth in Government Code Section 12990 et seq and Title 2, California Code of Regulations, Division 4, Chapter 5, Sections 8103, 8104, 8108 and 8113 (unless exempted pursuant to Section 8115) Contractors or subcontractor firms with 50 or more employees shall provide a description of the firm's non-discrimination plan designed to eliminate discrimination based on race, color, religion, age, sex, sexual orientation, disability or national origin.

Each firm (Contractor or subcontractor) with fewer than 50 employees must provide a statement indicating that the firm has fewer than 50 employees and is therefore exempt from the Non-discrimination Plan requirement.

As a recipient of federal funding, the Authority and its Contractors must comply with the following federal Nondiscrimination requirements.

a) **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended; 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990; 42 U.S.C. § 12132; and 49 U.S.C. § 306, the Contractor agrees that it will not discriminate against any individual because of race, color, religion, national origin, sex, age or disability in any activities leading up to or in performance of the Contract. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

b) **Equal Employment Opportunity:** The following equal employment opportunity requirements apply to this Agreement:



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- i. **Race, Color, Religion, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” including 41 C.F.R 60 et seq. (which implements Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

- ii. **Age:** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

- iii. **Disabilities:** In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

The Contractor also agrees not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.



VI. ADMINISTRATION

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

Definitions

Commercially Useful Function (CUF): A small, disadvantaged business, disabled veteran business and microbusiness is deemed to perform a commercially useful function if the business does all of the following:

Disabled Veteran Business Enterprise:

Disabled veteran business enterprise contractor, subcontractor, or supplier which means any person or entity that has been certified by the administering agency pursuant to this article and that performs a “commercially useful function,” as defined below, in providing services or goods that contribute to the fulfillment of the contract requirements. Pursuant to the Military and Veteran Code 999(b) (5):

(i) A person or an entity is deemed to perform a “commercially useful function” if a person or entity does all of the following:

(I)(aa) is responsible for the execution of a distinct element of the work of the contract.

(ab) carries out the obligation by actually performing, managing, or supervising the work involved.

(ac) performs work that is normal for its business services and functions.

(II) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(ii) a Contractor, subcontractor, or supplier will not be considered to perform a “commercially useful function” if the Contractor’s, subcontractor’s, or supplier’s role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

Disadvantaged Business Enterprise:



VI. ADMINISTRATION

Pursuant to Title 49 CFR Part 26.55 (1), “A DBE performs a commercially useful function when it is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The DBE must also be responsible, with respect, to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing and paying for the material itself.” As stated in 49 CFR Part 26.55 (2)(3), “A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. A DBE does not perform a CUF if it does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved.”

Socially and Economically Disadvantaged Individual: Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and is—

- (1) Found to be socially and economically disadvantaged on a case by case basis by a certifying agency pursuant to the standards of the USDOT Title 49 CFR Part 26.
- (2) A member of any one or more of the following groups, members of which are rebuttably presumed to be social and economically disadvantaged:
 - (i) “Black Americans” which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) “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;
 - (iii) “Native Americans” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) “Asian Pacific Americans” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, 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;
 - (v) “Subcontinent Asian Americans” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - (vi) Women; and



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(vii) Any additional group whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Small Business or Microbusiness:

Pursuant to the Government Code § 14837 and California Code of Regulations § 1896.4(h), a SB or Microbusiness is considered to perform a CUF if the firm:

1. Is responsible for the execution of a distinct element of the work of the contract;
2. Carries out its obligation by actually performing, managing, or supervising the work involved;
3. Performs work that is normal for its business services and functions;
4. Is not further subcontracting a greater portion of the work that is greater than that expected to be subcontracted by normal industry practices;
5. Is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself; and
6. Will not be considered to perform a CUF if the role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to achieve the appearance of small business or microbusiness participation.

Compliance: A Contractor has correctly implemented the requirements of the SB Program.

DBE Certification: A certification issued to a firm by a certifying member agency of the California Unified Certification Program (CUCP) which has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the certifying CUCP member. Refer to the DBE Directory for a listing of DBE firms.

DOT-Assisted Contract: A contract funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees.

Goal: A numerically expressed objective, which the Authority or its Contractors are required to make Good Faith Efforts to achieve.

Good Faith Efforts: Efforts to achieve the established SB goal or other requirements which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the Authority's SB Program requirement.

Non-Compliance: A Contractor who has not correctly implemented the requirements of the SB Program.



VI. ADMINISTRATION

Professional Services: Professional services that are infrequent, technical or unique functions performed by independent Contractors or consultants whose occupation is the rendering of such services.

Small Business Concern: In order to be as inclusive as possible to small businesses for the purpose of this federal aid project, the Authority recognizes a Small Business Concern to include certified Small Businesses (SB), Disadvantaged Business Enterprises (DBE), Disabled Veteran Business Enterprises (DVBE) and Microbusinesses. With respect to firms seeking to participate as SB or DBE in DOT-assisted contracts, a business which meets the definition contained in Section 3 of the Small Business Act and the U.S. Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65 (b), as set forth below:

Disadvantaged Business Enterprise (DBE) – A for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 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 and has been certified as a Disadvantaged in accordance with 49 C.F.R. Part 26. The Authority recognizes DBE certifications issued by the California Unified Certification Program (CUCP).

Disabled Veteran Business Enterprise (DVBE) – A for-profit small business concern that is at least 51 percent owned by a veteran of the United States Military who has at least a 10 percent service-connected disability. To qualify as a Disabled Veteran Business Enterprise, the business must have received the appropriate certification issued by the California Department of General Services.

Microbusiness (MB) – A for-profit small business concern with gross annual receipts of less than \$3,500,000; or, if the small business is a manufacturer, with 25 or fewer employees. The Authority recognizes Microbusiness certifications issued by the California Department of General Services.

Small Business (SB) – A for-profit small business that meets the requirements and eligibility criteria set forth by the U.S. Small Business Administration or California Department of General Services for certification as a Small Business.

Under the California Department of General Services definition, a Small Business is independently owned and operated, with its principal office located in California, and with owners living in California, has grossed \$14 million or less over the previous three (3) tax years, and is not dominant in its field of operations. This certification is issued by the California Department of General Services. The Small Business participation will be counted toward the Authority's overall Small Business utilization goal.



**EXHIBIT A
SAMPLE COST PROPOSAL FORMAT**

PART I:

TOTAL LABOR COSTS FOR THE CONTRACT:

<u>EMPLOYEE</u>	<u>CLASSIFICATION</u>	PROJECTED <u>HOURS</u>	x	BILLING <u>RATE =</u>	<u>TOTAL</u>
		_____		_____	_____
		_____		_____	_____
	Subtotal	_____		_____	_____

TOTAL OTHER DIRECT COSTS FOR THE CONTRACT:

(Overhead or indirect costs, travel, etc.)

Subtotal _____

TOTAL COST: _____

PART II:

LABOR COSTS BY TASK:

<u>EMPLOYEE</u>	<u>CLASSIFICATION</u>	PROJECTED <u>HOURS</u>	x	BILLING <u>RATE =</u>	<u>TOTAL</u>
		_____		_____	_____
		_____		_____	_____
	Subtotal	_____		_____	_____

TOTAL OTHER DIRECT COSTS BY TASK:

(Overhead or indirect costs, travel, etc.)

Subtotal _____

TOTAL COST: _____

Form A: Schedule of Subcontractor(s)/ Subconsultant(s)

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

(Add rows/pages as needed)

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



**Organization Name,
Address, and Telephone**

Signature of Team Representative

Printed Name

Title

Date



Form B: 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 Consultant 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 Consultant and its team (including Consultant, Consultant 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.



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

Printed Name

Printed Title

Consultant



Cert. 1: Certification Regarding Miscellaneous State Requirements

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

<i>Consultant Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

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.)

Drug-Free Workplace Requirements - Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b) Establish a Drug-Free Awareness Program to inform employees about:
 - i. The dangers of drug abuse in the workplace;
 - ii. The person's or organization's policy of maintaining a drug-free workplace;
 - iii. Any available counseling, rehabilitation and employee assistance programs; and,
 - iv. Penalties that may be imposed upon employees for drug abuse violations.



- c) Every employee who works on the proposed Agreement will:
- i. Receive a copy of the company's drug-free workplace policy statement; and,
 - ii. Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

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.)

Contracts for Legal Services \$50,000 Or More- Pro Bono Requirement - Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10 percent of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

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.

Sweatfree Code Of Conduct -

- a) All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal



sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

- b) The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

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.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general



subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
 - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.



7. **AIR OR WATER POLLUTION VIOLATION**: Under the State laws, the Contractor shall not be:
(1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.



Cert. 2: Consultant's Overall Contract Small Business Goal Commitment Affidavit

AFFIDAVIT

STATE OF _____ §

§

§

COUNTY OF _____ §

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

(Contact Name)

is the Official Representative of

(Consultant's Name)

The Consultant submitting the foregoing Proposal *(If the Consultant 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 Consultant has carefully examined all documents that form this Request for Proposals and is aware that California High-Speed Rail Authority (Authority) has established an overall contract Small Business goal of 30 percent, inclusive of Small Businesses, Disadvantaged Business Enterprises, Disabled Veteran Business Enterprises and Microbusinesses, in conformance with Executive Order S-02-06, Title VI of the Civil Rights Act of 1964, and related statutes and Best Practices of 49 C.F.R. Part 26, as set forth in the Authority's Small and Disadvantaged Business Enterprise Program.

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

[Signature Page Follows]



Cert. 2: Consultant's Overall Contract Small Business Goal Commitment Affidavit
Signature Page

Signature

Printed Name

Title

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

Notary Public in and for said County and State [SEAL]

My commission expires: _____



Cert. 3: 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#14-01 Financial Advisor Services for the California High-Speed Rail Authority.

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 Consultant and all joint venture members of the Consultant.

Cert. 4: Darfur Contracting Act Certification

Pursuant to Public Contract Code section 10478, if a Consultant 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. _____ 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.
 Initials

OR

2. _____ 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.
 Initials

OR

3. _____ 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.
 Initials

CERTIFICATION for Paragraph No. 3

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

<i>Consultant Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	



Cert. 5: Major Participant Certification Regarding 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 Consultant certifies to the best of its knowledge and belief, that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- b) 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.
- c) 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.
- d) 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.

The Consultant 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. 6).

**Organization Name,
Address, and Telephone**

Signature of Person Certifying

Printed Name

Title

Date



Cert. 6: Subcontractor Certification Regarding 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:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- b) 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.
- c) 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.
- d) 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.

**Organization Name,
Address, and Telephone**

Signature of Person Certifying

Printed Name

Title

Date



Cert. 7: 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:

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

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

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

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

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

That all statements contained in the SOQ are true.

The Consultant has not and will not, directly or indirectly, for the purposes of effectuating a collusive or sham negotiation, submitted his or her schedule of rates 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

(Consultant)

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



Cert. 8: Equal Employment Opportunity Certification

To be executed by the Consultant, all joint venture members of the Consultant, 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 Consultant, relationship to the Consultant: _____



Cert. 9: Non-Discrimination Certification

In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, the Consultant 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 for Consultant Services.

**Organization Name,
Address, and Telephone**

Signature of Person Certifying

Printed Name

Title

Date



Cert. 10: Certification Regarding Lobbying

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

- a) 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.
- b) 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.
- c) 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: If Joint Venture, each Joint Venture member shall provide the above information and sign the certification.



AGREEMENT NUMBER HSR14-01
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and Consultant named below:
STATE AGENCY'S NAME
California High-Speed Rail Authority
CONSULTANT'S NAME
To Be Determined
- The term of this Agreement is (date) _____ Through (date) _____ With the option to amend for an additional two years at the same rates
- The maximum amount of this Agreement after this amendment is: **\$ TBD** To Be Determined
- The parties mutually agree to the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	9 pages
Exhibit B – Invoicing and Payment Provisions	3 pages
Exhibit C – General Terms & Conditions	2 -1 pages
Exhibit D – Supplemental State Terms and Conditions	6 -11 pages
Exhibit E – Consultant and Subconsultant Sample Cost Proposal Format	2 pages

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

CONSULTANT		CALIFORNIA Department of General Services Use Only
<small>CONSULTANT'S NAME (If other than an individual, state whether a corporation, partnership, etc.)</small>		
<small>BY (Authorized Signature)</small> 	<small>DATE SIGNED (Do not type)</small>	
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small>		
<small>ADDRESS</small>		
STATE OF CALIFORNIA		
<small>AGENCY NAME</small> California High-Speed Rail Authority		
<small>BY (Authorized Signature)</small> 	<small>DATE SIGNED (Do not type)</small>	
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small> Jeff Morales, Chief Executive Officer		
<small>ADDRESS</small> 770 L Street, Suite 800, Sacramento, CA 95814		

I. BACKGROUND

The High-Speed Rail Authority (Authority) is responsible for the planning, design, construction and operation of the first high-speed rail system in the nation. The California High-Speed Rail System (System) will connect the mega-regions of the State, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. Phase 1 service will connect San Francisco Bay Area to the Los Angeles Basin under three hours at speeds of over 200 miles per hour. The System will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a statewide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the State's 21st century transportation needs.

The Authority intends to finance the High-Speed Rail Project (Project) with State and Federal funding, including funds provided by the Federal Railroad Administration (FRA) and funding made available through the American Recovery and Reinvestment Act of 2009 (ARRA). The Authority will act as the FRA-designated recipient for federal transportation funds.

Consultants acknowledge that any services or work performed is consistent and/or compliant to the conditions set within the following:

- California State Budget Act 2012-13, SB1029 (Chapter 152, Statutes of 2012)
http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1029_bill_20120718_chaptered.pdf
- California High-Speed Rail Program 2014 Business Plan (April 2014)
http://www.hsr.ca.gov/About/Business_Plans/2014_Business_Plan.html
- US DOT FRA Grant/Cooperative Agreement FR-HSR-009-10-01 (and subsequent amendments)
http://www.hsr.ca.gov/docs/about/funding_finance/funding_agreements/FR-HSR-0009-10-01-05.pdf

The Authority is moving forward to complete Phase 1 of the System and place in operation by 2020. It is recognized by the general public and the State leadership that the scale of this Project requires a large component of public financing, both State and Federal, but it is also the objective of the program to leverage private investment wherever possible and maximize the opportunities for public/private partnerships (PPP).

II. PURPOSE

The purpose of this Agreement is to assist the Authority in preparing a financial analysis plan that builds upon previous financial plans. This includes developing a robust portfolio of potential funding sources necessary to meet significant funding requirements, and the development of a financial analysis tool that takes into account the most current funding and credit enhancement opportunities.

III. SCOPE OF WORK AND DELIVERABLES

The Consultant shall be responsible for providing advisory services to develop financial analyses to support planning efforts and potential procurement and investment structures for the overall project and individual sections as defined below and in the Consultants Technical Proposal. These services will assist the Authority in carrying out the work plan outlined in the 2014 Business Plan.

The Consultant shall prepare an overall financial plan in connection with the Authority submission to the Legislature of a biennial business plan. In addition, the Consultant will be responsible for

EXHIBIT A SCOPE OF WORK

preparing financial plans as required by Proposition 1A for individual sections of the system as the decision makers approve the final environmental documents and select final alternatives. The Consultant will provide strategies and analysis for obtaining funding for implementation of the system, including individual sections of the system.

As described above and further defined in the tasks below, the Consultant shall perform the following tasks. The Consultant shall plan for the completion of these required tasks in the proposed program budget and schedule. The Consultant shall plan to incorporate the subconsultants, including the 30% small business participation in each task.

1. Perform financial assessment and analysis of the Project or segments of the Project.

The Consultant shall perform financial analysis for the Project and segments of the Project based on the construction, operating and maintenance cost estimates and revenue and ridership projections provided by the Authority. This task includes, but is not limited to:

- a. Develop a section assessment for the Initial Operating Segment and prepare a section-level financial analysis followed by assessments and financial analyses for each remaining section within the planned system. The plans shall include section development options and cash flow analyses.
- b. Participate in informational meetings with the Ridership and Revenue Model Enhancement consultants, Peer Review Panel, and/or other entities as requested to facilitate timely coordination of effort, identify and address issues of concern and share information.
- c. Assess the existing financial plan, key data sources, and assumptions and identify potential gaps.
- d. Perform financial analysis that analyzes the costs, revenue/ridership projections and financing and delivery alternatives.

2. Assess existing financial plans and develop future funding plans for the Project or segments of the Project.

The Consultant shall assess the existing financial plans, including funding sources, and develop future funding plans for the Project consistent with the financial planning requirements imposed on the Authority by applicable state and federal laws.

3. Identify and analyze potential funding and financing sources for the Project or segments of the Project.

The Consultant shall identify, analyze and develop implementation plans for prospective funding and financing sources. This task includes, but is not limited to:

- a. Analyze potential financing sources and structuring plans, including alternative and innovative financing. Sources may include governmental purposes tax-exempt bonds,

EXHIBIT A SCOPE OF WORK

tax-exempt Private Activity Bonds, Transportation Infrastructure Finance and Innovation Act (TIFIA), private financing including taxable bonds and bank loans, private placement financing, private equity, vendor financing, infrastructure banks, tax credit bonds, RRIF loans federal credit enhancement structures and lines of credit, and foreign export development banks.

- b. Assist the Authority in coordinating meetings with potential equity investors, lenders, and international and domestic developers and investors in high-speed rail systems.

4. Analyze and evaluate delivery methods for the Project.

The Consultant shall analyze and evaluate various delivery models for the Project. As part of this task, the Consultant shall prepare a delivery options report that discusses the various delivery models and provide qualitative and quantitative considerations for the Authority to use in finalizing future delivery models for segments and elements of the Project.

5. Provide financial procurement assistance during Project procurements.

The Consultant shall provide financial and commercial assistance during the procurement of innovative delivery and contract models, such as Design-Build (D-B), Design-Build-Maintain (DBM), Design-Build-Operate-Maintain (DBOM), and Design-Build-Finance-Operate-Maintain (DBFOM). Led by Authority staff, the Consultant shall work with other Authority advisors including legal and technical advisors, to help plan and structure procurements.

This task includes:

- a. Assist with review and development of documents.
- b. Evaluation of financial capacity of Request for Qualifications (RFQ) and Request for Proposals (RFP) respondents.
- c. Assist with discussions with industry respondents and evaluation of commercial alternatives.
- d. Assist with activities related to commercial and financial close processes.

6. Prepare analysis for the Authority's Business Plan, and other Authority planning documentation, and financial reports

The Consultant shall assist the Authority in preparing its biannual Business Plan, financial reports, and other planning documents. The Consultant shall prepare drafts of funding and financing plans, financial analysis, and delivery options analysis to support the Business Plan and other planning documents, as requested.

EXHIBIT A SCOPE OF WORK

7. Develop non-ticket and other revenue analyses and plans

The Consultant shall develop analysis and plans for ancillary and non-ticket revenue which shall include analyzing the potential revenue generation from these types of opportunities, based on inputs provided by the Authority and Authority Consultants.

8. Analyze financial elements of major contracts, contract data, processes and potential gaps

The Consultant shall analyze financial elements of major contracts, financial and construction contract data, processes, systems and alternatives. As directed by the Authority, the Consultant will assist in analysis, support and workshops related to procurement processes, risk allocation, contract administration, invoice review and approval, project cost tracking, reporting and forecasting, contract change processes, systems assessment, organization and project reporting.

9. Provide analysis on existing and recommended future processes and procedures to enhance the newly developed Financial Office. This task includes, but is not limited to:

- a. Financial Information Technology (IT) solutions and feasibility study reports.
- b. Operations of the Financial Office: Contract/Procurement/Budget and Accounting.
- c. Desk procedures and policies of the Financial Office.

IV. CONTRACT MANAGEMENT

Key contract management tasks include, but are not limited to: a kickoff meeting, monthly progress reports, and a final report and final meeting. Please note that prior to the submission of any final document or deliverable, a review period will be required of the draft incorporating comments and direction from the Authority and any other designated parties.

A. Kickoff Meeting

Within 30 days of the notification of contract execution and a notice to proceed has been issued by the Authority's Contract Manager (ACM) the Consultant and ACM shall attend a "kick-off" meeting with the ACM, and Contracts Officer to confirm the policy objectives and priorities; agree upon a management plan with detailed tasks, deliverables, schedules and budget. The Consultant's Project Manager, Contract Administrator, and Accounting Officer shall attend this meeting. The administrative and technical aspects of this contract will be discussed. Prior to the kick-off meeting, the ACM will provide an agenda to all potential meeting participants. The ACM shall designate the date and location of this meeting.

1. The administrative portion of the meeting shall include, but not be limited to, the following:
 - Terms and Conditions of the Agreement

**EXHIBIT A
SCOPE OF WORK**

- Invoicing
2. The technical portion of the meeting shall include, but not be limited to, the following:
- The ACM's expectations for accomplishing tasks described in the Scope of Work;
 - An updated Schedule of Deliverables
 - Processes for submitting, reviewing and approving Progress Reports, Task Deliverables and Final Report

B. Contract Management

The Consultant's Project Manager is responsible for the day-to-day project status, decisions and communications with the Authority's Contract Manager. The Consultant may change its Project Manager by giving written notice to the Authority, but the Authority reserves the right to approve any substitution of the Project Manager.

The Authority may change its Contract Manager at any time by giving written notice to the Consultant.

- C. Designated representatives for the Authority and Consultants.** The persons identified below will be responsible for managing the tasks identified in this contract:

Authority's Contract Manager	Consultant's Project Manager
Name:	
Address:	
Phone/Fax	
E-Mail address:	

D. Monthly Progress Reports

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of this contract as follows:

EXHIBIT A SCOPE OF WORK

1. The Consultant Shall:

- Prepare monthly progress reports which will include major milestones, project schedules, progress by task to date, description of the progress, including identification of problems, proposed solutions and revised completion dates if necessary.
- Prepare progress reports which will indicate the amount of work completed and the budget expended to date, and any anticipated cost overruns. Each progress report is due to the ACM within 15 working days after the end of the reporting period.

E. Final Report and Final Meeting

The goal of this task is to prepare a comprehensive written Final Report that describes the original purpose, approach, results and conclusions of the work performed under this contract. The Consultant shall submit a draft final report for review and comment by the ACM. The Consultant shall review recommendations for changes to the report with the ACM and incorporate the agreed-upon changes into the final version of the report. The Final Report must be completed 60 days prior to the end of the contract term.

The Consultant shall meet with the Authority to discuss the overall contract and its closeout. The final meeting must occur 45 days prior to the end of the contract term to discuss the report and transition plan should a new Consultant be awarded the subsequent contract. The ACM will determine the appropriate meeting participants. At the end of the meeting, the Consultant shall prepare a written summary of the meeting, and a schedule for completing closeout activities.

Title: Consultant's name shall only appear on the cover and title page of reports as follows:

California High Speed Rail Authority
Project Title
Contract Number
By (Consultant)

Ownership: Each report shall become the property of the Authority.

F. Contract Transition

When this contract is nearing the end of its term or amended term, the Authority will be required to rebid these services. The Consultant will be required to assist with the transition by preparing a transition plan and working with the newly hired consultant for a 30 day period to allow the Authority the ability to maintain the integrity, financial operations and work flow of the Authority.

**EXHIBIT A
 SCOPE OF WORK**

**V. SCHEDULE OF DELIVERABLES AND DUE DATES AS DEFINED IN SCOPE OF WORK,
 EXHIBIT A, ITEM III, ON PAGE 3 OF 11**

Please note, actual deliverables and dates will be developed in coordination with the Authority’s Contract Manager.

Task	Deliverable	Estimated Due Date
1	Perform Financial Assessment and Analysis of the Project or Segments of the Project. The Consultant shall perform financial analysis for the Project and segments of the project based on the construction, operating and maintenance cost estimates and revenue and ridership projections provided by the Authority. This task includes, but is not limited to:	
1.1	<ul style="list-style-type: none"> ▪ Develop a section assessment for the Initial Operating Segment and prepare a section-level financial analysis followed by assessments and financial analyses for each remaining section within the planned system. The plans shall include section development options and cash flow analyses. 	
1.2	<ul style="list-style-type: none"> ▪ Participate in informational meetings with the Ridership and Revenue Model Enhancement consultants, Peer Review Panel, and/or other entities as requested to facilitate timely coordination of effort, identify and address issues of concern and share information. 	
1.3	<ul style="list-style-type: none"> ▪ Assess the existing financial plan, key data sources, and assumptions and identify potential gaps. 	
1.4	<ul style="list-style-type: none"> ▪ Perform financial analysis that analyzes the costs, revenue/ridership projections and financing and delivery alternatives. 	
2	Assess Existing Financial Plans and Develop Future Funding Plans for the Project or Segments of the Project as follows:	
2.1	<ul style="list-style-type: none"> ▪ The Consultant shall assess the existing financial plans, including funding sources, and develop future funding plans for the Project consistent with the financial planning requirements imposed on the Authority by applicable state and federal laws. 	
3	Identify and Analyze Potential Funding and Financing Sources for the Project or Segments of the Project	
3.1	<ul style="list-style-type: none"> ▪ Analyze potential financing sources and structuring plans, including alternative and innovative financing. Sources may include governmental purposes tax-exempt bonds, tax-exempt Private Activity Bonds, Transportation Infrastructure Finance and Innovation Act (TIFIA), private financing including taxable bonds and bank loans, private placement financing, private equity, vendor financing, 	

**EXHIBIT A
 SCOPE OF WORK**

	infrastructure banks, tax credit bonds, RRIF loans, federal credit enhancement structures and lines of credit, and foreign export development banks.	
3.2	<ul style="list-style-type: none"> ▪ Assist the Authority in coordinating meetings with potential equity investors, lenders, and international and domestic developers and investors in high-speed rail systems. 	
4	Analyze and Evaluate Delivery Methods for the Project	
4.1	<ul style="list-style-type: none"> ▪ The Consultant shall analyze and evaluate various delivery models for the Project. As part of this task, the Consultant shall prepare a delivery options report that discusses the various delivery models and provides qualitative and quantitative considerations for the Authority to use in finalizing future delivery models for segments and elements of the Project. 	
5	Provide Financial Procurement Assistance During Project Procurements	
5.1	<ul style="list-style-type: none"> ▪ Assist with review and development of documents. 	
5.2	<ul style="list-style-type: none"> ▪ Evaluation of financial capacity of RFQ and RFP respondents. 	
5.3	<ul style="list-style-type: none"> ▪ Assist with discussions with industry respondents and evaluation of commercial alternatives. 	
5.4	<ul style="list-style-type: none"> ▪ Assist with activities related to commercial and financial close processes. 	
6	Prepare Analysis for the Authority Business Plan and other Authority Planning Documentation and Reports.	
6.1	<ul style="list-style-type: none"> ▪ The Consultant shall assist the Authority in preparing its biannual Business Plan and other planning documents. The Consultant shall prepare drafts of funding and financing plans, financial analysis, and delivery options analysis to support the Business Plan and other planning documents, as requested. 	
7	Develop Non-Ticket and Other Revenue Analysis and Plans	
7.1	<ul style="list-style-type: none"> ▪ The Consultant shall develop analysis and plans for ancillary and non-ticket revenue which shall include analyzing the potential revenue generation from these types of opportunities, based on inputs 	

**EXHIBIT A
 SCOPE OF WORK**

	provided by the Authority and Authority Consultants.	
8	Analyze Financial Elements of Major Contracts, Contract Data, Processes and Potential Gaps.	
8.1	<ul style="list-style-type: none"> ▪ The Consultant shall analyze financial elements of major contracts, financial and construction contract data, processes, systems and alternatives. As directed by the Authority, the Consultant will assist in analysis, support and workshops related to procurement processes, risk allocation, contract administration, invoice review and approval, project cost tracking, reporting and forecasting, contract change processes, systems assessment, organization and project reporting. 	
9	Provide analysis on existing and recommended future processes and procedures to enhance the newly developed Financial Office. This task includes, but is not limited to:	
9.1	<ul style="list-style-type: none"> ▪ Financial Information Technology (IT) solutions and feasibility study reports. ▪ Operations of the Financial Office: Contract/Procurement/Budget and Accounting. ▪ Desk procedures and policies of the Financial Office. 	

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EXHIBIT B
INVOICING AND PAYMENT PROVISIONS

Consultant Name
Contract No. HSR14-01
Page 1 of 3

I. INVOICING AND PAYMENT

For services satisfactorily rendered in accordance with the terms of this Agreement, and upon receipt and approval of the invoices, the Authority agrees to compensate the Consultant for actual hours worked at the billing rates identified in the cost proposal, as provided in Exhibit E. The rates in Exhibit E are the rate caps or the maximum amount to be billed over the duration of this contract.

- A. No payment shall be made in advance of services rendered.
- B. Invoices shall include the Agreement Number, identification of the number of hours worked by classification and related other direct costs (e.g., travel) by task, and shall be submitted not more frequently than monthly. The following certification shall be included on each invoice and signed by an authorized official of the Contractor:

I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, including but not limited to a Government Entity contract, subcontract or other procurement method.

Financial Operations Section
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
(1 Original and 1 Copy)

Contract Manager
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
(1 Copy)

- C. Progress payments under this Agreement will be made no more frequently than monthly in arrears based on services provided at specific hourly rates and allowable direct costs incurred. The Authority will withhold 10% of each progress payment. The total retention amount will be paid to the Contractor after the Authority has evaluated the Contractor's performance and made a determination that all contract requirements have been satisfactorily fulfilled. The Authority will release portions of the retention amount (in relation to the amount of actual costs incurred) as specific tasks and deliverables in the work plan have been completed and approved.**

II. INVOICE FORMAT

- A. The Authority will accept computer generated or electronically transmitted invoices, provided the Consultant sends a paper copy the same day to the Authority. The date of "invoice receipt" for purposes of the Prompt Payment Act and processing shall be the date the Authority receives the paper copy.
- B. The Consultant shall submit backup documentation for invoice approval and audit purposes, and retain back-up documentation for audit purposes available to the Authority upon request, in accordance with Section VII. The Consultant shall include appropriate provisions in each of its subcontracts over \$25,000 to secure adequate backup documentation to verify all subconsultant services and expenses invoiced for payment under this Agreement.

EXHIBIT B
INVOICING AND PAYMENT PROVISIONS

Consultant Name
Contract No. HSR14-01
Page 2 of 3

- C. Invoices shall reference the Agreement number and shall consist of, but not be limited to the following:
1. Agreement number, date prepared, and billing period.
 2. The Consultant's billing rates by individual.
 3. Operating expenses, including special equipment if requested by the Authority, travel, miscellaneous, and materials.
 5. Subconsultant awardees or vendors invoices.
 - a. An indication of whether a subconsultant or vendor is a California Certified Small Business or a Certified Disabled Veteran Business Enterprise.
 - b. Fees (fringe, direct and indirect overheads, general and administrative, profit, etc.). Each invoice shall include actual hours incurred, cumulative hours incurred to date and budgeted hours.
 6. By task (as specified in Budget Detail and by reference to the scope of work, when applicable): cumulative amounts, budgeted per agreement, billed to date, current billing, and balance of funds.

III. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that this Agreement shall be of no further force and effect if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Exhibit A, Scope of Work. In this event, the Authority shall have no liability to pay any funds whatsoever to the Consultant or to furnish any other considerations under this Agreement and the Consultant shall not be obligated to perform any provision of this Agreement.
- B. After execution or commencement of this Agreement, if the funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this project, the Authority shall have the option to either: 1) cancel this Agreement with no further liability occurring to the Authority; or 2) offer an Agreement amendment to the Consultant to reflect the reduced amount.
- C. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or State Legislature that may affect the provisions, terms, or funding of this Agreement in any manner.

IV. TRAVEL AND PER DIEM RATES

- A. The Consultant shall be reimbursed for approved travel and per diem expenses using the same rates provided to non-represented state employees. The Consultant must pay for travel in excess of these rates. The Consultant may obtain current rates at the following web site at: <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.
- B. All travel requires written authorization from the Authority's Contract Manager prior to travel departure. Travel expenses are computed in accordance with State policies.

EXHIBIT B
INVOICING AND PAYMENT PROVISIONS

Consultant Name
Contract No. HSR14-01
Page 3 of 3

- C. The Consultant must retain documentation of travel expense in its financial records. The documentation must be listed by trip and include dates and times of departure and return. Travel receipts, except for travel meals and incidentals, shall be submitted with invoices requesting reimbursement from the Authority.

V. PROMPT PAYMENT ACT

- A. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

VI. DISPUTES

- A. Payments shall be made to the Consultant for undisputed invoices. An undisputed invoice is an invoice submitted by the Consultant for services rendered and for which additional evidence is not required to determine its validity. The invoice will be disputed if all deliverables due for this billing period have not been received and approved, if the invoice is inaccurate, or if it does not comply with the terms of the Agreement. If the invoice is disputed, the Consultant will be notified via a Dispute Notification Form within 15 working days of receipt of the invoice; the Consultant will be paid the undisputed portion of the invoice within the timeframe of the Prompt Payment Act.
- B. No payment will be made for costs identified in Consultant invoices that have or will be reimbursed by any other source, including but not limited to a Governmental Entity contract or subcontract or other procurement Agreement.

VII. AUDIT

- A. The Consultant shall be subject to the examination and convenience of the State Auditor for a period of three (3) years after final payment under the contract in accordance with Government Code, section 8546.7. The examination and audit shall be confined to those matters connected with the performance of the contract. Consultant shall maintain books, records, documents, and other evidence, sufficient to reflect proper performance of the Agreement. The Authority, an agency of the State or, at the Authority's option, a public accounting firm designated by the Authority, may audit such records at all reasonable times and with prior notice by the Authority. Audits may be performed at any time within three (3) years following the final payment by the Authority. Performance of any such interim audits by the Authority does not preclude further audit. Additional terms and conditions regarding audits can be found in the GTC-610, Exhibit C to this Agreement.
- B. Any subagreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions in this clause.

VIII. EXCISE TAX

- A. The State of California is exempt from federal excise taxes, and no payment will be made for any personal property taxes levied on the Consultant or any taxes levied on employees' wages. The Authority will only pay for any state or local taxes or use taxes on the services rendered on the Authority pursuant to this Agreement.

**EXHIBIT C
GENERAL TERMS AND CONDITIONS (GTC 610)**

Under the California High-Speed Rail Authority's standardized contract process, a hardcopy of Exhibit C is not included in the standard contract package. As indicated on the Std. 213, a copy of Exhibit C, GTC 610, can be found at the internet site:

<http://www.documents.dgs.ca.gov/ols/GTC-610.doc>

If you do not have internet access please contact the Contract Analyst below to receive a copy:

Andrea Mack
(916) 403-6925
Andrea.Mack@hsr.ca.gov
770 L Street, Suite 800
Sacramento, CA 95814

Replace the General Terms and Conditions (GTC-610) clause #5, notwithstanding any term to the contrary in this Agreement, the following text shall control:

I. LIMITATION OF LIABILITY

- A. Consultant's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to four times the annual Contract Price of \$3 million.
- B. The foregoing limitation of liability shall not apply (i) to any liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to real or tangible personal property caused by Consultant's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- C. The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the \$12 million, as that term is defined in subsection A above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- D. In no event will either the Consultant or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Consultant's liability for such damages is specifically set forth in the Scope of Work or (ii) to the extent that Consultant's liability for such damages arises out of sub-section B)(i), B)(ii), or B)(iv) above.

EXHIBIT D
SUPPLEMENTAL STATE TERMS AND CONDITIONS

Consultant Name
Contract No. HSR14-01
Page 1 of 11

I. STANDARD OF CARE

- A. The Consultant, in performing its professional services under this Agreement, owes the Authority the following duties of care (The Consultant's "Standard of Care"):
- A. The duty to have that degree of learning and skill ordinarily possessed by reputable professionals practicing in the same or a similar locality and under similar circumstances;
 - B. The duty to use the care and skill ordinarily possessed by reputable members of the professions practicing in the same or similar locality under similar circumstances; and
 - C. The duty to use reasonable diligence and his or her best judgment in the exercise of skill and the application of learning.

II. SUBCONTRACTS

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Authority and any subconsultants, and no subcontract shall relieve the Consultant of his or her responsibilities and obligations under this Agreement. The Consultant agrees to be as fully responsible to the Authority for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by the Consultant. The Consultant's obligation to pay its subconsultant is an independent obligation from the Authority's obligation to make payment to the Consultant. As a result, the Authority shall have no obligation to pay or enforce the payment of any moneys to any subcontract.
- B. The Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work shall be contracted without written authorization by the Authority's Contract Manager, except that which is expressly identified in Form A.
- C. Unless specifically noted otherwise, any subagreement in excess of \$25,000 entered into as a result of this Agreement shall contain all the applicable provisions stipulated in this Agreement.
- D. The Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the State.
- E. Any substitution of subconsultants must be approved in writing by the Authority's Contract Manager in advance of assigning work to a substitute subconsultant.

III. EVALUATION OF THE CONSULTANT

Performance of the Consultant under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Consultant Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

IV. AMENDMENTS

This Agreement may be amended to make changes, including without limitation; additional funds, additional time, additional or modified tasks, and additional or modified terms. Amendments may

EXHIBIT D
SUPPLEMENTAL STATE TERMS AND CONDITIONS

Consultant Name
Contract No. HSR14-01
Page 2 of 11

be made without competitively bidding, so long as the amendment is exempt from competitive bidding pursuant to Public Contract Code section 10335, Government Code section 11010.5 and the State Contract Manual.

- A. The Consultant shall only commence work covered by an amendment after the amendment is executed, and notification to proceed has been provided by the Authority's Contract Manager.
- B. When approval is obtained, the Consultant will provide a resume for the additional or substituted personnel, along with a copy of the certified payroll for each person.

V. CONSULTANT PERFORMANCE

- A. Performance of the Agreement is defined to include those services identified in the Scope of Work and exclude design, construction, cost or revenue estimation, responsibility for assumptions, routing decisions, environmental decisions and impacts, the amount of actual funding or financing that can be raised by the Project or Authority and other project activities not identified herein.
- B. Consultant's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, Authority and/or State of California. The Consultant will not perform management functions or make management decisions for the Authority or State of California and will not act in the capacity of or perform the responsibilities of management or any other public official.

VI. OWNERSHIP OF DATA

- A. During the term of this Agreement and upon completion of any and all work under this Agreement, all intellectual property rights, ownership and title to all report, documents, plans, specifications, electronic documents and estimates produced as part of this Agreement will automatically be vested in the Authority and no further agreement will be necessary to transfer ownership to the Authority. The Consultant shall furnish the Authority all necessary copies of data needed to complete the review and approval process.
- ~~B. It is understood and agreed that all calculations, drawings, and specifications, whether in hard copy, and electronic or machine readable form, are intended for one time use in the construction of the project for which this Agreement has been entered into.~~
- ~~C.B.~~ The Consultant is not liable for claims, liabilities or losses arising out of, or connected and electronic with, the modification or misuse by the Authority of the electronic machine readable information and data provided by the Consultant under this agreement; further, the Consultant is not liable for claims, liabilities or losses arising out of, or connected with, any use by the Authority of the project documentation on other projects, for additions to this Project, or for the completion of this Project by others, except for such use as may be authorized, in writing, by the Consultant.
- ~~D.C.~~ Any subagreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions in this clause.

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VII. CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the Consultant in order to carry out this Agreement, shall be protected by the Consultant from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion or public hearing held by the Authority relating to this Agreement shall not authorize the Consultant to further disclose such information or disseminate the same on any other occasion.
- C. The Consultant shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, Consultant's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative Committee.
- D. The Consultant shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.
- E. All information related to any construction estimate is confidential and shall not be disclosed by the Consultant to any entity, other than the Authority.
- F. Any subagreement entered into as a result of this Agreement shall contain all of the provisions of the Confidentiality of Data clause.

VIII. CONTRACT INTERPRETATION

This project shall be conducted in accordance with the Request for Proposals process entitled, Financial Advisor Services, Consultant's proposal (technical and costs), and this Agreement. The Consultant's proposal is not attached, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Consultant's proposal, this Agreement shall be considered controlling.

IX. CONFLICT OF INTEREST

- A. The Consultant and its employees, and all of its subconsultants and employees, shall comply with the Authority's Conflict of Interest Code and Organizational Conflict of Interest Policy.
- B. The Consultant may be required to submit an Economic Interest Statement (Fair Political Practices Commission's Form 700) from each employee or subconsultant whom the Authority's General Counsel's Office, in consultation with the Contract Manager or its designee, determines is a designated employee under the Political Reform Act subject to the requirements and restrictions of the Act. Such determination will be based on the nature of the work to be performed by the employee or subconsultant. Each employee and subconsultant determined to be a designated employee under the Political Reform Act shall be subject to the same disclosure category or categories applicable to the Authority's staff who performed the same nature and scope of work as the Consultant.

X. CONSULTANT PROCEDURES

- A. The Consultant's procedures will not include the recommendation of a specific vendor and will not constitute an audit, examination, attestation, special report or agreed-upon procedures engagement as those services are defined in American Institute of Certified Public Accountants (AICPA) standards, policy and guidance applicable to such engagements conducted by independent auditors and we will not otherwise verify the data and other information we obtain for the purpose of preparing our reports.
- B. The Financial Plan and other recommendations prepared by Consultant shall be for the internal use of the Authority in evaluating alternatives and developing strategies and plans for developing the Project. The Financial Plan and other recommendations or reports have not been prepared for and should not be relied on by any other party. Components of the Financial Plan prepared by Consultant may be used in the Business Plan, Section Financial Plans and other documents issued by the Authority without identification or attribution of Consultant.

XI. SETTLEMENT OF DISPUTES

- A. In the event of a dispute, the Consultant shall file a "Notice of Dispute" with the California High-Speed Rail Authority and the Chief Financial Officer within ten (10) days of discovery of the problem. Within ten (10) days, the Chief Financial Officer shall meet with the Project Manager for purposes of resolving the dispute. The decision of the Chief Financial Officer shall be final.
- B. In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.
- C. Neither the pendency of a dispute nor its consideration by the Authority's Contract Manager will excuse the Consultant from full and timely performance in accordance with the terms of this Agreement.

XII. WAIVER

- A. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Authority to enforce at any time any of the provisions of this Agreement, or to require at any time performance by Consultant of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Agreement or any part of it or the right of the Authority to thereafter enforce each and every such provision.

XIII. NOTICE

- A. Any communication, notice, or demand of any kind whatsoever which any party may be required or may desire to give or to serve upon another must be in writing and delivered by personal service (including express or courier service) or by registered or certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight delivery service, in each case addressed as follows:

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Consultant: Name	Authority: Thomas Fellenz, Chief Counsel
Title	California High-Speed Rail Authority
Company	770 L Street, Suite 800
Address	Sacramento, CA 95814
Telephone	Telephone: (916) 324-1541

- B. This clause is not intended to apply to normal, daily communication between the parties related to the progress of work. This clause applies to situations where notice is required to be given by the Agreement or the parties are asserting their legal rights and remedies.
- C. Notice shall be effective when received, unless a legal holiday for the State commences on the date of attempted delivery. In such cases, the effective date shall be postponed until the next business day.

XIV. TERMINATION

This Agreement can be terminated at any time by mutual agreement of the Parties.

- A. Termination for Cause: The Authority reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the Consultant.
- B. Termination for Convenience: The Authority reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to the Consultant if terminated for convenience of the Authority.
- C. Termination Issues for subconsultants, Suppliers, and Service Providers: The Consultant shall notify any subconsultant and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any subconsultant and service or supply vendor shall result in the Consultant being liable for the termination costs incurred by any subconsultant and service or supply vendor for work performed under this Agreement, except those specifically agreed to by the Authority in writing.
- D. Consultant Claims Against this Agreement Under Early Termination: The Consultant agrees to release the Authority from any and all further claims for services performed arising out of this Agreement, or its early termination, upon acceptance by the Consultant of payment for costs actually incurred for work performed prior to receipt of the notice of termination and actual costs incurred as a result of termination.

XV. STOP WORK

- A. The Authority's Contract Manager or his or her assignees may, at any time, by written notice to the Consultant, require the Consultant to stop all or any part of the work tasks in this Agreement.
- B. Upon receipt of such stop work order, the Consultant shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.

- C. The Consultant shall resume the stopped work only upon receipt of written instruction from the Authority Contract Manager canceling the stop work order.
- D. An equitable adjustment shall be made by the Authority based upon a written request by the Consultant for an equitable adjustment. Such adjustment request must be made by the Consultant within 30 days from the date of receipt of the stop work notice.

XVI. FORCE MAJEURE

Except for defaults of subconsultants, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, or public regulating utility or governmental statutes or regulations superimposed after the fact. The Consultant shall not be liable for damages of such delay or failure, if a delay or failure to perform by the Consultant arises out of a default of its subconsultant, and if such default arises out of the following:

- Causes beyond the control of both the Consultant and subconsultant, and
- Without the fault or negligence of either of them.

However, with respect to supplies or services to be furnished by the subconsultant that were obtainable from other sources in sufficient time to permit the Consultant to meet the required performance schedule, the Consultant and its subconsultants will be held liable for damages of such delay or failure.

XVII. SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Authority's Small and Disadvantaged Business Enterprise (SB/DBE) Program Policy has established an overall 30 percent goal for small business utilization, to include within the 30 percent goal, a 10 percent goal for DBE and 3 percent Disabled Veteran Business Enterprise (DVBE) in the Authority's contracting and procurement program. The SB/DBE Program is in compliance with the Best Practices of 49 C.F.R. Part 26, Executive Order S-02-06, Military and Veterans Code 999 and Title VI of the Civil Rights Act of 1964 and related statutes.

The SB/DBE Program has incorporated California Executive Order D-43-01; Public Contract Code 10115(c), and Military and Veterans Code 999 et. seq, as applicable, on 100 percent State funded contracts.

This contract is 100 percent State funded and is governed by the referenced DVBE laws. For this contract, the Authority has established a three (3) percent DVBE goal requirement as authorized by Military and Veterans Code 999 et. seq. Proposers are required to meet the DVBE goal requirement and are encouraged to make efforts to retain SB and DBEs on the proposal as well. The Proposer will provide a SB Performance Plan on how the DVBE goal requirement, inclusive of SB and DBE good faith effort participation, will be met throughout the contract duration. More detailed information regarding what components should be in the SB Performance Plan may be found in the SB/DBE Program for Professional Services Contracts on the Authority's

website. The Authority's SB/DBE Program requirements, include the SB Performance Plan expectations, submission of monthly SB utilization and narrative reporting, Substitution/Termination processes, Prompt Payment Provisions, Recognized SB Roster of Certifying Agencies, and other performance related factors, as identified in the Authority's Small and Disadvantaged Business Enterprise Program—August 2012. The Authority SB Program Plan, by reference, is incorporated in whole into the contract when executed. The Proposer is advised to read and become familiar with the Authority SB Program Plan; it may be found on the Authority's Small Business Policy and Program web page: http://www.hsr.ca.gov/Programs/Small_Business/policy.html

The Proposer shall submit the Schedule of SB/DBE/DVBE Subcontractors/Subconsultants Commitment (Form A), the SB Performance Plan and the Consultant's Overall Project Small Business Goal Commitment Affidavit (Cert 2), at the time of the proposal submittal. The submittal will be evaluated for compliance with the SB/DBE Program for meeting the DVBE goal requirement and or providing a Small Business Performance Plan (Technical Response, Volume 2, Section G) that describes how the DVBE goal, inclusive of SB and DBE good faith effort participation, will be met throughout the contract duration. Upon the Notice to Proceed, the Consultant shall provide monthly SB utilization and narrative reports as described in the Authority's SB Program Plan, to reflect the level of DVBE, including SB and DBE utilization through the duration of the contract and including any amended portion of the contract.

A. Civil Rights – The following requirements apply to this Solicitation/Agreement:

In accordance with State non-discrimination program requirements as set forth in Government Code Section 12990 et seq and Title 2, California Code of Regulations, Division 4, Chapter 5, Sections 8103, 8104, 8108 and 8113 (unless exempted pursuant to Section 8115) Contractors or subcontractor firms with 50 or more employees shall provide a description of the firm's non-discrimination plan designed to eliminate discrimination based on race, color, religion, age, sex, sexual orientation, disability or national origin. Each firm (Contractor or subcontractor) with fewer than 50 employees must provide a statement indicating that the firm has fewer than 50 employees and is therefore exempt from the Non-discrimination Plan requirement.

As a recipient of federal funding, the Authority and its Contractors must comply with the following federal Nondiscrimination requirements.

a) **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended; 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990; 42 U.S.C. § 12132; and 49 U.S.C. § 306, the Contractor agrees that it will not discriminate against any individual because of race, color, religion, national origin, sex, age or disability in any activities leading up to or in performance of the Contract. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

b) **Equal Employment Opportunity:** The following equal employment opportunity requirements apply to this Agreement:

i. **Race, Color, Religion, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," including 41 C.F.R 60 et seq. (which implements

Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

The Contractor also agrees not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

B. Definitions

Commercially Useful Function (CUF): A small, disadvantaged business, disabled veteran business and microbusiness is deemed to perform a commercially useful function if the business does all of the following:

Disabled Veteran Business Enterprise:

Disabled veteran business enterprise contractor, subcontractor, or supplier which means any person or entity that has been certified by the administering agency pursuant to this article and that performs a "commercially useful function," as defined below, in providing services or goods that contribute to the fulfillment of the contract requirements. Pursuant to the Military and Veteran Code 999(b) (5):

- (i) A person or an entity is deemed to perform a "commercially useful function" if a person or entity does all of the following:
 - (I)(aa) is responsible for the execution of a distinct element of the work of the contract.
 - (ab) carries out the obligation by actually performing, managing, or supervising the work involved.
 - (ac) performs work that is normal for its business services and functions.
 - (II) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(ii) a Contractor, subcontractor, or supplier will not be considered to perform a “commercially useful function” if the Contractor’s, subcontractor’s, or supplier’s role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

Disadvantaged Business Enterprise:

Pursuant to Title 49 CFR Part 26.55 (1), “A DBE performs a commercially useful function when it is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The DBE must also be responsible, with respect, to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing and paying for the material itself.” As stated in 49 CFR Part 26.55 (2)(3), “A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. A DBE does not perform a CUF if it does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved.”

Socially and Economically Disadvantaged Individual: Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and is—

(1) Found to be socially and economically disadvantaged on a case by case basis by a certifying agency pursuant to the standards of the USDOT Title 49 CFR Part 26.

(2) A member of any one or more of the following groups, members of which are rebuttably presumed to be social and economically disadvantaged:

(i) “Black Americans” which includes persons having origins in any of the Black racial groups of Africa;

(ii) “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;

(iii) “Native Americans” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(iv) “Asian Pacific Americans” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, 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, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women; and

(vii) Any additional group whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Small Business or Microbusiness:

Pursuant to the Government Code § 14837 and California Code of Regulations § 1896.4(h), a SB or Microbusiness is considered to perform a CUF if the firm:

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1. Is responsible for the execution of a distinct element of the work of the contract;
2. Carries out its obligation by actually performing, managing, or supervising the work involved;
3. Performs work that is normal for its business services and functions;
4. Is not further subcontracting a greater portion of the work that is greater than that expected to be subcontracted by normal industry practices;
5. Is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself; and
6. Will not be considered to perform a CUF if the role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to achieve the appearance of small business or microbusiness participation.

Compliance: A Contractor has correctly implemented the requirements of the SB Program.

DBE Certification: A certification issued to a firm by a certifying member agency of the California Unified Certification Program (CUCP) which has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the certifying CUCP member. Refer to the DBE Directory for a listing of DBE firms.

DOT-Assisted Contract: A contract funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees.

Goal: A numerically expressed objective, which the Authority or its Contractors are required to make Good Faith Efforts to achieve.

Good Faith Efforts: Efforts to achieve the established SB goal or other requirements which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the Authority's SB Program requirement.

Non-Compliance: A Contractor who has not correctly implemented the requirements of the SB Program.

Professional Services: Professional services that are infrequent, technical or unique functions performed by independent Contractors or consultants whose occupation is the rendering of such services.

Small Business Concern: In order to be as inclusive as possible to small businesses for the purpose of this federal aid project, the Authority recognizes a Small Business Concern to include certified Small Businesses (SB), Disadvantaged Business Enterprises (DBE), Disabled Veteran Business Enterprises (DVBE) and Microbusinesses. With respect to firms seeking to participate as SB or DBE in DOT-assisted contracts, a business which meets the definition contained in Section 3 of the Small Business Act and the U.S. Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65 (b), as set forth below:

Disadvantaged Business Enterprise (DBE) – A for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 51 percent of the stock is owned by one or more

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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 and has been certified as a Disadvantaged in accordance with 49 C.F.R. Part 26. The Authority recognizes DBE certifications issued by the California Unified Certification Program (CUCP).

Disabled Veteran Business Enterprise (DVBE) – A for-profit small business concern that is at least 51 percent owned by a veteran of the United States Military who has at least a 10 percent service-connected disability. To qualify as a Disabled Veteran Business Enterprise, the business must have received the appropriate certification issued by the California Department of General Services.

Microbusiness (MB) – A for-profit small business concern with gross annual receipts of less than \$3,500,000; or, if the small business is a manufacturer, with 25 or fewer employees. The Authority recognizes Microbusiness certifications issued by the California Department of General Services.

Small Business (SB) – A for-profit small business that meets the requirements and eligibility criteria set forth by the U.S. Small Business Administration or California Department of General Services for certification as a Small Business.

Under the California Department of General Services definition, a Small Business is independently owned and operated, with its principal office located in California, and with owners living in California, has grossed \$14 million or less over the previous three (3) tax years, and is not dominant in its field of operations. This certification is issued by the California Department of General Services. The Small Business participation will be counted toward the Authority's overall Small Business utilization goal.

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CONSULTANT SAMPLE COST PROPOSAL FORMAT

COSTS BY TASK (1-10) AS DESCRIBED IN EXHIBIT A ITEM 3:

<u>EMPLOYEE CLASSIFICATION</u>	<u>PROJECTED HOURS</u>	x	<u>BILLING RATE</u>	=	<u>TOTAL</u>
<u>Consultant Staff:</u>	_____		_____		_____
	_____		_____		_____
	_____		_____		_____
	Subtotal		_____		_____
<u>Subconsultant Staff:</u>	_____		_____		_____
	_____		_____		_____
	_____		_____		_____
	Subtotal		_____		_____
	Total Labor				_____

TOTAL OTHER DIRECT COSTS BY TASK:

(Other direct costs, including special equipment if requested by the Authority, travel, miscellaneous, and materials)

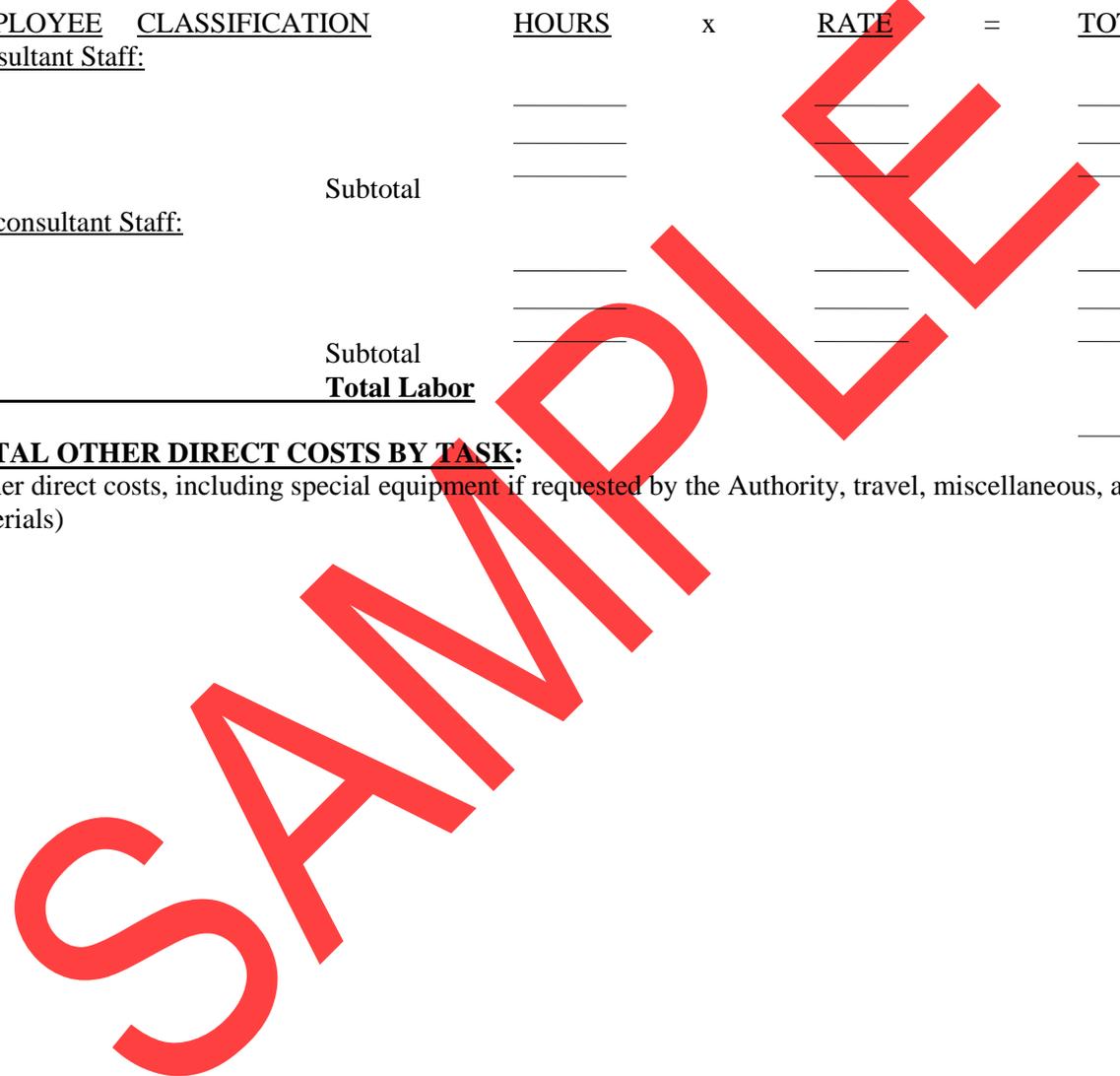


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SUB-CONSULTANT SAMPLE COST PROPOSAL FORMAT

COSTS BY TASK (1-10) AS DESCRIBED IN EXHIBIT A ITEM 3:

<u>EMPLOYEE CLASSIFICATION</u>	<u>PROJECTED HOURS</u>	x	<u>BILLING RATE</u>	=	<u>TOTAL</u>
Consultant Staff:	_____		_____		_____
	_____		_____		_____
	_____		_____		_____
Subtotal	_____		_____		_____
	_____		_____		_____
	_____		_____		_____
Subtotal	_____		_____		_____
Total Labor	_____		_____		_____

TOTAL OTHER DIRECT COSTS BY TASK:
(Other direct costs, including special equipment if requested by the Authority, travel, miscellaneous, and materials)

