



**CALIFORNIA**  
High-Speed Rail Authority

**Rail Delivery Partner  
Request for Qualifications  
RFQ HSR#14-66**

**Release Date: January 29, 2015**

***[www.hsr.ca.gov](http://www.hsr.ca.gov) | (916) 324-1541 | [RDP@hsr.ca.gov](mailto:RDP@hsr.ca.gov)***

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Form B: Organizational Conflicts of Interest Disclosure Statement

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## INTRODUCTION AND PURPOSE OF SOLICITATION

### 1.0 California High-Speed Rail Authority

The California 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 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.

The Authority is subject to FRA oversight as a recipient of federal transportation grants. The Authority submits quarterly budget and schedule reports to FRA, coordinates with the FRA through regularly scheduled monthly meetings, and otherwise works closely with FRA in order to meet FRA requirements.

Additional information regarding the Authority's funding and business plans can be located at the following sites:

- California High-Speed Rail Program 2014 Business Plan (April 2014) [http://www.hsr.ca.gov/About/Business\\_Plans/2014\\_Business\\_Plan.html](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](http://www.hsr.ca.gov/docs/about/funding_finance/funding_agreements/FR-HSR-0009-10-01-05.pdf)
- 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](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1029_bill_20120718_chaptered.pdf)
- Cap and Trade Funding, SB862, (Cmte. on Budget and Fiscal Review, Chapter 36, Statutes of 2014) [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0851-0900/sb\\_862\\_bill\\_20140620\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0851-0900/sb_862_bill_20140620_chaptered.pdf)
- Finance and Audit reports listing all current contracts with the Authority can be located in Board Materials: [http://www.hsr.ca.gov/Board/monthly\\_brdmtg.html](http://www.hsr.ca.gov/Board/monthly_brdmtg.html)

The Authority is moving forward to complete Phase 1 of the HSR system and start operation by 2022. It is recognized by the general public and the State leadership that the scale of this project requires a large component of public funding, 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 (P3).



## 2.0 Purpose and Overview of RFQ

The Authority is issuing this Request for Qualifications (RFQ) to receive Statements of Qualifications (SOQs) from qualified firms (Offerors) for the Rail Delivery Partner (RDP) contract. The purpose of this RFQ is to award a contract to one (1) Offeror to provide integration, program delivery and program management services for the Project.

This procurement will include evaluating SOQs and interviews in response to this RFQ with the intent to award a contract to a successful, responsive, responsible Offeror whose qualifications conform to the requirements of this RFQ and are considered the most qualified by the Authority.

By submitting an SOQ, Offerors agree to be bound by and meet all of the requirements specified in this RFQ. Failure to do so may result in rejection of the SOQ and elimination of the Offeror from the procurement.

**Term:** The contract period is estimated to be for a term of seven (7) years with an option to extend.

**Cost:** The estimated dollar value for this contract may range from \$70 - \$100 million per year, for a total contract range of \$490 million - \$700 million.

**Funding:** Funding for the contract resulting from this RFQ may be provided from state and federal funds.

**Small Business Goal:** Offerors 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.

**RFQ Documents:** The RFQ will be available in electronic format only on the State's Contract Register at [www.bidsync.com](http://www.bidsync.com) and on the Authority's website at <http://www.hsr.ca.gov/>.

**Offeror Questions:** All questions regarding this RFQ must be submitted in writing through ([www.bidsync.com](http://www.bidsync.com)) by the deadline to submit Offeror Questions set forth in the RFQ Schedule for the benefit of all Offerors.

**Criteria:** The RFQ shall follow the process in California Code of Regulations, Title 21, Division 6, Section 10000.1 et seq., based on the factors/criteria contained in Attachment A and Attachment B.

**Negotiations:** Negotiations will be held with the top ranked Offeror in accordance with Public Contract Code Section 6106.

## 2.1 Definitions

Whenever used in this RFQ the following terms have the meanings indicated:

**Authority** – California High-Speed Rail Authority

**Authority Board** – California High-Speed Rail Authority Board of Directors

**Business day** – Monday through Friday, except for federal or State holidays, between the hours of 9:00 a.m. and 5:00 p.m., Pacific Time

**Day** – Calendar day

**Delivery** – The design, procurement, construction, operations and maintenance of a facility, project or program.



**Disadvantaged Business Enterprise (DBE)** – A Disadvantaged Business Enterprise (DBE) is a small business concern that is at least 51 percent owned and whose management and daily business operations are controlled by “socially and economically disadvantaged individuals” (as that phrase is defined in 49 C.F.R. Part 26).

**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, which 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. This definition applies where the contracts in question are 100 percent state-funded.

**Grant/Cooperative Agreements** – Agreement numbers FR-HSR-009-10-01-05 and FR-HSR-0037-11-01-00 between the Authority and the Federal Railroad Administration providing terms for expenditure of federal funds provided for the Project.

**Integration** – The action of combining one thing with another(s) so that they become a whole and function together seamlessly. For this RFQ, Integration can include the following:

**Systems Integration:** Assuring that the systems of the high-speed rail program, including signaling, train control, communications and power, are integrated to operate seamlessly as a single, effective whole across multiple contracts and disciplines

**Civil/systems integration:** Assuring that the facilities built by civil projects and the multitude of systems of the high-speed rail program are integrated together into a facility that operates effectively and seamlessly.

**Organizational integration:** Assuring that the organizational units of both the Authority and the RDP are integrated within, and together, to operate as a single seamless and effective body for the delivery and management of the high-speed rail system.

**Interface management:** Assuring the effective coordination between the multitude of design, construction, equipment, and operation and maintenance contracts such that the high-speed rail program quality, schedule and costs are delivered as planned.

**Key Personnel** – Those individuals identified in the Offeror’s SOQ to fill the positions specified in this RFQ.

**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.

**Offeror** – A Person that submits a Statement of Qualifications in response to this RFQ.

**Offeror Team** – Collectively, the Offeror and its members and subcontractors.

**Open Government Laws** – Collectively, the California Public Records Act (Government Code Section 6250 et seq.), the Bagley-Keene Open Meeting Act (Gov. Code Section 11120 et seq.), and the Freedom of Information Act (5 U.S.C. section 552, as amended by Public Law No. 104-231, 110 Stat. 3048) and other applicable State and Federal open records laws.

**Person** – Any individual, corporation, company, joint venture, partnership, trust, unincorporated organization, or governmental agency including the Authority.



**Project** – Phase 1 and Phase 2 of the high-speed rail project as defined in Streets and Highways Code Section 2704.01 et seq.

**Program** – The work of the Authority (environmental, right-of-way, design, construction, small business, etc.) for planning, construction, and operation of high-speed passenger rail service at speeds exceeding 125 miles per hour in this state.

**RFQ Schedule** – The meaning set forth in Section 3.0.

**Small Business (SB)** – A for profit small business that meets the requirements and eligibility criteria set forth by the U.S. Small Business Administration and California Department of General Services for certification as a Small Business. This definition is dependent on whether the firm wishes to participate in U.S. DOT-assisted contracts or in 100 percent, State funded contracts, which are defined as follows:

- a. For U.S. DOT-assisted contracts, a Small Business meets the definition for a small business concern contained in Section 3 of the Small Business Act and United States 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). Certified SB firms participating in U.S. DOT-assisted contracts are not required to have a principal office located in California. Both State and/or Federal certified SB firms are eligible to be credited toward meeting the SB goal on a U.S. DOT-assisted contract.
- b. For 100 percent State-funded contracts, 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 tax years, and is not dominant in its field of operations. This certification is issued by the California Department of General Services.

**State** – The State of California

**Subcontractor** – Any Person with whom the Offeror proposes to enter into a subcontract for any part of the Work, or that will enter into a sub-subcontract for any part of the Work, at any tier.

## 2.2 Acronyms

**ARRA** – American Recovery and Reinvestment Act of 2009

**CalSTA** – California State Transportation Agency

**Caltrans** – California Department of Transportation

**DBE** – Disadvantaged Business Enterprise

**DGS** – California Department of General Services

**DVBE** – Disabled Veteran Business Enterprise

**FOIA** – Freedom of Information Act

**FRA** – Federal Railroad Administration

**MB** - Microbusiness

**PMP** – Program Management Plan

**PMIS** – Project Management Information Systems

**POC** – Point of Contact



- QMP** – Quality Management Plan
- QMS** – Quality Management System
- RAMS** – Reliability, Availability, Maintainability, Safety
- RDP** - Rail Delivery Partner
- RFQ** – Request for Qualifications
- SBE** – Small Business Enterprise
- SOW** – Scope of Work
- SOQ** – Statement of Qualifications
- U.S. DOT** – United States Department of Transportation



## INSTRUCTIONS TO OFFERORS

### 3.0 Procurement Schedule and Process

Table 1 summarizes the schedule of events in this procurement process (RFQ Schedule). The RFQ Schedule is subject to modification at the sole discretion of the Authority. Offerors will be notified of any change in the RFQ Schedule by an addendum to this RFQ.

All deadlines are 3:00 p.m. Pacific Standard Time (PST).

**Table 1. RFQ Schedule**

ACTIVITY DESCRIPTION	KEY DATES
Issue RFQ	January 29, 2015
Last Day to Submit Offeror Questions	February 20, 2015
Last Day to Post Responses to Offeror Questions	February 27, 2015
SOQs Due to the Authority	March 23, 2015
Notice of Shortlisting	April 3, 2015
Interviews with Offerors in Sacramento	April 9-10, 2015
Notice of Selection	April 15, 2015
Negotiation with Selected Offeror	April – May 2015
Authority Board Consideration of Contract Award	Board Meeting – June 2015
Notice to Proceed Issued	June 2015

### 3.1 Authority's Designated Point of Contact

The Authority's Designated Point of Contact (POC) for communications concerning this RFQ shall be as follows:

Zoe Bayar, A&E Procurement Manager  
**California High-Speed Rail Authority**  
 770 L Street, Suite 620, MS #2  
 Sacramento, CA 95814  
 Phone: (916) 324-1541  
 Email: RDP@hsr.ca.gov

Persons intending to submit SOQs for this contract shall not contact or discuss any items related to this RFQ process with any Authority Board member or Authority staff other than Zoe Bayar once the RFQ is released. Failure to comply with this communication prohibition may result in disqualification.

### 3.2 Amendments to the Request for Qualifications

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



### 3.3 Non-Commitment of the Authority

This RFQ does not commit the Authority to award a contract, to pay any costs incurred in the preparation of an SOQ in 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 SOQs received as a result of this request, to negotiate with any qualified Offeror, or to modify or cancel in part or in its entirety the RFQ if it is in the best interest of the Authority to do so.

### 3.4 Property Rights

SOQs 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 this procurement shall belong exclusively to the State of California. All products used or developed in the execution of any contract resulting from this RFQ will remain in the public domain after the completion of the contract.

### 3.5 Improper Communications and Contacts

The following rules of contact shall apply during the procurement for the contract that began upon the date of issuance of this RFQ and will be completed with either the execution of the contract or the cancellation of the procurement. These rules are designed to promote a fair and unbiased procurement process. Contact includes face-to-face, telephone, facsimile, electronic mail (e-mail), or formal written communication.

The specific rules of contact are as follows:

- A. No Offeror or any of its team members may communicate with another Offeror or its team members with regard to the RFQ or any other team's SOQ, with the exception of subcontractors that are shared between two or more Offeror Teams or for the purpose of forming a team. In such cases, those subcontractors may communicate with their respective team members so long as those Offerors establish a protocol to ensure that the Subcontractor will not act as a conduit of information between the teams. Contact among Offeror organizations is allowed during Authority sponsored informational meetings.
- B. Offerors shall correspond with the Authority regarding the RFQ only through the Authority's Designated Point-of-Contact (see Section 3.1 of this RFQ) and Offeror's RFQ manager unless otherwise noted within this RFQ.
- C. Except for communications expressly permitted by the RFQ or approved in advance by the Authority's Chief Counsel, in his or her sole discretion, no Offeror or representative thereof shall have any ex parte communications regarding this RFQ or the procurement described herein with any member of the Authority Board or with any Authority staff. This includes any of the Authority's advisors, contractors, or consultants (and their respective affiliates) that are involved with the procurement or the Project.
- D. The Offerors shall not contact the entities listed below, including any employees, subcontractors, representatives, and members regarding this procurement:
  1. Federal Railroad Administration (FRA)
  2. California State Transportation Agency (CalSTA)
  3. California Department of Transportation (Caltrans)



4. California Department of General Services (DGS)
  5. California High-Speed Rail Authority (except as provided in this RFQ)
  6. KPMG LLP
  7. Nossaman LLP
- E. The foregoing restrictions shall not, however, preclude or restrict communications with regard to matters unrelated to the RFQ or from participating in public meetings of the Authority or any Authority workshop related to this RFQ.
- F. Any communication determined to be improper, at the sole discretion of the Authority, may result in disqualification.
- G. The Authority will not be responsible for any oral exchange or any other information or exchange that occurs outside the official RFQ process.

### **3.6 Due Diligence by Offerors**

Offerors are encouraged to inform themselves fully about the high-speed rail program and the Authority before submitting the SOQ by reviewing the documents referenced in this RFQ, exploring other public information and submitting written queries to the Authority.

### **3.7 Organizational Conflicts of Interest**

The Authority has adopted an Organizational Conflicts of Interest Policy (Policy) that will apply to this procurement and the resulting contract, in addition to the Authority's Conflict of Interest Code and other applicable requirements. The Policy can be found on the Authority's website at [http://www.hsr.ca.gov/docs/about/doing\\_business/Organizational\\_Conflict\\_Interest\\_Policy\\_Final9152011.pdf](http://www.hsr.ca.gov/docs/about/doing_business/Organizational_Conflict_Interest_Policy_Final9152011.pdf)

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

1. Preclude certain firms from participation in this procurement, and
2. Affect the ability of the Offeror, its subcontractors and their Affiliates (as defined in the Policy) to enter into business relationships with Authority consultants.

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

Each Offeror shall fully disclose organizational conflicts of interest in its SOQ, using Form B. The refusal to provide the required disclosure, or any additional information required, may result in disqualification of the Offeror. If nondisclosure or misrepresentation is discovered after award of the contract through this procurement process, the resulting contract may be terminated.

By submitting its SOQ, each Offeror agrees that, if an organizational conflict of interest is discovered following submittal of the SOQ, the Offeror will make an immediate and full written disclosure to the Authority's Chief Counsel, in accordance with the Policy, that includes a description of the action that the Offeror has taken or proposes to take to avoid or mitigate such conflicts.

If an Offeror has a specific conflict of interest inquiry, the Authority will provide a response after receipt of the Offeror's written inquiry submitted to the Authority's Chief Counsel as per the



Policy. Offerors with conflict of interest inquiries shall submit a detailed description of the facts and circumstances that may create a potential conflict of interest, and any efforts the Offeror has taken or proposes to take to mitigate the conflict in accordance with the Policy.

### **3.8 Confidentiality**

All written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to the Authority during this procurement process, including as part of a response to this RFQ are, upon their receipt by the Authority, the property of the Authority and are subject to the Open Government Laws. None of the aforementioned materials will be returned to the submitting parties. Any materials delivered to FRA are subject to the Freedom of Information Act (FOIA) or other Federal open records laws. Offerors should familiarize themselves with the Open Government Laws, including the California Public Records Act and FOIA. In no event shall the State, the Authority, FRA or any of their agents, representatives, consultants, directors, officers or employees be liable to an Offeror or Offeror team member for the disclosure of all or a portion of an SOQ submitted in response to this RFQ or other information provided in connection with this procurement.

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

The Authority will not advise a submitting party as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, FOIA, U.S. DOT FOIA regulations (49 C.F.R. § 7.17) or other applicable laws and implementing regulations, as to the interpretation of the California Public Records Act or FOIA, or as to the definition of trade secret. The submitting party shall be solely responsible for all determinations made by it under applicable laws and for clearly and prominently marking each and every page or sheet of materials with "TRADE SECRET" or "CONFIDENTIAL" as it determines to be appropriate. Each submitting party is advised to contact its own legal counsel concerning the California Public Records Act, FOIA and other applicable laws and their application to the submitting party's own circumstances. In the event of litigation concerning the disclosure of any material submitted by the submitting party, the Authority's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court and the submitting party shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk. The submitting party shall reimburse the Authority for any expenses it incurs in connection with any such litigation.



## 4.0 Submittal of the Statement of Qualifications

### 4.1 Statement of Qualifications Submittal Information

SOQs submitted in response to this RFQ shall include one original and nine (9) hard copies in separate 3-ring binders contained in a sealed shipping package. The original must be clearly marked "Original" on its face and spine, and each copy must be marked with the Offeror's name and numbered 1 through 10 on their spines. Each Offeror shall include three electronic versions of its SOQ in a searchable .pdf format on separate DVDs. SOQs must be received no later than the deadline set forth in the RFQ Schedule, addressed as follows:

MAILED OR HAND-DELIVERED TO:

Zoe Bayar, A&E Procurement Manager  
**California High-Speed Rail Authority**  
770 L Street, Suite 620  
Sacramento, CA 95814

The following information must be placed on the lower left corner of the submittal shipping packages:

**RFQ No.: HSR14-66**

California High-Speed Rail Authority

Rail Delivery Partner Statement of Qualifications

**Offeror:** \_\_\_\_\_

### 4.2 Late Submittals

SOQs received after the specified due date and time are considered late and will not be accepted. Postmark dates of mailing, electronic mail (e-mail) and facsimile (FAX) transmissions are not accepted under any circumstances and are not acceptable toward meeting the submission deadline for SOQ delivery. An SOQ is late if received any time after the specified time. The SOQ will not be considered and will be returned unopened to the Offeror.

### 4.3 Modification or Withdrawal of SOQs

Any SOQ received may be withdrawn or modified before the SOQ due date by written request to the Authority.

## 5.0 Evaluation and Negotiation

The following summarizes the Statement of Qualifications Review, Evaluation, and Negotiation processes.



### **5.1 Statement of Qualifications Technical Pass/Fail Review**

The Authority shall review and evaluate each SOQ to determine if it meets the requirements contained in this RFQ and has all the required Forms, Certifications and other submittals, complete with all necessary signatures. Failure to meet the responsiveness requirements of this RFQ may result in the rejection of the SOQ.

The Authority may reject any SOQ if it is conditional, incomplete, or contains irregularities. The Authority may waive an immaterial deviation in an SOQ. Waiver of an immaterial deviation shall in no way modify the SOQ documents or excuse the Offeror from full compliance with the contract requirements if the Offeror is awarded the contract.

### **5.2 Statement of Qualifications and Interviews Evaluation**

The Authority will evaluate and score the SOQs that meet the RFQ responsiveness requirements. The evaluation of SOQs will be based on the criteria described in Attachment A.

Following the evaluation of SOQs, the Authority may hold Interviews with shortlisted Offerors, as determined by the Authority to be in its best interest. Interviews will be separately evaluated based on the criteria described in Attachment B.

### **5.3 Contract Negotiation Process**

At the conclusion of the SOQ review and Interviews, the Authority will post and notify the top ranking Offeror. Once notified, the selected Offeror will be asked to provide a Cost Proposal within five business days.

The Cost Proposal should be prepared using the suggested format in Attachment D: Cost Proposal (Sample). The Cost Proposal shall be in three hard copies and an electronic searchable version on a suitable format and provided in a sealed envelope to the Authority's POC. The date effective for the rates to be provided shall be the date of the interview. Overhead rates and other direct cost must conform to the federal cost principles listed in the Sample Contract in Attachment C, Exhibit B-1, Section 8.

Following receipt of the Cost Proposal, the Authority will enter into negotiations with the highest ranked Offeror. If negotiations are unsuccessful, the Authority will terminate all discussions with the top ranked Offeror and enter into negotiations with the next highest ranked Offeror and so on sequentially. After completion of successful negotiations, the Authority shall recommend an Offeror for contract award to the Authority Board for approval.

As part of the negotiations, the selected Offeror will develop, in collaboration with the Authority, a Performance Plan covering the Offeror's activities during the mobilization period. The Mobilization Performance Plan is subject to approval by the Authority. The Mobilization Period Performance Plan will include performance measures, and the performance measures will focus on mobilization activities, such as:

- A. Deliver the plans described in Section 3, Initial Deliverables, of the Scope of Work;
- B. Establish a fully functioning office in Sacramento and the regional locations;
- C. Locate the Key Personnel at the appropriate locations; and
- D. Deliver an approved Work Plan, including the Performance Plan, for the subsequent period.



The Authority anticipates at least 50% of the agreed fee-at-risk during the mobilization period will be based on performance.

Please note, in the Sample Contract several dates and terms are presented in brackets. These are suggested time frames or terms and may be subject to change through the negotiation process. For example, it is anticipated that at least 50% of fees will be at risk, but alternative arrangements may be agreed to through negotiation.

Upon approval by the Authority Board, the Authority will be authorized to award and execute the contract to the selected Offeror.

## **6.0 Protest Procedures**

### **6.1 Applicability**

This section sets forth the exclusive protest remedies available with respect to this RFQ and prescribes the exclusive procedures for protests regarding:

- A. Allegations that the terms of the RFQ are: (1) ambiguous; (2) contrary to legal requirements applicable to the procurement; or (3) exceed the Authority's authority;
- B. A determination as to whether an SOQ is responsive to the requirements of the RFQ or the SOQ does not meet all pass/fail requirements; and
- C. The ranking of Offerors or the intent to award the Contract.

### **6.2 Required Early Communication for Certain Protests**

Protests concerning the issues described in Section 6.1(A) of this RFQ may be filed only after the Offeror has informally discussed the nature and basis of the protest with the Authority, following the procedures prescribed in this Section 6.2 of this RFQ. Informal discussions shall be initiated by a written request for a one-on-one meeting delivered via e-mail to the Authority's Designated Point-of-Contact provided in Section 3.1 of this RFQ. The written request shall include an agenda for the proposed one-on-one meeting. The Authority will meet with the Offeror as soon as practicable to discuss the nature of the allegations. If necessary to address the issues raised in a protest, the Authority may make, in its sole discretion, appropriate revisions to the RFQ documents by issuing addenda.

### **6.3 Deadlines for Protests**

Protests concerning the issues described in Section 6.1(A) of this RFQ must be filed as soon as the basis for the protest is known, but no later than 20 days prior to the SOQ due date set forth in the RFQ Schedule. If the protest relates to an addendum to the RFQ, the protest must be filed no later than 5 business days after the addendum is issued, but not later than the SOQ due date set forth in the RFQ Schedule.

Protests concerning the issues described in Section 6.1(B) of this RFQ must be filed no later than 5 business days after receipt of the notification of non-responsiveness.

Protests concerning the issues described in Section 6.1(C) of this RFQ must be filed no later than 5 business days after the earlier of notification of the ranking or intent to award the Contract (as applicable) and the public announcement of the ranking or intent to award the Contract (as applicable).



The failure of an Offeror to file a protest within the applicable period shall preclude consideration of those issues in any protest or other action.

#### **6.4 Content of Protest**

Protests shall state, completely and succinctly, the grounds, legal authority, and factual basis for the protest, and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Statements shall be sworn and submitted under penalty of perjury.

Additionally, all protests shall also contain the name, address, and fax and telephone numbers for the protestor; the number of this procurement; a request for a ruling by the Authority; all information establishing that the protestor is an interested party for the purposes of filing a protest; and all information establishing the timeliness of the protest.

#### **6.5 Filing of Protest**

Protests shall be filed by hand delivery on or before the applicable deadline to the Protest Official with a copy to the Authority's Designated Point-of-Contact identified in Section 3.1 of this RFQ, as soon as the basis for the protest is known to the Offeror. Except for protests concerning the issues described under Section 6.1(A) of this RFQ, the Offeror filing the protest shall concurrently file a copy of the protest with the other Offerors (whose addresses may be obtained from Authority's Point-of-Contact). The Protest Official for this RFQ is:

Michelle Boehm  
RDP RFQ Protest Official  
California High-Speed Rail Authority  
770 L Street, Suite 620, MS 2  
Sacramento, CA 95814

#### **6.6 Comments from other Offerors**

Other Offerors may file statements in support of or in opposition to the protest within 7 days of the filing of the protest. The Authority shall promptly forward copies of all such statements to the protestor. Any factual declarations shall be sworn and submitted under penalty of perjury.

#### **6.7 Burden of Proof**

The protestor shall have the burden of proving its protest. The Authority may discuss, in its sole discretion, the protest with the protestor and other Offerors. No hearing will be held on the protest. The protest shall be decided on the basis of written submissions.

#### **6.8 Decision on Protest**

The Protest Official shall issue a written decision regarding the protest within 30 days after the filing of the detailed statement of protest. The decision shall be final and conclusive and not subject to legal challenge unless wholly arbitrary. If necessary to address the issues raised in a protest, in its sole discretion, the Authority may make appropriate revisions to this RFQ by issuing addenda.



**6.9 Limitation on the Authority's Liability**

The Authority shall not be liable for any damages to or costs incurred by any participant in a protest, on any basis, express or implied, whether or not the protest is successful.



## STATEMENT OF QUALIFICATIONS

### 7.0 Background for the RDP

The California High-Speed Rail Program (Program) is expanding from the planning and preliminary design phases to project delivery and operations. As the Authority evolves to meet these changing needs, the role of key consultants will need to be adjusted to reflect the status of the Program. Prior to release of this RFQ, the Authority conducted market outreach related to the procurement of these services. Based on internal review and external feedback, the Authority developed an approach to seek an expanded team with proven experience in both large scale program management and international high-speed rail technical delivery. The proposed new contract would continue to include support for strategic advice, business planning, continued development and management assistance for the Authority. Additional areas to be added would greatly expand the focus on program delivery, systems and project integration, and specialized technical expertise.

### 7.1 Progress to Date

In its 2012 Business Plan, the Authority laid out a roadmap for implementing the Project – which was approved by California voters in 2008 with the passage of Proposition 1A – in a series of phases. A central principle established in the 2012 Business Plan, and reaffirmed in the 2014 Business Plan, is that each phase must have independent value; specifically, it must be a usable segment and all funds required for its completion must be identified before construction begins. The 2014 Business Plan summarizes the progress the Authority has made over the last two years and updates the 2012 Business Plan to include a more robust financial analysis, enhanced ridership and revenue forecasts, and refinements to underlying models and analysis, all of which were informed by rigorous scrutiny and review by a range of external experts and academics.

In July 2012, the California Legislature approved – and Governor Jerry Brown signed into law – Senate Bill (SB) 1029 (Budget Act of 2012). SB 1029 approved almost \$9 billion in federal and state funds to construct the first high-speed rail segment in the Central Valley and fund 15 bookend and connectivity projects throughout California. In the near term, these projects will strengthen and improve existing rail networks, which will yield early mobility benefits throughout California. As the Project is eventually phased in throughout the state, these completed projects will enhance the high-speed rail system's utility by providing seamless connections with local and regional rail systems.

Working with the Legislature, federal agencies and others, the Authority has achieved a number of crucial project delivery milestones that could accelerate the Program, bringing thousands of jobs to the Central Valley and other regions of the state sooner. These achievements include, but are not limited to: the appropriation of proceeds from the state's Cap and Trade program to the high-speed rail project in furtherance and accordance with the goals of AB 32, the Global Warming Solutions Act of 2006; major legal victories, which will allow the state to move forward with the issuance of Proposition 1A bonds, if necessary; and federal approval of the Fresno-to-Bakersfield alignment, which has allowed the Authority to begin construction of the high-speed rail system in that region. The Authority has also entered into an agreement with the San



Joaquin Valley Air Pollution Control District to help ensure that, while thousands of Valley residents get to work on the project, their families and communities will not suffer negative impacts from construction-related emissions and pollutants.

To read the latest program achievements and milestones see the latest Project Update Report to the Legislature at:

[http://www.hsr.ca.gov/docs/about/legislative\\_affairs/SB1029\\_ProjectUpdate\\_FINAL\\_111414.pdf](http://www.hsr.ca.gov/docs/about/legislative_affairs/SB1029_ProjectUpdate_FINAL_111414.pdf)

## 7.2 Upcoming Needs and Challenges

The RDP's support to the Program will need to be organized and delivered to address the evolving needs of the Program while meeting the Authority's constraints, including:

- The Program is transitioning from a planning and design emphasis to a focus on project construction, delivery, startup and operations. This transition will change the type of support the Authority requires over the course of the RDP contract to match the changing needs of the phases.
- The Program will require RDP expertise in specialized areas to face engineering and construction challenges, such as seismic tunneling, high-speed rail systems and operations, testing and commissioning, and support of alternative delivery models (including public-private partnerships).
- The Program delivery strategy, as presented at the August 2014 Board Meeting, proposes advancing the planning and construction of multiple segments of the high-speed rail system using several funding sources. Significantly, this presents the potential to move multiple segments forward concurrently, and connect the HSR System with other existing and planned rail and transportation networks across the state. Coordination across these segments and integration of the technical systems involved will become increasingly complex and important.
- Throughout this significant program delivery effort the Authority will remain a lean organization with only a small team dedicated to oversight of program delivery.

Given these conditions, successful program delivery will depend heavily on the RDP team for day-to-day management and project delivery and for the RDP to be accountable for the results of its efforts.

## 7.3 Authority's Objectives for the RDP

Under the contract the Authority will continue to provide program oversight and policy direction, while developing a strong partnership and integrated working relationship with the RDP. Examples of ongoing responsibilities that will be conducted by the Authority include:

- Primary responsibility for strategic planning including setting Program policies and direction, project planning and determining key delivery strategies and phasing;
- Key stakeholder outreach and communications with local governments, elected officials, legislative and congressional representatives, members of the public and state and federal partners;
- Serving as the owner and sponsor of the Program;



- Resolving major regulatory, political and legal issues for the Program;
- Contracting directly with design, construction, equipment, operations providers and other Project delivery contracts;
- Change control management; and
- Obtaining funding for the Program.

The RDP will support the Authority by assuming responsibility for managing and delivering the Program as defined by the Authority. In this capacity, the RDP will be expected to achieve the following goals:

- Be accountable for day-to-day responsibility of program management and program delivery, acting as the Authority's agent or contract manager with respect to other consultants and third parties;
- Establish a program-wide Program Management Information System (PMIS) to interface with existing Authority systems and facilitate reporting;
- Be accountable for program delivery and project execution results through performance measurements, using a fee-at-risk approach;
- Minimize risk to the Authority by taking responsibility for integration of HSR systems and technologies;
- Ensure coordination of design, construction and commissioning on multiple segments that will be delivered through a range of delivery models and on overlapping timeframes;
- Advise on key delivery strategies; supporting or conducting risk assessment and cost-benefit analyses in support of the Authority's determination of the delivery strategy; and
- Ensure all deliverables and Work meet the quality requirements for the Program's needs, schedules, technical requirements, policies and procedures and satisfy all legal or regulatory requirements.

The RDP team's capabilities will need to grow and adapt with the Program to ensure that the Authority has the requisite technical and program management support required to deliver the entire Program and enter the operations phase. These added capabilities will include expertise in alternative program delivery, contract management, program and project integration, PMIS implementation and integration, oversight and management of project delivery consultants, high-speed rail systems, operations and maintenance, and alternative delivery models.

## 8.0 Statement of Qualifications Requirements

The following describes the content and organization requirements for the SOQs. In addition to the information described below, the Authority may require confirmation or clarification of information furnished by an Offeror, require additional information from an Offeror concerning its SOQ, seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ and require additional evidence of qualifications to perform the work described in this RFQ.



## 8.1 Format Requirements

The SOQ submitted shall be completed in ink or typewritten; and shall be manually signed. Scanned or faxed responses are not acceptable. Copies of the SOQ provided may include photocopied or scanned signatures.

The SOQ shall comply with the following requirements:

- A. 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 Offeror wish to submit materials that benefit from larger format paper sizes such as charts, drawings, graphs and schedules then they should do so sparingly. Large format pages will be included in the page limit, but may be printed single sided.
- B. 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 100, Page 2 of 100, etc.). The Table of Contents and related lists of appendices or attachments may be numbered in its own sequence (e.g., "(i) of (ii)) and is not included in the page limit below.
- C. The SOQ shall be no more than 100 pages in length, exclusive of the transmittal letter, table of contents, resumes as required by Section 8.2.4.3., Key Personnel references as required by Section 8.2.4.4 and the Forms and Certifications.
- D. Brochures and miscellaneous materials not specifically requested will not be evaluated.
- E. Unless otherwise provided, all names and applicable titles shall be typed or printed below the signatures.
- F. Forms A-B and Certification Nos. 1-10 must be signed and included. If erasures or other changes appear on the forms, each erasure or change shall be initialed and dated by the person signing the response.
- G. The SOQ shall be divided into sections as described below:
  1. A blank page shall precede each section with an index tab extending beyond the far right side of the page; these blank pages will not be counted within the page count.
  2. The index tab shall have the appropriate section number typed thereon.
  3. Sections in the SOQ shall be presented in the same order as they appear in this RFQ.

## 8.2 Contents of the SOQ

The contents of the SOQ shall be organized according to the criteria discussed in Section 8.2.

### 8.2.1 Transmittal Letter, Forms and Certifications

The SOQ shall be transmitted with a letter that must be signed by an official authorized to bind the Offeror contractually and shall contain a statement that indicates the SOQ is complete and accurate. The transmittal letter shall also provide the following: names, titles, mailing addresses, email addresses and telephone numbers of individuals authorized to negotiate and contractually bind the Offeror. Additionally, if the Offeror is a joint venture, the transmittal letter shall identify the joint venture members. The Offeror shall attach to the transmittal letter evidence of its



authorized official(s) to execute and deliver the SOQ and the Contract. All Forms and Certifications shall be manually signed and included as attachments in the transmittal letter section.

### **8.2.2 Executive Summary**

The SOQ shall include an Executive Summary, not exceeding five pages, stating key points which the Offeror believes highlight its qualifications to provide RDP services. As such, the Executive Summary may emphasize the Offeror's strengths as fully described in the balance of the SOQ; however, the Executive Summary will not be separately evaluated and it will count against the page limitation.

### **8.2.3 Firm Experience and Past Performance**

The Authority seeks to contract with a RDP team with a proven track record of successfully providing the Scope of Work described in Exhibit A of the Sample Contract. The Scope of Work in the attached Sample Contract lists the Functional Areas of Responsibility, which the successful Offeror will be responsible to provide. This section in the SOQ should include the Offeror's experience in providing services in the Functional Areas of Responsibility described in the Scope of Work.

The SOQ shall include an overview of the Offeror's experience and past performance and an explanation of why the Offeror's experience and past performance make it qualified to provide those services. The Offeror shall include examples of its performance on relevant past projects.

In addition to addressing the services described in the Functional Areas of Responsibility, the Offeror shall emphasize experience in the following areas:

- Extensive knowledge and direct recent experience with international high-speed rail technical delivery, design, routine operations and maintenance, heavy maintenance, system design and specification (communications, signaling, Positive Train Control), rolling stock, and integration; construction management; and seismic tunneling.
- Extensive knowledge and direct recent experience with providing the following services on projects of similar scale and scope: systems startup and commissioning; planning; procurement; scope definition; closeout; project complexity; program management and delivery; contract management; coordination; project controls; project management information system (PMIS) implementation; and alternative delivery models, including public-private partnerships.
- Experience with connectivity projects involving planning and integrating with other rail operations and other modes of transportation.
- Experience resolving issues on similar projects that has the potential to result in significant damages.
- Experience with successfully performing under program management contracts involving performance-based measures, including fee-at-risk payment mechanisms tied to performance metrics on large, complex rail/transportation projects. Provide a description of performance based measures, familiarity with a range of approaches, and evidence of partnering with client organizations to design performance regimes.



- Experience on past projects with developing a Small Business Enterprise (SBE) plan and an approach that helped Small Business Enterprises to grow.

### **8.2.3.1 Firm References**

Provide names, addresses, telephone numbers and email addresses for at least three clients for whom the Offeror (i.e. the prime Offeror submitting an SOQ, the joint venture submitting an SOQ, or each individual member of the joint venture) has provided services similar to those requested in this RFQ, preferably for projects related to planning, delivery, start-up commissioning and operation of high-speed rail systems. At least one reference shall be for a project within the past ten years.

If the Offeror wishes to use the past experience and performance of a sub-consultant, then the Offeror shall include at least three references for the sub-consultant and the sub-consultant's role shall be clear in the Offeror's approach to the Organization and Management Plan and Staffing Plan.

The Authority may contact the references that are provided and Offerors are encouraged to verify that the contact details provided are current and valid prior to submittal. For each reference, the Offeror shall provide the following information:

- The name of the individual used for the reference;
- The title of the project or assignment;
- Current contact phone numbers and e-mail addresses for the reference;
- The scope of the assignment;
- The role of the Offeror team in the assignment, specifically focusing on the Functional Areas of Responsibility in the attached Scope of Work;
- The name of each proposed Offeror team member that worked on the project;
- The date of service of the assignment; and
- A summary statement for each assignment, including a description of any performance-based measures, if applicable.

### **8.2.4 Key Personnel and Organizational Structure**

The Authority seeks Offerors that not only have the requisite experience and successful past performance at a firm or joint venture level but also seeks Key Personnel that have the technical expertise and experience necessary for delivering the services requested in the Scope of Work.

#### **8.2.4.1 Organization and Management Plan**

An Organization and Management Plan will be a deliverable under the Scope of Work (see Scope of Work Section 3.2). Within the SOQ, the Offeror shall include an Organizational Chart, and a description of the Offeror's approach to an Organization and Management Plan that will enable the Offeror's team to successfully complete the Scope of Work described in the Sample Contract. Offerors shall provide sufficient information to enable the Authority to understand how the Offeror would approach its Organization and Management Plan. In particular, include the following:



- Describe how the approach will ensure the Organization and Management Plan includes the necessary disciplines, activities, and anticipated reporting structure to adequately deliver the Scope of Work.
- Describe how the management approach and organizational framework of the Offeror will integrate with the Authority's staff and structure and help the Authority achieve its goal of remaining a lean organization.
- Describe how the Offeror's approach will reduce/eliminate delivery and interface risk to the Authority.
- Describe how the approach will enable the Organization and Management Plan to evolve with the Program over the life of the Agreement.
- In addition, if the Consultant is a joint venture, describe how the members of the joint venture will participate and manage the joint venture's activities and how the joint venture will be governed. In particular, describe how the joint venture structure would address any potential changes in composition of its members, i.e., bankruptcy, sale/merger, etc.

#### **8.2.4.2 Staffing Plan**

A Staffing Plan will be a deliverable under the Scope of Work. The SOQ shall include a description of the Offeror's approach to the Staffing Plan. The approach to the Staffing Plan shall describe the necessary positions needed to accomplish the Scope of Work based on the Functional Responsibility Areas. The approach to the Staffing Plan shall indicate the anticipated level of participation. The approach to the Staffing Plan shall describe which staff are anticipated to be co-located within an Authority's office, based in Sacramento, or based elsewhere (see Scope of Work Section 3.3).

#### **8.2.4.3 Key Personnel and Roles**

The SOQ shall include resumes for the Key Personnel comprising the Executive Leadership team as described in the Scope of Work and the leads for each Functional Responsibility Area (note that one Key Personnel may lead more than one functional area) as described in Section 2 of the Scope of Work. Resumes shall be limited to three pages for each person, clearly specify the role being fulfilled on the organization chart, and describe the relevant experience such that the Authority can evaluate the qualifications of each Key Personnel relative to their role.

In addition to providing resumes for Key Personnel for the Executive Leadership team and Functional Responsibility Areas, the Offeror shall submit resumes for Key Personnel with specialized technical expertise on high-speed rail and for the following areas: design, routine operations and maintenance, heavy maintenance, system design and specification (communications, signaling, Positive Train Control), rolling stock, and integration; construction management; and seismic tunneling.

Resumes shall demonstrate that the individuals proposed have the appropriate licenses or qualifications for the relevant roles. The resumes must include summary chronologies of employment history including dates and title at each firm. The resumes shall discuss how Key Personnel are qualified for the positions to which they are assigned.



#### 8.2.4.4 Key Personnel References

Provide names, addresses, telephone numbers and email addresses for three references for each Key Personnel. References should be for clients or former employers for which Key Personnel have provided services similar to those services that they will provide under the Scope of Work. At least one reference shall be for a project within the past ten years.

The Authority may contact the references that are provided and Offerors are encouraged to verify that the contact details provided are current and valid prior to submittal. For each reference identified, provide the following information:

- The name of the individual used for the reference;
- The title of the project or assignment;
- Current contact phone numbers and e-mail addresses for the reference;
- The scope of the assignment;
- The role of the individual on the assignment, including responsibilities;
- The date of service of the assignment;
- The employer at the time of the assignment; and
- A summary statement for each assignment.

#### 8.2.5 Delivery Approach, Understanding of the Project and Innovative Ideas

The Authority wishes to contract with a RDP with a strong understanding of the needs of large high-speed rail projects, processes for working with the State and Federal oversight and funding agencies, the complexities of developing the Project within California, a well thought-out approach to the Scope of Work, and innovative ideas to help deliver the Scope of Work in a quality manner, on time and on budget. Experience delivering other high-speed rail programs across the world is viewed favorably by the Authority and Offeror's approach to the Scope of Work should be based on lessons learned managing and delivering other international high-speed rail projects.

The SOQ shall include the following:

- A description of the Offeror's understanding of the Project, including the goals and objectives of the Authority and the hurdles to overcome to deliver the Project on time and on budget and how the Offeror proposes to provide strategic and commercial advice to the Authority.
- A description of how the Offeror's approach to the Scope of Work aligns and integrates with the Authority's key milestones and objectives for the Project, as described in the Authority's 2012 and 2014 Business Plans and other publicly available information.
- A description of how the Offeror will approach the Scope of Work including proposals for developing a program delivery strategy. The description shall demonstrate a clear understanding of the activities required to complete the Scope of Work, shall communicate a clear plan for the Scope of Work, outlining process, coordination and management to be employed to ensure successful delivery of the Scope of Work and coordination with the Authority and its other consultants.



- A description of the Offeror's approach to developing a Mobilization Plan, Program Management Plan, Quality Management Plan, and Project Management Information System (PMIS) Plan (see Scope of Work Section 3).
- A description of the Offeror's approach to right-of-way (ROW) and suggestions on methods to save time and budget for the Authority's ROW needs.
- A description of the Offeror's approach to environmental clearance and permitting and suggestions on methods to save time on securing environmental clearance for the Program.
- A description of the Offeror's approach to integration and coordination, including technical specification, multiple simultaneous contractors, and third parties.
- A description of the Offeror's approach to procuring and managing contracts held by the Authority with other consultants involved in planning and project delivery.
- A description of innovative ideas that could deliver the Project early, under budget and at a high quality.
- A description of performance-based contracting strategies that would deliver on budget and on time performance and potential options and structures for aligning a performance-based contracting strategy to the Authority's scope of work.

Responses for delivery approach, understanding of the Work, and innovative ideas regarding the Project and the Authority shall be based solely on publicly available information. Any information included in the SOQ regarding the Project and the Authority based on non-public information will not be considered in the evaluation process.

### **8.2.6 Small Business Participation**

The Authority's SB/DBE Program establishes a thirty percent Small Business Enterprise (SBE) utilization goal, which is inclusive of a ten percent Disadvantaged Business Enterprise (DBE) goal and a three percent Disabled Veteran Business Enterprise (DVBE) goal for the RDP contract. The Authority's Small and Disadvantaged Business Enterprise Program, August 2012 (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 successful Offeror will be expected to make good faith efforts to meet the SB/DBE Program goals and provide a SB Performance Plan on how the goals will be met throughout the contract duration. Fulfillment of these goals will be a performance measure of the contract. The RDP will also comply with other SB/DBE Program requirements, including but not limited to SBE utilization reporting, substitution/termination processes, and other performance related factors as identified in the Authority's SB/DBE Program.

The Offeror is advised to read and become familiar with the Authority SB/DBE Program Plan, which may be found on the Authority's Small Business Policy and Program web page:

[http://www.hsr.ca.gov/Programs/Small\\_Business/policy.html](http://www.hsr.ca.gov/Programs/Small_Business/policy.html)



The SOQ shall include:

- A description of the Offeror's approach and processes to be employed during the performance of the Scope of Work to ensure that the goals of the Authority's Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts are met.
- A description of the Offeror's approach to mentoring and assisting with the development of SB/DBE/DVBE firms.

#### **8.2.6.1 Non-Exclusivity**

For purposes of this procurement, any participating SB, DBE or DVBE firm may be submitted on more than one Offeror Team to enable the greatest opportunity to meet the Authority's utilization goal.



**Attachment A: Criteria for Evaluation of Statement of Qualifications**

		<b>Weighting (A)</b>	<b>Raw Score (0-10) (B)</b>	<b>Weighted Score (A) x (B)</b>
1.	<p><b>Firm Experience and Past Performance</b></p> <ul style="list-style-type: none"> <li>The extent the SOQ demonstrates that Offeror has successfully delivered in a similar role on recent program management contracts of similar scope, scale, and complexity.</li> <li>The extent the SOQ demonstrates that Offeror has recent technical expertise and experience in planning and delivering a high-speed rail project.</li> <li>The extent the SOQ demonstrates experience with developing and implementing performance-based measures, including fee-at-risk assignments and the ability to successfully deliver under such an approach.</li> <li>The extent the firm references provided feedback consistent with the Offeror's SOQ submission.</li> <li>The extent the SOQ demonstrates experience with developing effective SBE plans and approaches.</li> </ul>	35.0		
2.	<p><b>Key Personnel and Organizational Structure</b></p> <ul style="list-style-type: none"> <li>The extent the SOQ demonstrates that the Key Personnel have the necessary technical expertise and experience, including in planning and delivering high-speed rail projects. The extent the approach to the Staffing Plan includes the necessary Key Personnel, roles, and anticipated participation levels to adequately deliver the Scope of Work.</li> <li>The extent the approach to the Organization and Management Plan includes the necessary disciplines, activities, and anticipated reporting structure to adequately deliver the Scope of Work.</li> <li>The extent the approaches to the Organization and Management Plan and Staffing Plan fully integrate with the Authority's organizational structure.</li> <li>The extent the Key Personnel references provide feedback consistent with the Offeror's SOQ submission.</li> </ul>	35.0		



3.	<p><b>Delivery Approach, Understanding of the Project, Innovative Ideas and Small Business Participation</b></p> <ul style="list-style-type: none"> <li>• The extent the SOQ provides innovative ideas to deliver the Project ahead of schedule, under budget and at a high quality.</li> <li>• The extent the SOQ demonstrates a thorough knowledge of the Project and what is required to perform the Scope of Work.</li> <li>• The extent the SOQ provides creative options and strategies for linking performance-based measures, including fee-at-risk, to the Scope of Work.</li> <li>• The extent the SOQ demonstrates an ability to deliver on a mobilization plan, program management plan, quality plan and PMIS plan.</li> <li>• How well the SOQ demonstrates an understanding of the Authority’s SBE requirements and goals for its Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts.</li> </ul>	30.0		
<b>Total SOQ Weighted Score:</b>				<b>[XX]</b>
<b>Total Possible Points for SOQ:</b>				<b>1000</b>



**Attachment B: Criteria for Evaluation of Interviews**

		<b>Weighting (A)</b>	<b>Raw Score (0-10) (B)</b>	<b>Weighted Score (A) x (B)</b>
1.	<b>Presentation</b> <ul style="list-style-type: none"> <li>Quality and appropriateness of the presentation</li> <li>Logic of the chosen speakers relative to project challenges</li> </ul>	5.0		
2.	<b>Key Personnel Participation</b> <ul style="list-style-type: none"> <li>Quality of presentation and responsiveness to questions asked during the interview</li> <li>Understanding of objectives, challenges and requirements of Work, Project, and role</li> <li>Perceived level of involvement with SOQ structure, content and presentation plan</li> <li>Ability to lead a team and capacity to deliver Work on time, on budget, and at a high quality</li> </ul>	45.0		
3.	<b>Delivery Approach, Understanding of Project, and Innovative Ideas</b> <ul style="list-style-type: none"> <li>Understanding of the critical project success factors</li> <li>Experience with delivering services required by this RFQ for projects of similar size and scope</li> <li>Ability to provide innovative ideas to help deliver the Project ahead of schedule, under budget, and at a high quality</li> <li>Ability to deliver on mobilization plan, program management plan, quality plan, and PMIS plan</li> <li>Familiarity with performance-based measures, including fee-at-risk contracting model</li> </ul>	50.0		
<b>Total Interview Weighted Score:</b>				<b>[YY]</b>
<b>Total Possible Points for Interview:</b>				<b>1000</b>
<b>Total SOQ Weighted Score:</b>				<b>[XX]</b>
<b>Total Evaluation Score:</b>				<b>[ZZ]</b>
<b>Total Possible Combined Score:</b>				<b>2000</b>



**Attachment C – Sample Contract****STANDARD AGREEMENT**

STD. 213 (NEW 06/03)

AGREEMENT NUMBER

HSRXX-XX

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Consultant named below

STATE AGENCY'S NAME

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

CONSULTANT'S NAME

2. The term of this Agreement is: \_\_\_\_\_ to \_\_\_\_\_. The effective date of this Agreement is the last date executed by the parties. No work shall commence until the effective date.

3. The maximum amount of this Agreement is: **\$ XXX,XXX,XXX.00 Dollars**

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work	X	Pages
Exhibit B-1 – Budget Detail and Payment Provisions	X	Pages
Exhibit B-2 – Performance Regime	X	Pages
Exhibit C* – GTC 610 General Terms and Conditions	1	Page
Exhibit D – Special Terms and Conditions	X	Pages
Exhibit E – Additional Provisions	X	Pages
Exhibit F – Federal Supplemental Terms and Conditions	X	Pages
Attachment 1 – Statement of Qualifications	X	Pages
Attachment 2 – Cost Proposal	X	Pages

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

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

<b>CONSULTANT</b>		<i>California Department of General Services Use Only</i>
CONSULTANT'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME		
CALIFORNIA HIGH-SPEED RAIL AUTHORITY		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
Jeff Morales, Chief Executive Officer		
ADDRESS		
770 L Street, Suite 620 MS 1, Sacramento, CA 95814		

Exempt per PCC 10335(a)



## EXHIBIT A SCOPE OF WORK

### BACKGROUND AND PURPOSE

1. The California 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. By 2029, high-speed rail will run from San Francisco 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.
2. This Agreement is between the California High-Speed Rail Authority, an agency of the State of California (Authority or State), and [REDACTED], a [REDACTED] (Consultant or \_\_\_\_\_).
3. All inquiries during the term of this Agreement will be directed to the project representatives identified below:

AUTHORITY	CONSULTANT
Contract Manager (ACM):	Project Manager:
Address:	Address:
Phone:	Phone:
Fax:	Fax:
e-mail:	e-mail:

The Contract Manager may be changed without amendment (as specified in Exhibit D, Section 1.2).

### DEFINITIONS

Whenever used in this Agreement the following terms have the meanings indicated:

**Authority** – California High-Speed Rail Authority

**Business day** – Monday through Friday, except for federal or State holidays, between the hours of 9:00 a.m. and 5:00 p.m., Pacific Time

**Day** – Calendar day

**Delivery** - The design, procurement, construction, operations and maintenance of a facility, project or program.

**Integration** - The action of combining one thing with another(s) so that they become a whole and function together seamlessly. For this Agreement, Integration can include the following:

Systems Integration - Assuring that the systems of the high-speed rail program, including signaling, train control, communications and power, are integrated to operate seamlessly as a single, effective whole across multiple contracts and disciplines

Civil/systems integration - Assuring that the facilities built by civil projects and the multitude of systems of the high-speed rail program are integrated together into a facility that operates effectively and seamlessly.



## EXHIBIT A SCOPE OF WORK

**Organizational integration** - Assuring that the organizational units of both the Authority and the Consultant are integrated within, and together, to operate as a single seamless and effective body for the delivery and management of the high-speed rail system.

**Interface management** - Assuring the effective coordination between the multitude of design, construction, equipment, and operation and maintenance contracts such that the high-speed rail program quality, schedule and costs are delivered as planned.

**Key Personnel** – Those individuals identified in the Consultant’s SOQ (subject to change in accordance with Exhibit B-1, Section 6).

**Person** – Any individual, corporation, company, joint venture, partnership, trust, unincorporated organization, or governmental agency including the Authority.

**Project** – Phase 1 and Phase 2 of the high-speed rail project as defined in Streets and Highways Code Section 2704.01 et seq.

**Program** – The work of the Authority (environmental, right-of-way, design, construction, small business, etc.) for planning, construction, and operation of high-speed passenger rail service at speeds exceeding 125 miles per hour in this state.

**State** – The State of California

**Subcontractor** – Any Person with whom the Offeror has entered into a subcontract for any part of the services under this Agreement, or with whom any Subcontractor has further subcontracted any part of the services under this Agreement, at all tiers.

### SCOPE OF WORK

This section provides a description of the Scope of Work for the Consultant. The Scope of Work has been divided into the following sections:

- Modes of RDP Support
- Functional Areas of Responsibility
- Initial Deliverables
- Work Plan

Although the Consultant will be ultimately responsible for delivering the requirements for each of these sections, it is important to note that many activities may relate to more than one section. In these circumstances, the Consultant must demonstrate how its approach would satisfy all relevant areas.

The following descriptions are high level by design. As the needs of the Authority and the direction of the Program will evolve during the life of the RDP Agreement, specific activities, goals and performance targets will be defined and agreed at least annually as part of the Work Plan (WP) definition process. However, it is anticipated that the Modes of RDP Support and the Functional Areas of Responsibility described herein will remain valid for the duration of the Agreement even though they will be subject to refinement and adjustment on an on-going basis.

Throughout the Program, the Consultant will be providing the Authority with recommendations, advice and implementation of strategic delivery approaches and other strategies.



## **EXHIBIT A SCOPE OF WORK**

### **1. Modes of RDP Support**

The Consultant's support will be provided in three different modes, each reflecting a different level and type of interaction with Authority staff and other Program stakeholders. These support modes may, from time to time, involve any or all of the Functional Areas of Responsibility described below (Section 2.).

- 1.1 **Executive Leadership**: The Consultant will have an onsite team of executive level management personnel, with recent relevant experience, dedicated to recommending to and supporting the Authority on critical decisions regarding the program delivery approach, business case, master planning or topics as may be required. The executive leadership team will have direct accountability and oversight of all services and functions provided by the Consultant, and will provide senior, strategic advice to the Authority.
- 1.2 **Corporate Support**: The Consultant will have a dedicated, onsite team to manage and conduct the functional components of ongoing program management, integration and coordination. The Consultant will provide both dedicated day-to-day operations staff and as-needed technical specialists with recent relevant experience to assist in critical corporate activities.
- 1.3 **Implementation**: The Consultant will have, for each project within the Program, multiple onsite teams (in the respective regions and in Sacramento) of professionals dedicated to implementing each functional area of program delivery. These individuals will oversee and monitor the performance of associated work packages under their assigned disciplines. The Consultant will provide technical specialists with recent relevant experience to assist in critical delivery activities, including, as applicable, tunneling and high-speed rail systems.

### **2. Functional Areas of Responsibility**

Overall RDP functions will include the following categories of responsibility, described as follows:

**Program Management** – The Consultant will manage, conduct, and provide oversight for the functional components of program management. The Consultant will provide recommendations and support to the Authority for critical decisions regarding the program delivery approach, business case and/or master planning for the Program. This includes defining monitoring and performance standards (in essence, translating the Authority's high level policy objectives into operational terms), including: business performance, operational performance (reliability, availability, capacity) and asset performance (whole of life metrics).

**Program Integration and Coordination** – The Consultant will be responsible for the oversight, coordination and compatibility between projects, phases and contracts and manage integration requirements and specifications for all elements of the system through implementation and operation. This will include management procedures to be employed such that business risks are effectively managed during all stages.

**Program Delivery** – For each project within the Program, there will be on-site teams of professionals dedicated to each of the Functional Areas of Responsibility for program delivery.



## **EXHIBIT A**

### **SCOPE OF WORK**

These individuals will oversee and monitor the performance of associated work packages under their assigned disciplines. Part of program delivery includes providing the specialized technical expertise to assist in critical program activities and systems. Areas with specialized technical expertise may include, but not be limited to: seismic tunneling, high-speed rail systems (train control, signaling, communications, etc.), trainsets, heavy maintenance, high-speed rail testing and commissioning, and facility operations and maintenance (O&M). The Consultant will provide technical expertise in the development of standards, design, guidelines, procurement documents, quality plans or other related items required for delivery of the Program. This includes an understanding of a system and sub-system of controls for management of a complex transportation system.

The Consultant will support the Authority and the Program by providing expertise in, and performing services related to, a set of functional areas defined below. Many of these functional areas cut across all three of the categories of responsibility described above, while others might be exclusive to only one category.

#### **2.1 Asset Management**

- 2.1.1 Identify and allocate resources for program planning and scheduling purposes
- 2.1.2 Assist the Authority in establishing an asset management process for effectively managing the financial and accounting classification of assets

#### **2.2 Cost Management and Reporting**

- 2.2.1 Develop and implement a cost management plan that supports the development of the entire program budget, including contingency calculations
- 2.2.2 Track and generate regular management reports that include project forecasts, committed cost, expenditures to date, estimated cost at completion, and advise on potential cost overruns
- 2.2.3 Develop program and project accounting policies and procedures that align with the Authority finance and accounting requirements
- 2.2.4 Monitor program/project variances and escalate notification of variances to the appropriate Authority personnel

#### **2.3 Safety and Security**

- 2.3.1 Develop a program-wide Environmental, Health & Safety (EH&S) plan that includes policies and procedures as well as input and approval from key program/project stakeholders
- 2.3.2 Manage audits and monitoring of EH&S activities to ensure compliance with the EH&S plan
- 2.3.3 Develop and manage system safety and security programs
- 2.3.4 Develop and implement safety and security hazard management programs
- 2.3.5 Implement and manage safety and security certification programs



## **EXHIBIT A SCOPE OF WORK**

- 2.3.6 Provide support to engineering and operational functional areas
- 2.3.7 Manage regulatory approvals for safety and security
- 2.3.8 Provide support to construction on safety and security programs

### **2.4 Contract Procurement, Management, and Administration**

- 2.4.1 Develop a contract management protocol and invoice/payment application review process that meets Authority's requirements, including those imposed under state or federal mandates
- 2.4.2 Extract key contractual requirements from applicable agreements for regular monitoring of Consultant and Authority managed contract compliance
- 2.4.3 Develop the technical elements required for alternative project delivery contracts, e.g., defining payment mechanisms and handback provisions for public-private partnership contracts
- 2.4.4 Coordinate and manage work performed under other Program-related contracts to ensure performance and deliverables meet Authority-objectives and quality controls

### **2.5 Contract and Regulatory Compliance**

- 2.5.1 Manage labor compliance, including requirements of the Community Benefits Agreement, and National Targeted Hiring Policy
- 2.5.2 Oversee the small business program and Equal Opportunity Employer contractor compliance
- 2.5.3 Manage compliance audits and regulatory reporting in accordance with applicable laws and regulations

### **2.6 Engineering**

- 2.6.1 Develop, recommend and implement policies in relation to engineering management, engineering standards, infrastructure development, system development, design and construction support, rolling stock and system integration.
- 2.6.2 Manage engineering activities and end products necessary to successfully plan, engineer, procure, design and construct the Authority's capital projects, including the activities of quality assurance of preliminary engineering for environmental approval, preliminary engineering for procurement, alternative technical concepts, design variances, system integration, public utilities management, and railroad interfacing.
- 2.6.3 Develop and implement railroad systems testing and commissioning

### **2.7 Design and Construction**

- 2.7.1 Manage, monitor and oversee the planning, engineering, design, and construction phases of the Program
- 2.7.2 Ensure that there is effective coordination and oversight across planning, engineering, design and construction phases and between multiple project(s) in the Program



## **EXHIBIT A SCOPE OF WORK**

2.7.3 Coordinate, track and reconcile value engineering and constructability changes

### **2.8 Environmental**

2.8.1 Assist the Authority in the management of relationships with resource agencies

2.8.2 Develop and manage the environmental approval strategy for the Program

2.8.3 Manage and be contractually responsible for the work of Regional Consultants to assure delivery of legally-adequate environmental documents and technically and operationally adequate Engineering

2.8.4 Deliver the necessary environmental permits and agreements throughout the Program and manage monitoring and compliance with those permits and agreements

### **2.9 Estimating and Forecasting**

2.9.1 Generate and maintain program/project estimates and spend forecasts by program, project and fund source as required for effective management of the Program

2.9.2 Develop and manage an integrated value engineering and life cycle cost management process incorporating overall program design, route selection, technologies, integration, contracting, risk transfer and other factors focused on managing and/or reducing life cycle costs

2.9.3 Calculate cost variances for each control account and identifying and reporting on the cause of each variance and effect on the Program

2.9.4 Determine the Estimate to Complete and Forecast for cost and schedule, respectively

### **2.10 Land and Right-of-Way (ROW)**

2.10.1 Manage ROW and Land Surveys engineering processes and requirements including management of all excess land, management of ROW acquisition and appraisal functions

2.10.2 Manage ROW delivery process to ensure the successful completion of all ROW transactions

2.10.3 Generate permit agreements and route adoptions

### **2.11 Management Reporting**

2.11.1 Develop a management reporting plan that is aligned with the Authority's objectives

2.11.2 Define procedures which will ensure the implementation of the plan

2.11.3 Develop reporting templates for regular reporting across all Levels of Responsibility

### **2.12 Operations and Maintenance**

2.12.1 Clearly define, oversee, manage, and develop the operations, maintenance, safety/security and revenue/ridership standards and attributes of the system



## **EXHIBIT A**

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- 2.12.2 Prepare comprehensive studies, maintenance estimates and operations plans for operations and service scenarios
- 2.12.3 Ensure effective integration of operations and maintenance plans into procurements and contracts

#### **2.13 Program Integration**

- 2.13.1 Oversee and be responsible for coordination and compatibility of work packages, deliverables, technology, systems, materials and equipment delivered by the contractors, consultants, and projects for the Program
- 2.13.2 Develop the Program-wide management framework for documenting the strategic operational engineering requirements, attributes and standards for the Program and individual projects
- 2.13.3 Evaluate the risk, cost and benefit of project integration alternatives
- 2.13.4 Lead efforts to plan and sequence roles and responsibilities for the program

#### **2.14 Program Scheduling**

- 2.14.1 Implement a schedule management plan for the entire program
- 2.14.2 Develop and maintain an integrated master program schedule that incorporates individual project elements and key milestones
- 2.14.3 Create recovery schedules, as necessary, to address project/program delays
- 2.14.4 Advise on linkages and dependencies between respective schedules

#### **2.15 Project Management and Controls**

- 2.15.1 Implement project controls as needed to achieve the Authority program objectives and requirements
- 2.15.2 Integrate the project controls with the project communications and information management systems to ensure required that the project information transfer is transparent, accurate and effective of controlling all project areas
- 2.15.3 Develop and manage the Authority's overall strategy for Program controls, including the implementation of all necessary supporting electronic and physical management systems
- 2.15.4 Produce key Program management documents, processes and reports to satisfy all relevant requirements, including but not limited to those specified under Local, State and Federal Statutes and those necessary to ensure effective delivery of the Program

#### **2.16 Project Delivery, Planning and Solicitation**

- 2.16.1 In conjunction with the Authority's Financial Office, develop and administer an integrated delivery plan for the program that aligns with Authority requirements and funding and finance plan



## **EXHIBIT A SCOPE OF WORK**

- 2.16.2 Develop technical specifications, risk transfer analysis and support the procurement process, and contract negotiations for key work packages, including assistance in identifying and discussions with qualified vendors

### **2.17 Project Strategy and Planning**

- 2.17.1 Review project set-up procedures and available documentation in order to identify, highlight and prioritize key program/project risks
- 2.17.2 Assess project charter(s) for alignment with project requirements and develop responsibility matrices that define individual and functional responsibilities as well as cross-functional dependencies
- 2.17.3 Establish project priorities and coordinating the development of the capital program requirements for sustainable land use and planning
- 2.17.4 Assist with required State and Federal business planning requirements including ridership modeling, forecasts of ridership levels, operation and maintenance costs and capital costs
- 2.17.5 Develop investment-grade ridership studies and forecasts to evaluate the system's ridership and revenue potential; produce the necessary ridership and revenue forecasts for business, commercial, and system planning; build on the existing model and develop new travel demand forecasting models and tools as necessary to meet study and analysis requirements for system implementation
- 2.17.6 Support the Authority in developing and making decisions with regards to the balance of cost, schedule, quality, value for money, phasing and sustainability

### **2.18 Third-Party Agreement Management**

- 2.18.1 Develop, track and complete third party agreements required for relocation as necessitated by the high-speed rail project.
- 2.18.2 Review, confirm and approve requirements for utilities, government agency interactions and other third parties
- 2.18.3 Develop a process for extracting, monitoring and managing specific contractual requirements by jurisdiction, entity, and responsible party

### **2.19 Quality Management**

- 2.19.1 Develop and maintain a Quality Management Plan that aligns with the Authority's Master Quality Plan
- 2.19.2 Perform regular and frequent quality monitoring activities throughout the Program

### **2.20 Records and Document Management**

- 2.20.1 Develop control and retention policies to cover all elements of project documentation
- 2.20.2 Regularly perform compliance audits of the document management system and support the Authority with their compliance of jurisdictional document requirements and standards



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#### **2.21 Risk Management**

- 2.21.1 Establish risk management strategies, procedures, and controls through the use of best practices
- 2.21.2 Monitor and maintain risk registers as new risk information is identified
- 2.21.3 Establishing a standardized approach to risk reporting and escalation

#### **2.22 Stakeholder Development/Communications Planning**

- 2.22.1 Support stakeholder engagement strategy
- 2.22.2 Develop and administer a communications plan that considers the potential impact or needs of each type of stakeholder in regards to communication

#### **2.23 Station Planning**

- 2.23.1 Manage the development and facilitation of land use policies at a statewide level for implementation at the local level
- 2.23.2 Provide recommendations and manage processes related to station development, station requirements and development and joint funding processes in conjunction with local agencies
- 2.23.3 Manage and support environmental planning and statewide integration with the rail modernization plan

#### **2.24 Transportation and Commercial Planning**

- 2.24.1 Support the Authority at the program level to assist in promoting progressive transportation and land use planning, strategies and principles
- 2.24.2 Recommend and comment on alignment choices, rail planning, early environmental considerations, sustainability and other planning areas

#### **2.25 Consultant Workforce Strategy and Resource Management**

- 2.25.1 Develop and maintain job descriptions as well as resource specific roles and responsibility analyses to ensure that all required functions are being sufficiently supported and by an appropriate skill set
- 2.25.2 Develop a staffing and resource management plan for all functional activities under management
- 2.25.3 Implement recruiting, training and retention programs and processes

#### **2.26 IT Consulting Services and IT Project Management Support**

The Information Technology (IT) Services will assist the Authority in the recommendation and development of an overall IT Roadmap and Strategic Plan including Enterprise Architecture and IT Governance. The Authority has many rail technology needs that will be integrated into all phases of the program. The Authority will require support in the



## **EXHIBIT A SCOPE OF WORK**

following areas: identification, evaluation, selection, development and deployment of appropriate rail delivery technology solutions.

### **3. Initial Deliverables**

Upon receiving a notice to proceed (NTP) from the Authority, the Consultant will commence developing the following management plans for review and approval by the Authority; except for the Mobilization Plan to be developed during negotiations. .

#### **3.1 Mobilization Plan**

The Mobilization Plan will describe the Consultant's actions for start-up of their activities and will cover the period to the point at which the Consultant has a fully functioning team that is delivering the required SOW. For the mobilization period, a period to be negotiated but not to exceed six months, the Authority will make available to the Consultant the following: office space and resources for the first 30 days within the Authority's facilities for the initial team; and access to Authority and PMT staff for development of mobilization plan and information transfer.

The Plan shall address, at a minimum, the steps the Consultant will undertake to accomplish the following:

- 3.1.1 Securing and occupying office space in Sacramento and at the regional office locations.
- 3.1.2 Providing the Consultant team with the appropriate technical equipment and other office accoutrements required to execute the SOW.
- 3.1.3 Establishing Information Technology systems and communications (telephone, internet, etc.) capabilities and linking those systems with those of the Authority.
- 3.1.4 Relocating staff, as required, to their respective locations to begin performing the roles identified in the Staffing Plan (below).
- 3.1.5 Obtaining a thorough understanding of past, current and planned Program activities, information sources, plans, reports and other resources that will be needed to perform the SOW, if needed.

The Mobilization Plan shall address specific timelines for each mobilization activity, the Consultant resources that will be utilized for each step, and must identify any Authority support or resources required. A draft Mobilization Plan will be submitted to the Authority within 30 days of NTP for review and approval.

#### **3.2 Organization and Management Plan**

The Organization and Management Plan will describe the Consultant's organizational structure and internal management protocols. The Plan will address, at a minimum, the following:

- 3.2.1 A description of the composition of the Consultant's team, and how activities will be assigned. Include an organization chart indicating the Key Personnel. Discuss how the Organization and Management Plan will evolve with the Program over the life of the Agreement.



## **EXHIBIT A SCOPE OF WORK**

- 3.2.2 If the Consultant is a joint venture, describe how the members of the joint venture will participate and manage the joint venture's activities and how the joint venture will be governed. In particular, describe how the joint venture structure would address any potential changes in composition of its members, i.e., bankruptcy, sale/merger, etc.
- 3.2.3 Describe how the Consultant's team will address the Functional Areas of Responsibility as described in the Scope of Work.
- 3.2.4 Describe how each Mode of RDP Support as described in the Scope of Work will interact with each other and the Authority and its other consultants.
- 3.2.5 Describe the management approach and how it will be used to deliver the Scope of Work on time, on budget and at a high quality. Describe how the management approach will be used to meet the Authority's objectives and goals, including transitioning from a planning organization to a delivery organization responsible for overseeing heavy construction, systems integration, and operations and maintenance. Describe how the management approach and organizational framework of the Consultant will help the Authority achieve its goal of remaining a lean organization.
- 3.2.6 Describe how the technical specialists, including international high-speed rail technical delivery, design, routine operations and maintenance, heavy maintenance, system design and specification (communications, signaling, Positive Train Control), rolling stock, and integration, construction management and seismic tunneling, are organized within each Mode of RDP Support and Functional Area of Responsibility, as described in the Scope of Work.
- 3.2.7 The Consultant's methodologies and internal systems to be used for tracking resource utilization, expenses, and other cost elements.
- 3.2.8 Interaction with Authority counterparts with respect to management of SOW performance.

A draft Organization and Management Plan will be submitted to the Authority within [30] days of NTP for review and approval. Once approved, the Consultant will maintain the Organization and Management Plan throughout the duration of the Agreement, updating as required or annually at a minimum, with updates to be approved by the Authority.

### **3.3 Staffing Plan**

The Consultant's Staffing Plan will describe the composition of the Consultant team and the process for providing qualified staff throughout the duration of the Agreement. The Plan will describe, at a minimum, the following:

- 3.3.1 The Key Personnel, identifying them by name and describing their proposed locations, availability to support the Agreement, and start date.
- 3.3.2 All staff positions by Functional Area, including a description of each position's qualifications, role, responsibilities and locations.



## **EXHIBIT A SCOPE OF WORK**

- 3.3.3 Full time staff are expected to be located within daily commuting distance of their proposed locations. The current Authority's HQ and Regional offices are located at:
- 770 L Street, Suite 800, Sacramento, CA 95814
  - 2550 Mariposa Mall, Suite 3015, Fresno, CA 93721
  - 700 North Alameda Street, 3<sup>rd</sup> floor, Los Angeles CA, 90012
  - 100 Paseo de San Antonio, Suite 206, San Jose, CA 95113
- 3.3.4 A staffing table indicating the planned start date and estimated utilization (percent FTE) for all staff identified in the plan.
- 3.3.5 The Consultant's process for addressing any performance issues identified by the Authority regarding a specific member of the Consultant team.
- 3.3.6 The process for coordinating and updating the Staffing Plan with other Consultant plans, including Work Plans and the Organization and Management Plan.

A draft Staffing Plan will be submitted to the Authority within [30] days of NTP for review and approval. Once approved, the Consultant will maintain the Staffing Plan throughout the duration of the Agreement, updating as required or annually at a minimum, with updates to be approved by the Authority.

### **3.4 PMIS Plan**

The Project Management Information System (PMIS) Plan will describe the process for scoping, developing, implementing and maintaining a comprehensive system for tracking the progress and status of all program management data. The PMIS Plan will describe, at a minimum, the following:

- 3.4.1 The process and steps the Consultant will employ to identify data availability, data collection, data storage and other input resources needed to satisfy required PMIS capabilities.
- 3.4.2 The process and steps the Consultant will undertake to identify the content, frequency and form of all reporting requirements, including grant, legislative and other requirements.
- 3.4.3 The approach to how the PMIS will be integrated with the Performance Plan and how it will be used to track Consultant performance under the Performance Regime.
- 3.4.4 The system platform and architecture for the PMIS.
- 3.4.5 Documentation and training for users.
- 3.4.6 Resources to be provided by the Authority.
- 3.4.7 The PMIS plan must include a schedule for deployment.
- 3.4.8 A draft PMIS Plan will be submitted to the Authority within [30] days of NTP for review and approval.



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#### **3.5 Quality Management Plan**

The Quality Management Plan will describe the Consultant's policies, procedures and resources for comprehensive quality management of all RDP activities, including oversight of other contracts. The Quality Plan will, at a minimum:

3.5.1 Address the following (adapted from the Baldrige Criteria for Performance Excellence, <http://www.nist.gov/baldrige/publications/criteria.cfm>).

3.5.1.1 Organizational Profile

3.5.1.2 Leadership

3.5.1.3 Strategic Planning

3.5.1.4 Customer Focus

3.5.1.5 Measurement, Analysis, and Knowledge Management

3.5.1.6 Workforce Focus

3.5.1.7 Operations Focus

3.5.1.8 Results

3.5.2 Be consistent with the Authority's Master Quality Plan.

A draft Quality Management Plan will be submitted to the Authority within [30] days of NTP for review and approval.

#### **3.6 Program Management Plan**

The Program Management Plan (PMP) establishes the management approach used on Authority projects. The PMP describes the overall program structure; deliverables; related management plans and procedures; and the methods used to plan, monitor, control, and improve project delivery. The PMP is a dynamic document and is updated on a periodic basis to reflect all organizational changes, continuous improvements, and advances in methodologies that occur throughout the project's life cycle.

The approved Program Management Plan will be used as the framework for the Consultant to develop and negotiate an executable work-plan, which includes a critical path of significant deliverables to complete the Program on schedule and within budget. These deliverables are monitored, measured, and reported through the PMIS and will be linked to the Performance Regime.

3.6.1 At a minimum, the PMP shall address the following components:

3.6.1.1 Program planning: provides an overview of the program, authorizes work, assigns authority, and documents how the program will be executed and managed, including monitoring program performance and managing resources.

3.6.1.2 Program governance: how are decisions made and communicated, the responsibility and process for program performance management, and change management.



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- 3.6.1.3 Program communication: supports the communication activities that will be undertaken during the course of the program. It defines the audience, timing, and method of communication, as well as the purpose and desired outcomes in order to ensure the appropriate level of engagement. This plan shall also include the framework for integrated communications between the Consultant and the Authority to effectively deliver the HSR program.
- 3.6.1.4 Stakeholder analysis: entails the identification, analysis, and targeted communication planning for the individuals and organizations that can be impacted by or can impact the program.
- 3.6.1.5 Cost management: describes cost management policies that provide a set of operating procedures for planning, directing, monitoring, and measuring work. These policies provide controls for accurate decision-making data for the project management team to analyze, capture variances, and plan revisions to the baseline costs.
- 3.6.1.6 Schedule management: the integrated master schedule outlines the program plan in sufficient detail to define resource requirements, material timing, and integration requirements with existing plans and schedules. This master schedule is the top level of the scheduling system, and is supported by a hierarchy of intermediate and detailed schedules. All critical dependencies, resources needed, and critical path items are clearly identified on the integrated master schedule.
- 3.6.1.7 Risk management: is designed to reduce the impact of programmatic, technical or funding uncertainties to acceptable and manageable level. The Risk Management Plan (RMP) shall be comprehensive and define roles and responsibilities for risk managements and address the process by which the Consultant will identify and quality program risks, implement and track risk response activities, and monitor and control risk throughout the duration of the program. The RMP shall provide a formal, systematic approach to identifying, assessing, evaluating, documenting, and managing risks that could jeopardize the success of the program. These risks may include, but are not limited to, specific engineering, environmental, planning, right-of-way, procurement, construction, organizational, stakeholder, budget, and schedule risk, or any other potential inabilities to deliver the required results.

The Program Management Plan will also identify those activities that will be subject to evaluation under the Performance Regime. For these activities, the Program Management Plan will describe suggested performance scoring criteria and weighting for performance scoring purposes.

A draft Program Management Plan will be submitted to the Authority within [90] days of NTP for review. After an initial review of the draft Plan, the Authority and the Consultant will negotiate the set of activities to be included in the Performance Regime, including scoring criteria and weighting.



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### **4. Work Plan**

#### **4.1 Work Plan Development**

Prior to each defined work period, the Consultant will develop, in collaboration with the Authority, a Work Plan that covers that period. Each Work Plan is subject to approval by the Authority. It is anticipated that development of the Work Plan for each upcoming work period will begin at least four months prior to the start of the work period.

#### **4.2 Work Plan Elements**

At a minimum, the Work Plan shall address the following:

- 4.2.1 The Work Plan shall cover a defined period, anticipated to be 12 months;
- 4.2.2 The Work Plan shall identify resources the Consultant shall provide, including staff, subconsultants and SBE resources;
- 4.2.3 The Work Plan shall define key activities, milestones and deliverables;
- 4.2.4 The Work Plan shall include a budget, broken down by Functional Area, showing the estimated level of effort, costs and fees associated with each Functional Area; and
- 4.2.5 The Work Plan shall include a corresponding Performance Plan, describing the performance measures for the period, their relative weighting and how they will be scored.

#### **4.3 Material Changes**

In the event that material changes to a Work Plan are warranted during a work period, either party may initiate a revision process.

### **5. Mobilization Period**

During the mobilization period, the length of which will be subject to negotiation but shall not exceed six months, the Authority will make available to the Consultant the following: office space and resources for the first 30 days within the Authority's facilities for the initial team; and access to Authority and Program Management Team staff for development of the mobilization plan and information transfer.



## **EXHIBIT B-1**

### **BUDGET DETAIL AND PAYMENT PROVISIONS**

#### **1. Budget Contingency Clause**

- 1.1 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. 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.
- 1.2 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.
- 1.3 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.

#### **2. Compensation**

For FY14/15 and FY15/16, the budget allocation for the initial phase of work will not exceed [\$Negotiated Amount]. In the subsequent years, the Consultant will prepare a Work Plan (WP) and budget for review, negotiation and approval by the Authority's Contract Manager. The due date and content of the WP will be determined between the Consultant and Authority's Contract Manager.

#### **3. Escalation**

An escalation rate can be negotiated at each Work Plan which will not exceed the latest Employment Cost Index (ECI) data published by the Bureau of Labor Statistic, *Table 9. WAGES AND SALARIES: Employment Cost Index for wages and salaries*, for private industry workers, by occupational group and industry, the category of Professional, Scientific, and Technical Services. A copy of the latest ECI can be found at <http://www.bls.gov/news.release/eci.t09.htm>

#### **4. Invoicing and Payment**

- 4.1 For services satisfactorily rendered in accordance with the terms of this Agreement, and upon receipt and approval of the invoices by the Authority Contract Manager, the Authority agrees to compensate the Consultant for reimbursement of its approved actual costs plus a fee. See Exhibit B-2.
- 4.2 The rates in the Budget Detail are rate caps, or the maximum allowed to be billed over the duration of the applicable Work Plan. For the Consultant and any subagreement in excess of \$25,000 entered into as a result of this Agreement, the Authority will reimburse actual costs within the cap.
- 4.3 No payment shall be made in advance of services rendered.



**EXHIBIT B-1**  
**BUDGET DETAIL AND PAYMENT PROVISIONS**

4.4 The following certification shall be included on each invoice and signed by the authorized official of the Consultant:

*“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.”*

4.5 It is understood and agreed that the total not-to-exceed amount listed for this Agreement is an estimate and the actual amount of work requested by the Authority may be less.

4.6 Provide one original and two copies of the Invoice for Payment. Invoices shall be submitted no more than monthly in arrears and no later than 45 days after completion of each billing period to:

Financial Operations Section  
California High-Speed Rail Authority  
770 L Street, Suite 620 MS3  
Sacramento, CA 95814

[accounting@hsr.ca.gov](mailto:accounting@hsr.ca.gov)

(1 original and 1 copy)

AND

The Consultant shall also submit (electronically) one additional copy of the invoice and supporting documentation to the Contract Manager or designee at the address identified in Exhibit A.

**5. Payment Request Format**

5.1 The Authority will accept computer generated or electronically transmitted invoices in addition to the paper copy. The date of “invoice receipt” shall be the date the Authority receives the paper copy.

5.2 A request for payment shall reference the Agreement number and shall consist of, but not be limited to, the following:

5.2.1 Agreement number, date prepared, and billing period.

5.2.2 The Consultant’s loaded hourly labor rates by individual, inclusive of fees (fringe, overheads, general and administrative, fee, etc.). Each invoice shall include actual hours incurred, cumulative hours incurred to date and budgeted hours.

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

5.2.4 An indication if the Consultant is certified as a California Certified Small Business, Disabled Veteran Business Enterprise, or Disadvantaged Business Enterprise.

5.2.5 Backup documentation for audit purposes, and the Consultant shall retain back-up documentation for audit purposes available to the Authority upon request. The Consultant



## **EXHIBIT B-1**

### **BUDGET DETAIL AND PAYMENT PROVISIONS**

shall include appropriate provisions in each of its subcontracts to secure adequate backup documentation to verify all subcontractor services and expenses invoiced for payment under this Agreement.

- 5.2.6 By Work Plan category or task: cumulative amounts, budgeted per agreement, billed to date, current billing, and balance of funds.
- 5.2.7 A report that documents the progress of the work during the billing period, if applicable.
- 5.2.8 Any other deliverables due during the billing period, if applicable.
- 5.2.9 Subcontractor awardees and vendors invoices: In addition to requirements listed above, subcontractor invoices shall also include indication of whether a subcontractor or vendor is a California Certified Small Business, Disabled Veteran Business Enterprise, or Disadvantaged Business Enterprise.

#### **6. Travel and Per Diem Rates**

- 6.1 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 website: <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.
- 6.2 The Consultant will be responsible for managing travel within the budget and in accordance with Authority travel policies. The Consultant must retain documentation of travel expense in its financial records. The documentation must be listed by trip and include dates and times for departure and return. Travel receipts shall be submitted with invoices requesting reimbursement from the Authority.
- 6.3 Any subagreement in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions of this clause.

#### **7. Changes in Personnel**

Requests to change any individual under this Agreement requires written approval from the Authority's Contract Manager. For Key Personnel or other individuals in a position requiring a license or other requirement, resumes shall be submitted with the request.

#### **8. Cost Principles**

- 8.1 The Consultant agrees to comply with procedures in accordance with 48 C.F.R., Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., to determine the allowability of individual items of cost.
- 8.2 The Consultant agrees to comply with 49 C.F.R. Part 19, Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.



**EXHIBIT B-1**  
**BUDGET DETAIL AND PAYMENT PROVISIONS**

8.3 Any costs for which payment has been made to the Consultant that are determined by subsequent audit to be unallowable under 48 C.F.R. Part 31, as amended, or 49 C.F.R. Part 19, are subject to repayment by the Consultant to the Authority.

8.4 Any subagreement in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions of this clause.

**9. Prompt Payment Act**

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

**10. Excise Tax**

The State of California is exempt from federal excise taxes, and no payment will be made for any federal excise taxes levied on the Consultant. The Authority will only pay for any state or local sales or use taxes on the services rendered to the Authority pursuant to this Agreement. For clarification on excise tax exemptions, refer to the State Administrative Manual section 3585.

**11. Invoice Disputes**

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 the 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, or with other written notification within 15 business days of receipt of the invoice; the Consultant will be paid any undisputed portion of the invoice.



## **EXHIBIT B-2 PERFORMANCE REGIME**

### **PERFORMANCE REGIME**

#### **1. Basis for Performance Regime.**

The Consultant will have an influential role and will have a major impact on the delivery of the Program. Accordingly, the RDP Agreement includes performance-based compensation in order to align the Consultant's performance with the Authority's performance objectives.

#### **2. Payment.**

The Consultant will be eligible for reimbursement of its approved costs plus a fee. [Fifty] percent of the fee will be fixed and [50]% of the fee will be at-risk based on performance. The total fee will be negotiated upon Agreement award.

#### **3. Performance Requirements**

The Consultant's performance will be measured against performance requirements that will be established jointly by the Authority and the Consultant.

##### **3.1 Authority Performance Objectives.**

The Authority established the following performance objectives:

- 3.1.1 Schedule. Deliver the Program within applicable deadlines.
- 3.1.2 Budget. Deliver the Program within applicable budgets.
- 3.1.3 Quality. Deliver the Program with a world class level of quality.

##### **3.2 Performance Measures.**

As part of the Consultant's Work Plan, for each Authority performance objective, the Consultant will be responsible for developing Performance Measures suitable for measuring the Consultant's performance.

- 3.2.1 The Performance Measures will be subject to the Authority's approval.
- 3.2.2 The Performance Measures will be easy to understand and administer.
- 3.2.3 The Performance Measures will be subject to objective assessment to allow efficient Agreement administration and ensure that the performance-based compensation operates as intended.
- 3.2.4 The Performance Measures will be easy to verify by the Authority.
- 3.2.5 The Performance Measures will be linked to one of the Authority's performance objectives (i.e., schedule, budget and quality).

##### **3.3 Performance Targets.**

As part of the Consultant's Work Plan, the Consultant will develop Performance Targets in accordance with the following:

- 3.3.1 The Performance Targets will be subject to the Authority's approval.
- 3.3.2 The Performance Targets will be objective and easy to measure.



## **EXHIBIT B-2 PERFORMANCE REGIME**

- 3.3.3 The Performance Targets regarding schedule and budget will tie to specific activities identified in the Consultant's Work Plan.
- 3.3.4 The Performance Targets may differentiate among different levels of performance (e.g., "Excellent," "Very Good," "Acceptable" and "Unacceptable").
- 3.3.5 The Performance Targets will integrate with the Performance Measures to ensure that achievement of the Performance Targets will further the Authority's performance objectives.
- 3.3.6 Performance is expected to continually improve during the term of the Contract, which will be taken into account when determining the Performance Targets.

### **3.4 Annual Performance Assessment.**

- 3.4.1 Assessment. The Consultant's performance will be assessed and scored annually based on the established Performance Measures and Performance Targets.
- 3.4.2 Performance-Based Payment. As determined as part of the Work Plan, the at-risk portion of the Consultant's fee will be eligible for payment as follows:
  - 3.4.2.1 **Schedule.** One-third of the at-risk portion of the Consultant's fee will be reserved for timely achievement of the Performance Targets related to schedule during the one-year period.
  - 3.4.2.2 **Budget.** One-third of the at-risk portion of the Consultant's fee will be reserved for achievement of the Performance Targets related to budget during the one-year period.
  - 3.4.2.3 **Quality.** One-third of the at-risk portion of the Consultant's fee will be reserved for quality performance during the one-year period.
- 3.4.3 Continuous Improvement. On an annual basis, for each area where the Consultant does not earn the highest rating (e.g., "Excellent"), the Consultant will identify specific improvements that the Consultant will implement in order to better achieve the Authority's performance objectives.

## **4. Performance Plan**

### **4.1 Development of Performance Plans**

During the mobilization period and during each evaluation period that follows, the Consultant will develop, in collaboration with the Authority, a Performance Plan as part of the Work Plan for the following evaluation period. Each Performance Plan is subject to approval by the Authority.

The Consultant shall provide innovative performance based measures for this and subsequent Performance Plans. The Performance Plan shall address, at a minimum, the following:

The Performance Plan shall cover a defined evaluation period, anticipated to be 12 months;

- 4.1.1 The Performance Plan shall be approved prior to the start of the evaluation period covered by the Performance Plan;
- 4.1.2 The Performance Plan shall describe the Performance Measures, Performance Targets, scoring, weighting and assessment timetable applicable to the evaluation period;



**EXHIBIT B-2**  
**PERFORMANCE REGIME**

- 4.1.3 The Performance Plan shall identify the fees at risk for the evaluation period; and
- 4.1.4 The Performance Plan shall include completion of an approved Work Plan, including the associated Performance Plan, for the subsequent evaluation period. Approval of each Work Plan will be a key performance measure throughout the life of the Agreement.

**4.2 Deviations from Performance Mechanism set forth in Agreement**

The Consultant's Performance Plan may include deviations from the performance mechanism set forth in the Agreement, provided that the deviations have been approved in advance by the Authority. For example, the Authority and Consultant may agree that a different percentage of the fee is at risk than the percentage set forth in Section 2 above or may agree to a different mechanism entirely. The performance mechanism set forth in the Agreement, however, shall be remain in effect in the event the parties do not agree to an alternative method.

- 5. Example. See Table 1 – Performance Example.



**EXHIBIT B-2**  
**PERFORMANCE REGIME**

**TABLE 1 - Performance Example**

Authority Objective	Performance Targets / Performance Measures	Performance			
		Excellent	Very Good	Acceptable	Unacceptable
Schedule	Examples of Performance Targets: <ul style="list-style-type: none"> <li>Final Acceptance of initial trainset fleet by specified deadline</li> <li>Completion of right of way acquisition for a segment by specified deadline</li> </ul> Examples of Performance Measures: <ul style="list-style-type: none"> <li>Delivery date of initial Trainset fleet measured against identified deadline</li> <li>Delivery date of right of way acquisition measured against identified deadline</li> </ul>				
Budget	Examples of Performance Targets: <ul style="list-style-type: none"> <li>Final Acceptance of initial trainset fleet within specified budget</li> <li>Completion of right of way acquisition for a segment within specified budget</li> </ul> Examples of Performance Measures: <ul style="list-style-type: none"> <li>Cost measured against identified Program budget</li> <li>Cost measured against identified</li> </ul>				



**EXHIBIT B-2**  
**PERFORMANCE REGIME**

Authority Objective	Performance Targets / Performance Measures	Performance			
		Excellent	Very Good	Acceptable	Unacceptable
	Consultant budget				
Quality	<p>Example of Performance Targets:</p> <ul style="list-style-type: none"> <li>Specified score with respect to reporting of quality issues</li> <li>Specified score with respect to resolution of quality issues</li> <li>Specified score with respect to implementation of continuous improvement plan</li> </ul> <p>Examples of Performance Measures:</p> <ul style="list-style-type: none"> <li>Complete and accurate reporting of quality issues in accordance with the Consultant's Quality Plan</li> <li>Resolution of quality issues</li> <li>Implementation of the Consultant's continuous improvement plan</li> </ul>				



**EXHIBIT C  
GENERAL TERMS AND CONDITIONS**

**GTC 610**

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

<http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>

If you do not have internet access, or otherwise cannot access the GTC 610, please contact the Office of Procurement and Contracts below to receive a copy:

OPAC  
(916) 324-1541  
770 L Street, Suite 620 MS3  
Sacramento, California 95814

**FOR REFERENCE PURPOSES ONLY A COPY OF THE GTC 610 HAS BEEN  
INCLUDED IN THIS SAMPLE CONTRACT**

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## EXHIBIT C

*GTC 610*

### GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.



## EXHIBIT C

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

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

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

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

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

12. TIMELINESS: Time is of the essence in this Agreement.

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

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



## EXHIBIT C

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

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

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

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

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

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

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

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

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



## EXHIBIT C

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

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

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

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

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

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

20. LOSS LEADER:

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



## **EXHIBIT D**

### **SPECIAL TERMS AND CONDITIONS**

#### **1. Contract Management**

- 1.1 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. This approval shall not be unreasonably withheld.
- 1.2 The Authority may change its Contract Manager at any time by giving written notice to the Consultant.

#### **2. Subcontracts**

- 2.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Authority and any subcontractors, 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 subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by the Consultant. The Consultant's obligation to pay its subcontractor 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.
- 2.2 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.
- 2.3 The Consultant shall pay its subcontractors within ten (10) days from receipt of each payment made to the Consultant by the State.
- 2.4 Any substitution of subcontractors must be approved in writing by the Authority's Contract Manager in advance of assigning work to a substitute subcontractor.

#### **3. Confidentiality of Data**

- 3.1 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.
- 3.2 Permission to disclose information on one occasion or public hearing held by the Authority relating to this Agreement shall not authorize the Consultant further disclose such information or disseminate the same on any other occasion.
- 3.3 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, including subcontractors, affiliates, and vendors, involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative Committee.



**EXHIBIT D**  
**SPECIAL TERMS AND CONDITIONS**

3.4 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.

3.5 Any subagreement in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions of this clause.

**4. Conflict of Interest**

4.1 The Consultant and its employees, and all of its subcontractors and employees, shall comply with the Authority's Conflict of Interest Code and Organizational Conflict of Interest Policy.

4.2 The Consultant or Key Personnel may be required to submit an Economic Interest Statement (Fair Political Practices Commission's Form 700) from each employee or subcontractor whom the Authority's Legal Department, 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 subcontractor. Each employee and subcontractor 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.

4.3 Any subagreement in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions of this clause.

**5. Settlement of Disputes**

5.1 The parties agree to use their best efforts to resolve disputes concerning a question of fact arising under this Agreement in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

5.2 To the extent not inconsistent with law, rules, and regulations, any dispute that is not disposed of by mutual agreement in section 5.1 above will be decided by the Authority's Chief Program Manager, who may consider any written or verbal evidence submitted by the Consultant. The decision of the Chief Program Manager, issued in writing will be the final decision of the Authority. The final decision of Authority is not binding on the Consultant.

5.3 In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the SOQ.

5.4 Neither the pendency of a dispute nor its consideration by the Authority's Chief Program Manager will excuse the Consultant from full and timely performance in accordance with the terms of this Agreement.

**6. Termination**

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



**EXHIBIT D**  
**SPECIAL TERMS AND CONDITIONS**

- 6.2 Termination for Cause: In accordance with section 7 of the GTC 610, the Authority reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the Consultant.
- 6.3 Termination for Convenience: The Authority reserves the right to terminate this Agreement upon thirty (30) days written notice to the Consultant if terminated for convenience of the Authority.
- 6.4 Termination Issues for Subcontractors, Suppliers, and Service Providers: The Consultant shall notify any subcontractor and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any subcontractor and service or supply vendor shall result in the Consultant being liable for the termination costs incurred by any subcontractor and service or supply vendor for work performed under this Agreement, except those specifically agreed to by the Authority in writing.

**7. Non-Waiver**

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. No remedy available in this Agreement is intended to be exclusive of any other remedy, and every remedy shall be cumulative and shall be in addition to every other remedy provided therein or available at law or in equity. The failure of the Authority to enforce any provision of this Agreement or require performance by the Consultant of any provision shall in no way be construed to be a waiver of those provisions, affect the validity of this Agreement in whole or in part, or the right of the Authority to subsequently enforce any such provision.

**8. Captions**

The clause headings appearing in this contract have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

**9. Stop Work**

- 9.1 The Authority's Contract Manager 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.
- 9.2 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.
- 9.3 The Consultant shall resume the stopped work only upon receipt of written instruction from the Authority Contract Officer canceling the stop work order.
- 9.4 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.



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

#### **1. Order of Precedence**

In the event of any inconsistencies or ambiguities in the Agreement documents the following order of precedence shall apply:

- 1.1 Terms of this Agreement, excluding the Consultant's SOQ, as supplemented by approved Work Plans.
- 1.2 Consultant's SOQ dated [DATE] (provided that if the Authority determines, in its sole discretion, that the SOQ contains a provision that is more beneficial to the Authority than is specified elsewhere in the Agreement, that SOQ provision shall take precedence).

#### **2. Indemnification**

Consultant agrees to indemnify, defend, and hold harmless the Authority, its officers, agents and employees from any and all claims, demands, costs, or liability arising from or connected with the professional services provided hereunder due to negligent or intentional acts, errors or omissions of the Consultant. The Consultant will reimburse the Authority for any expenditure, including reasonable attorney fees incurred by the Authority in defending against claims ultimately determined to be due to negligent or intentional acts, errors or omissions of the Consultant.

This provision is in addition to the Indemnification requirements contained in the GTC-610. If this provision conflicts with the GTC-610, the terms of the GTC-610 control over the terms of this clause.

#### **3. Ownership of Data**

- 3.1 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, including drafts and final products 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.
- 3.2 The Consultant is not liable for claims, liabilities or losses arising out of, or connected 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.
- 3.3 Any subagreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions in this clause.
- 3.4 "Generated data" is data that the Consultant has collected, collated, recorded, deduced, read out, postulated for utilization or a requirement to deliver to the Authority in the performance of this Agreement. Any electronic data processing program, model, or software system developed or substantially modified by the Consultant in the performance of this Agreement at the Authority's



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

expense, together with complete documentation thereof, shall be treated in the same manner as “generated data.” “Generated data” shall be the property of the Authority, unless and only to the extent that it is specifically provided otherwise in this Agreement. “Generated data,” as defined herein, shall not include proprietary data, as defined below.

- 3.5 "Proprietary data" is such data as the Consultant has identified in a satisfactory manner as being under Consultant's control prior to commencement of performance of this Agreement, and which Consultant has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this Agreement is commenced. The title to "proprietary data" shall remain with the Consultant throughout the term of this Agreement and thereafter. The extent of the Authority access to, and the testimony available regarding, the proprietary data shall be limited to that reasonably necessary to demonstrate, including in a scientific manner to the satisfaction of scientific persons when applicable, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable for this Agreement.

#### **4. Standard of Care**

The Consultant, in performing its professional services under this Agreement, owes the Authority the following duties of care (the Consultant's "Standard of Care"):

- 4.1 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;
- 4.2 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
- 4.3 The duty to use reasonable diligence and his or her best judgment in the exercise of skill and the application of learning.

#### **5. Consultant Responsibility; Damages**

- 5.1 The Consultant shall be responsible for the quality, accuracy, integration and coordination of all services required under this Agreement. The Consultant shall be liable for the Authority's damages, including consequential damages, resulting from the Consultant's breach of any of its obligations under this Agreement.



**EXHIBIT E**  
**ADDITIONAL PROVISIONS**

**6. Legal Notice**

- 6.1 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.
- 6.2 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:

Consultant: Name Title Company Address Telephone	Authority: Thomas Fellenz, Chief Counsel California High-Speed Rail Authority 770 L Street, Suite 620 MS1 Sacramento, CA 95814 Telephone: (916) 324-1541
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- 6.3 The ACM identified in Exhibit A. shall be notified via email when a notice is sent.
- 6.4 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.

**7. Licenses and Permits**

- 7.1 The Consultant shall be an individual or firm licensed to do business in California and shall obtain at its sole expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Contract.
- 7.2 If the Consultant is located within the state of California, a business license from the city/county in which the Consultant is headquartered is necessary; however, if the Consultant submitting an SOQ is a corporation, a copy of the incorporation documents/letter from the Secretary of State's Office can be submitted. If the Consultant's headquarters is located outside the State of California, the Authority requires a copy of the business license or incorporation papers for the company's respective state showing that the company is in good standing in that state, and proof of registration as a foreign corporation qualified to do business in California.
- 7.3 In the event any license(s) and/or permit(s) expire at any time during the term of this Contract, Consultant agrees to provide the Authority a copy of the renewed license(s) and/or permit(s) within thirty (30) days following the expiration date. In the event the Consultant fails to keep in effect at all times all required license(s) and permit(s), the Authority may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

#### **8. Insurance**

Without limiting the Consultant's indemnification of the Authority, and prior to commencement of the Work, the Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to the Authority.

##### **8.1 Workers' Compensation Insurance**

The Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least one million dollars (\$1,000,000)).

##### **8.2 General Liability Insurance**

The Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Limits may be achieved by any combination of primary and excess or umbrella liability insurance.

##### **8.3 Automobile Liability Insurance**

The Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than five million dollars (\$5,000,000) combined single limit for each accident. Limits may be achieved by any combination of primary and excess or umbrella liability insurance.

##### **8.4 Umbrella or Excess**

The Consultant shall maintain a fifty million dollar (\$50,000,000.00) umbrella or excess liability policy which includes products liability completed operations coverage. The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted. This is not intended to include professional liability.

##### **8.5 Professional Liability (Errors & Omissions) Insurance**

The Consultant shall maintain professional liability insurance that covers the Work to be performed in connection with this Agreement, in the minimum amount of ten million dollars (\$10,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement.

##### **8.6 Environmental Professional Liability Insurance**

Environmental Professional Liability Insurance shall be written on a form acceptable to Authority providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. This coverage may be arranged in combination with Professional Liability



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

insurance or as a stand-alone policy. The policy limit shall be no less than one million dollars (\$1,000,000) per claim and in the aggregate. All activities contemplated in this agreement shall be specifically scheduled on the policy as “covered operations.” If the insured is using sub consultants, the Policy must include work performed “by or on behalf” of the insured. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement. The cost of such insurance shall be included in Consultant's bid. Insurance as required in this paragraph above may not exclude:

- 8.6.1 Bodily injury;
- 8.6.2 Property damage;
- 8.6.3 Pollution conditions arising out of environmental work;
- 8.6.4 Asbestos-related claims;
- 8.6.5 Testing, monitoring, measuring operations, or laboratory analyses.

#### **8.7 Other Provisions or Requirements**

##### **8.7.1 Proof of Insurance**

The Consultant shall provide certificates of insurance to the Authority as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. All insurance policies, certificates and endorsements must be approved by the ACM prior to commencement of work. Current certification of insurance shall be kept on file with Authority at all times during the term of this contract. The Authority reserves the right to require complete, certified copies of all required insurance policies, at any time.

##### **8.7.2 Duration of Coverage**

The Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by the Consultant, his agents, representatives, employees or subcontractors. The Consultant agrees to maintain professional liability insurance for a period of no less than three years after completion of the work.

##### **8.7.3 Authority's Rights of Enforcement**

In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the Authority has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the Authority will be promptly reimbursed by the Consultant or the Authority will withhold amounts sufficient to pay premium from the Consultant's payments. In the alternative, the Authority may cancel this Agreement.

##### **8.7.4 Acceptable Insurers**

All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact the business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the ACM.

#### **8.7.5 Waiver of Subrogation**

Workers' compensation insurance policies must be endorsed to waive the insurer's right of subrogation. All other insurance coverage maintained or procured pursuant to this agreement, except for professional liability, shall specifically allow the Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss or, in the alternative, shall be endorsed to waive subrogation against the Authority, its elected or appointed officers, agents, officials, employees and volunteers. The Consultant hereby waives its own right of recovery against the Authority, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

#### **8.7.6 Enforcement of Contract Provisions (non estoppel)**

The Consultant acknowledges and agrees that any actual or alleged failure on the part of the Authority to inform the Consultant of non-compliance with any requirement imposes no additional obligations on the Authority nor does it waive any rights hereunder.

#### **8.7.7 Requirements not Limiting**

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. All insurance coverage and limits provided by the Consultant and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

#### **8.7.8 Notice of Cancellation**

The Consultant agrees to oblige its insurance agent or broker and insurers to provide to the Authority with thirty (30) days notice of cancellation (except for nonpayment, for which ten (10) days notice is required) or nonrenewal of coverage for each required coverage.

#### **8.7.9 Additional Insured Status**

General liability policies shall provide or be endorsed to provide the Authority and its officers, officials, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

#### **8.7.10 Authority's Right to Revise Specifications**

The Authority reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the Authority and Consultant may renegotiate the Consultant's compensation.



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

#### **8.7.11 Self-insured Retentions**

Any self-insured retentions must be declared to and approved by the Authority. Self-insured retentions up to \$500,000 will be considered. The Authority reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the Authority.

#### **8.7.12 Timely Notice of Claims**

The Consultant shall give the Authority prompt and timely notice of claims made or suits instituted that arise out of or result from the Consultant's performance, and that involve or may involve coverage under any of the required liability policies.

#### **8.7.13 Additional Insurance**

The Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and performance of the Work.

#### **8.7.14 Subcontractors**

To the extent that the Consultant engages the services of subcontractors, the Consultant agrees to require the same insurance as required of the Consultant, except as to limits. The limits for subcontractors shall be no more than one million dollars (\$1,000,000) in coverage on insurance for which a limit is specified above.

### **9. Computer Software**

For contracts in which software usage is an essential element of performance under this Contract, the Consultant certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

### **10. Equipment Rental Contract**

This provision shall apply to equipment rental contracts. The State shall not be responsible for loss or damage to the rented equipment arising from causes beyond the control of the State. The State's responsibility for repairs and liability for damage or loss to such equipment is restricted to that made necessary or resulting from the negligent act or omission of the State or its officers, employees, or agents.

### **11. Ownership, Inventory and Disposition of State Equipment**

11.1 The following is applicable to equipment purchased or furnished by other agencies and equipment purchased by the Consultant where such expense is charged to and/or reimbursed from contract funds.

11.2 No equipment shall be purchased under the auspices of the Agreement without prior written authorization of the Authority. All equipment of any kind, purchased or reimbursed with contract funds or furnished by the Authority under the terms of this Agreement and not fully



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

consumed in the performance of this Agreement, shall be considered the property of the Authority.

11.3 The Authority may, at its option, repair any damage or replace any lost or stolen items and deduct the cost thereof from the Consultant's invoice to the Authority, or require the Consultant to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Authority with no expense to the Authority.

11.4 The Consultant shall maintain an inventory record for each piece of non-expendable equipment purchased or built with funds provided under the terms of this Agreement. The inventory record of each piece of such equipment shall include the date acquired, total cost, serial number, model identification (on purchased equipment), and any other information or description necessary to identify said equipment (SAM Section 8600). A copy of the inventory record must be submitted to the Authority on request by the Authority.

#### **12. Contingent Fee**

The Consultant warrants by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Consultant for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

#### **13. Prohibited Practices**

The Consultant certifies that this Contract was not obtained through rebates, kickbacks or other unlawful considerations either promised or paid to an Authority employee.

#### **14. Limitation of Consultant's Liability**

The Consultant's liability to the Authority for damages, [including consequential damages,] resulting from breach of the Agreement shall be limited to an amount equal to the maximum amount of the Agreement; provided, however, that the following amounts are excluded from the cap:

- 14.1 Costs incurred by the Authority or any party acting on the Authority's behalf in correcting the services under the Agreement;
- 14.2 Losses (including defense costs) to the extent covered by the proceeds of insurance (a) required to be carried under the Agreement or (b) actually carried by or insuring the Consultant under policies solely with respect to the Agreement; and
- 14.3 Any type of cost arising from fraud, gross negligence, intentional misconduct or criminal acts.

This limitation of liability shall not affect the Consultant's obligation to provide insurance hereunder.



## **EXHIBIT E**

### **ADDITIONAL PROVISIONS**

#### **15. Joint and Several Liability**

If the Consultant is a joint venture, each joint venture member shall be jointly and severally liable hereunder.

#### **16. Effect of Oversight, Reviews, Acceptances and Approvals**

The Consultant shall not be relieved of its obligation to perform its services under the Agreement by oversight, spot checks, assessments, reviews, tests, inspections, acceptances, statements of objection, statements of no objection, approvals, or by any failure of any Person to take such action. The oversight, spot checks, assessments, reviews, tests, inspections, acceptances, statements of objection, statements of no objection and approvals do not constitute final acceptance of the particular service, or waiver of any legal or equitable right with respect thereto. The Authority may reject or require the Consultant to remedy any nonconforming work and/or identify additional work which may be done to bring the services into compliance with the Agreement, whether or not previous oversight, spot checks, assessments, reviews, tests, inspections, acceptances, statements of objection, statements of no objection or approvals were conducted by any Person. The Authority's approval of design documents for construction, if any, shall constitute approval of the design by the Authority for purposes of Government Code section 830.6, but shall not be deemed to relieve the Consultant of liability for any design.

#### **17. Removal of Consultant Personnel**

The Authority may require, in writing, that the Consultant remove or terminate any Consultant, subconsultant or supplier personnel that the Authority deems objectionable.

#### **18. Compliance with Laws**

The Consultant shall comply with all applicable laws.



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

### **1. FEDERAL REQUIREMENTS**

The Consultant understands that the Authority has received Federal funding from the Federal Rail Administration (FRA) for the Project and acknowledges that it is required to comply with all applicable federal laws, regulations, policies and related administrative practices, whether or not they are specifically referenced herein. The Consultant acknowledges that federal laws, regulations, policies, and related administrative practices may change and that such changed requirements will apply to the Project. The Consultant shall ensure compliance by its subcontractors and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable federal laws, regulations, policies and related administrative practices, whether or not specifically referenced herein.

Notwithstanding anything to the contrary contained in this Agreement, all FRA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of FRA requirements.

### **2. COMPLIANCE WITH FEDERAL REQUIREMENTS**

The Consultant's failure to comply with Federal Requirements shall constitute a breach of this Agreement.

### **3. FEDERAL PROCUREMENT STANDARDS**

The Consultant agrees to comply with the Procurement Standards requirements set forth at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48 inclusive, whichever may be applicable, and with applicable supplementary U.S. Department of Transportation (U.S. DOT) or FRA directives or regulations. If determined necessary for proper Project administration, FRA reserves the right to review the Consultant's technical specifications and requirements.

### **4. FEDERAL LOBBYING ACTIVITIES CERTIFICATION**

The Consultant certifies, to the best of its knowledge and belief, that:

- A. No state or federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any state or Federal agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a member of the Legislature or Congress in connection with the awarding of any State or Federal agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal agreement, 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 federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this agreement, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance



**EXHIBIT F**  
**FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

with its instructions.

- C. This certification is a material representation of fact upon which reliance was 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 failure.
- D. The Consultant also agrees that by signing this document, it shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

**5. DEBARMENT AND SUSPENSION**

This Agreement is a covered transaction for purposes of 2 C.F.R. Part 1200. As such, the Consultant is required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689; “Debarment and Suspension,” 31 U.S.C. § 6101 note; and U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 C.F.R. Part 1200, which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement),” 2 C.F.R. Part 180.

To the extent required by the aforementioned U.S. DOT regulations and U.S. OMB guidance, the Consultant must verify that each subcontractor is not excluded or disqualified in accordance with said regulations by reviewing the “Excluded Parties Listing System” at <http://www.sam.gov/portal/public/SAM/>. The Consultant shall obtain appropriate certifications from each such subcontractor and provide such certifications to the Authority.

The Consultant’s signature affixed herein shall also constitute a certification under penalty of perjury under the laws of the State of California that the Consultant or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Have not had one or more public transactions (federal, state, and local) terminated within the preceding three years for cause or default;
3. Has not been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. § 180.800(a) or had a civil judgment rendered against it for one of those offenses within that time period; and
4. 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 listed in 2 C.F.R. § 180.800.

Should the Consultant or any subcontractor become excluded or disqualified as defined in this section during the life of the Agreement, the Consultant shall immediately inform the Authority of this exclusion or disqualification.



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

The Consultant shall include a term or condition in the contract documents for each lower-tier covered transaction, assuring that, to the extent required by the U.S. DOT regulations and U.S. OMB guidance, each subcontractor will review the “Excluded Parties Listing System,” will obtain certifications from lower-tier subcontractors, and will include a similar term or condition in each of its lower-tier covered transactions.

### **6. SITE VISITS**

The Consultant agrees that FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons. If any site visit is made by FRA on the premises of the Consultant or any of its subcontractors under this Agreement, the Consultant shall provide and shall require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Consultant or subcontractor.

### **7. SAFETY OVERSIGHT**

To the extent applicable, the Consultant agrees to comply with any Federal regulations, laws, or policies and other guidance that FRA or U.S. DOT may issue pertaining to safety oversight in general, and in the performance of this Agreement, in particular.

### **8. ENVIRONMENTAL PROTECTION**

The Consultant and any subcontractor under this Agreement shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

- 8.1 Clean Air: The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Consultant agrees to report each violation to the Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate Environmental Protection Agency Regional Office.
- 8.2 Clean Water: The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Consultant agrees to report each violation to the Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate EPA Regional Office.
- 8.3 Energy Conservation: The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 *et seq.*)
- 8.4 Agreement Not To Use Violating Facilities: The Consultant agrees not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the EPA. The Consultant shall promptly notify the Authority if the Consultant or any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Agreement is under consideration to be listed on the EPA’s List of Violating



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

Facilities; provided, however, that the Consultant's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.

- 8.5 Environmental Protection: The Consultant shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*
- 8.6 Incorporation of Provisions: The Consultant shall include the above provisions (A) through (F) in every subcontract hereunder exceeding \$50,000 financed in whole or in part with federal assistance provided by the FRA.

### **9. CIVIL RIGHTS**

The following requirements apply to this Agreement:

- 9.1 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 Consultant 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 this Agreement. In addition, the Consultant agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.
- 9.2 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 Consultant 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 Consultant 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 Consultant 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 Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FRA may issue.



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

- iii. Disabilities: In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Consultant 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. Further, in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Consultant also agrees that it will comply with the requirements of U.S. Department of Transportation, “Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. Part 27, pertaining to persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FRA may issue.

The Consultant 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 Consultant agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

The Consultant 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.

### **10. ARRA FUNDED PROJECT**

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

### **11. ENFORCEABILITY**

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

### **12. PROHIBITION ON USE OF ARRA FUNDS**

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



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**13. REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS**

The Consultant agrees that in accordance with the Passenger Rail Investment and Improvement Act (PRIIA) of 2008, 49 C.F.R. § 24405(a), which provides that federal funds may not be obligated unless steel, iron, and manufactured products used in FRA-funded projects are produced in the United States, unless a waiver has been granted by the U.S. Secretary of Transportation. For more information on the FRA's Buy America requirements and processes please see FRA's Answers to Frequently Ask Questions (FAQ) available at, <http://www.fra.dot.gov/Page/P0391>.

Should the Consultant fail to demonstrate compliance with 49 U.S.C. § 24405(a) and a waiver has not been granted, the Consultant must take the necessary steps in order to achieve compliance, at no cost to the Authority. The Consultant's failure to comply with this provision shall be a material breach of this Agreement.

If evidence indicates noncompliance with Buy America requirements, the Authority will initiate an investigation. The FRA may also initiate its own investigation. The Consultant shall have the burden of proof to establish compliance. If the Consultant fails to demonstrate compliance, then the Consultant shall substitute sufficient domestic materials without revision of the Agreement terms. Failure to comply with the provisions of this clause may lead to the initiation of debarment proceedings pursuant to 49 C.F.R. Part 29.

Where the Consultant is unable to certify that it will meet the Buy America requirements and believes it may qualify, pursuant to 49 U.S.C. § 24405(a)(2) for a waiver from the Buy America requirements set forth therein, the Consultant must submit to the Authority a written justification detailing the reasons it believes it meets the particular waiver exception(s). At a minimum, the Consultant's written waiver request justification shall contain:

- i. A description of the project;
- ii. A description of the steel, iron, or manufactured goods not meeting the Buy America requirement;
- iii. A description of the percentage of U.S. content in the steel, iron or manufactured goods, as applicable;
- iv. A description of the efforts made to secure the Buy America compliant steel, iron or manufactured goods;
- v. A description of the bidding process used in the procurement (e.g., whether open or closed, how many bids were received, were any compliant products offered in competing bids);
- vi. If a waiver request is based on price, cost differential(s) that would be incurred in order to secure compliant Buy American steel, iron or manufactured goods;
- vii. Citation to specific waiver categories in 49 U.S.C. § 24405(a)(2) under which the waiver is sought;
- viii. Justification supporting the application of the waiver categories cited; and Contact



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information for the responsible party.

**14. ACCESS AND INSPECTION OF RECORDS**

- A. In accordance with ARRA Sections 902, 1514, and 1515, the Consultant agrees that it shall permit the State of California, the United States Comptroller General, the United States Department of Transportation Secretary, or their representatives or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:
- i. Access and reproduce any books, documents, papers and records of the Consultant that directly pertain to, and involve transactions relating to, this Agreement for the purposes of making audits, examinations, excerpts and transcriptions; and
  - ii. Interview any officer or employee of the Consultant or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by ARRA.
- B. Pursuant to 49 C.F.R. § 18.26(i)(11), 49 C.F.R. § 19.26, or A-133 (whichever applicable), the Consultant agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case the Consultant agrees to maintain same until the Authority, the FRA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. The Consultant shall notify the Authority not less than six months prior to disposal of any books, records, accounts and reports required under this Agreement.
- C. The Consultant agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552(a).

The Consultant shall include this provision in all lower-tier subcontracts.

**15. WHISTLEBLOWER PROTECTION**

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

- A. Gross mismanagement of a contract relating to ARRA funds;
- B. Gross waste of ARRA funds;
- C. A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- D. An abuse of authority related to implementation or use of ARRA funds; or



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

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

**16. FRAUD AND FALSE CLAIMS ACT**

The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 (6 C.F.R. Part 13), as amended, 31 U.S.C. § 3801 et seq., and the U.S. DOT regulations Program Fraud Civil Remedies (49 C.F.R. Part 31), apply to its actions pertaining to this Project. Upon execution of this Agreement, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Agreement or the FRA assisted project, for which Work is being performed under this Agreement. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 as cited above on the Consultant to the extent the Federal Government deems appropriate.

The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by the FRA, the federal government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consultant, to the extent the federal government deems appropriate.

The Consultant agrees that it shall promptly notify the Authority and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

The Consultant agrees to include the above paragraphs in each subcontract financed in whole or in part with Federal assistance provided by the FRA. It is further agreed that the paragraphs shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**17. CARGO PREFERENCE**

As required by 46 C.F.R. Part 381, the Consultant agrees to the following:

- A. To use privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this Agreement, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- B. To furnish within 20 Working Days following the date of loading for shipments originating within the United States, or within 30 Working Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

of-lading in English for each shipment of cargo described in Part A of this section. This bill-of-lading shall be furnished to the Authority (through the Consultant in the case of a subcontractor's bill-of-lading) and to the Division of National Cargo and Domestic Trade, Maritime Administration, 1200 New Jersey Ave SE, Washington, D.C. 20590, marked with appropriate identification of the Project.

- C. To include these requirements in all subcontracts issued pursuant to this Agreement when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

### **18. WAGE RATE REQUIREMENTS**

Payment of prevailing wages on the Project is required by 49 U.S.C. § 24405(c)(2) and ARRA section 1606. For Project components that use or would use rights-of-way owned by a railroad, the Consultant shall comply with the Provisions of 49 U.S.C. § 24312. For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act (45 U.S.C. § 151, et seq.) are deemed to comply with Davis-Bacon Act requirements. For Project components that do not use or would not use rights-of-way owned by a railroad, the Consultant shall comply with the provisions of 40 U.S.C §§ 3141, et seq. The Consultant shall also comply with the Copeland "Anti-Kickback" Act provisions of 18 U.S.C. § 874 and 29 C.F.R. Part 3.

When prevailing wage rates apply, the Consultant must submit, with each invoice, a certified copy of the payroll for compliance verification. Invoice payment will not be made until the payroll has been verified and the invoice approved by the Contract Manager.

- A. If there is any conflict between the state prevailing wages and the federal prevailing wages, the higher rate shall be paid.
- B. Any sub-agreement entered into as a result of this Agreement shall contain all of the provisions of this clause.

### **19. SEISMIC SAFETY**

The Consultant agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in the Department of Transportation Seismic Safety Regulations, 49 C.F.R. Part 41, and will certify to compliance to the extent required by the regulation. The Consultant also agrees to ensure that all Work performed under this Agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the Project.

### **20. REPORTING REQUIREMENTS**

Consultant agrees, if requested by the Authority in writing, to provide the Authority with the following information:



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- 20.1 The total amount of funds received by the Consultant during the time period defined in the Authority's request;
- 20.2 The amount of funds actually expended or obligated during the time period requested;
- 20.3 A detailed list of all projects or activities for which funds were expended or obligated, including:
- i. The name of the project or activity;
  - ii. A description of the project activity;
  - iii. An evaluation of the completion status of the project or activity; and
  - iv. An estimate of the number of jobs created and/or retained by the project or activity.
- 20.4 For any contracts or subcontracts equal to or greater than \$25,000:
- i. The name of the entity receiving the contract;
  - ii. The amount of the contract;
  - iii. The transaction type;
  - iv. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number, if known;
  - v. The location of the entity receiving the contract;
  - vi. The primary location of the contract, including city, state, congressional district, and county;
  - vii. The DUNS number, or name and zip code for the entity headquarters, if known;
  - viii. A unique identifier of the entity receiving the contract and the parent entity of Consultant, should the entity be owned by another; and
  - ix. The names and total compensation of the five most highly compensated officers of the company if received:
    - 80% or more of its annual gross revenues in Federal awards;
    - \$25,000,000 or more in annual gross revenue from Federal awards and;
    - If the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986;

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

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



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### **21. REPRINTS OF PUBLICATIONS**

Whenever an employee of a Consultant-Related Entity writes an article regarding the Project or otherwise resulting from work under this Agreement that is published in a scientific, technical, or professional journal or publication, the Consultant shall ensure that the Authority is sent two reprints of the publication, clearly referenced with the appropriate identifying information.

An acknowledgment of FRA support and a disclaimer must appear in any publication, whether copyrighted or not, based on or developed under the Agreement, in the following terms:

“This material is based upon work supported by the Federal Railroad Administration under a grant/cooperative agreement FR-HSR-0009-10-01-05, dated December 5, 2012. Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Federal Railroad Administration and/or U.S. DOT.”

### **22. LABOR PROVISIONS**

49 U.S.C. 24405(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided through this Agreement shall be considered a “rail carrier,” as defined by 49 U.S.C. 10102(5), for the purposes of Title 49, U.S.C., and any other statute that adopts that definition or in which that definition applies, including the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*), the Railway Labor Act (43 U.S.C. 151 *et seq.*), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*) To the extent required by 49 U.S.C. 24405(b) and other laws referenced above, the Consultant shall reflect these provisions in its agreements funded in whole or in part by this Agreement with entities operating rail services over such rail infrastructure.

### **23. LABOR PROTECTIVE ARRANGEMENTS**

The Consultant agrees to comply with the applicable protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), 45 U.S.C. 836, with respect to employees affected by actions taken in connection with the Project. The Consultant also agrees to include the applicable protective arrangements established by the U.S. DOL under 45 U.S.C. 836 in its arrangements with entities operating rail services over rail infrastructure constructed as part of this Agreement.

### **24. PROPERTY, EQUIPMENT AND SUPPLIES**

The Consultant must comply with the property, equipment and supplies management standards and procedures in 49 C.F.R. §§ 19.30 through 19.37, inclusive. The Consultant may use its own management standards so long as such standards comply with 49 C.F.R. §§ 19.30 through 19.37, inclusive.

### **25. MAINTENANCE**

If any Project property, equipment, or supplies are not used for the Project for the duration of its useful life, as determined by the FRA, whether by planned withdrawal, misuse or casualty loss, the Consultant agrees to notify the Authority immediately. Disposition of withdrawn property, equipment, or supplies shall be in accordance with 49 C.F.R. §§ 19.30 through 19.37 inclusive.



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

### **26. FLY AMERICA**

The Consultant agrees to comply with 49 U.S.C. § 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 C.F.R. Part 301-10, which provide that recipients and sub-recipients of Federal funds and their contractors are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier was used, the Consultant shall submit an appropriate certification or memorandum adequately explaining why service by a U.S. flag carrier was not available or why it was necessary to use a foreign air carrier, and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consultant agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

### **27. SMALL BUSINESS/DISADVANTAGED BUSINESS ENTERPRISES**

The Authority encourages the Consultant to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals, also known as Disadvantaged Business Enterprises (DBE), in carrying out the contract. The Authority has established a Revised Small and Disadvantaged Business Enterprise (SB/DBE) Program for Professional Services Contracts, and an overall 30 percent goal for small business utilization, to include within the 30 percent goal, a ten 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 Authority has established a 30 percent Small Business (SB) goal as described above. The Consultant is expected to make efforts to meet the goal and provide a SB Performance Plan on how the goal will be met throughout the duration of this Agreement. For more detailed information regarding what components should be in the SB Performance Plan see the Revised SB/DBE Program for Professional Services Contracts. The Authority’s SB/DBE Program requirements, including the SB Performance Plan expectations, SB utilization reporting, Substitution/Termination processes, Prompt Payment Provisions, Recognized SB Roster of Certifying Agencies, and other performance related factors, are included in the Authority’s Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts – August 2012. The document is on the Authority’s Small Business web page:

[http://www.hsr.ca.gov/Programs/Small\\_Business/index.html](http://www.hsr.ca.gov/Programs/Small_Business/index.html)

The Consultant shall provide monthly SB utilization reports to reflect the level of small business, including DBE and DVBE utilization on the contract, including any amended portion of the contract.

The Consultant shall also comply with 41 C.F.R. Part 60, Best Practices of 49 C.F.R. Part 26, Executive Order 11246 and Title VI of the Civil Rights Act of 1964 and related statutes.

### **28. EXISTING INTER-CITY RAIL**

49 U.S.C. § 24405(d) requires any entity providing intercity passenger railroad transportation on an FRA-funded project to comply with certain requirements with respect to its employees and the employees of



## **EXHIBIT F FEDERAL SUPPLEMENTAL TERMS AND CONDITIONS**

preexisting intercity rail passenger services. The Consultant shall comply with the applicable provision of 49 U.S.C. § 24405(d) to the extent it is or becomes a provider of intercity passenger railroad transportation. If it is not the operator or provider of the intercity passenger rail services benefitting from the Project funded under this Agreement, then it shall notify its selected operator of the requirements imposed by section 24405(d).

### **29. FLOOD HAZARDS**

The Consultant agrees to comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012(a), with respect to any construction or acquisition Project.

### **30. PATENT RIGHTS**

- A. If any invention, improvement, or discovery of the Consultant or any of its third party contractors is conceived or first actually reduced to practice in the course of or under this Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Consultant agrees to notify the Authority immediately and provide a detailed report. The rights and responsibilities of the FRA, third party contractors and the Authority with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.
- B. If the Consultant secures a patent with respect to any invention, improvement, or discovery of the Consultant or any of its third party contractors conceived or first actually reduced to practice in the course of or under this Project, the Consultant agrees to grant the FRA a royalty-free, non-exclusive, and irrevocable license to use and authorize others to use the patented device or process for Federal Government purposes.
- C. The Consultant agrees to include the requirements of the “Patent Rights” section of this Agreement in its third party contracts for planning, research, development, or demonstration under this Project.
- D. “Proprietary data” is data that the Consultant has identified in a satisfactory manner as being under the Consultant’s control prior to commencement of performance of this Agreement, and that the Consultant has reasonably demonstrated as being of a proprietary nature by reason of copyright, patent, or trade secret doctrines in full force and effect at the time when performance of this Agreement is commenced. The title to “proprietary data” shall remain with the Consultant throughout the term of this Agreement and thereafter.
- E. “Generated data” is data that the Consultant has collected, collated, recorded, deduced, read out, or postulated for utilization in the performance of this Agreement. “Generated data,” as defined herein, shall not include data developed solely from preexisting or proprietary data owned by the Consultant prior to the execution of this Agreement. Any electronic data processing program, model, or software system developed or substantially modified by the Consultant in the performance of this Agreement at the Authority’s expense, together with complete documentation thereof, shall be treated in the same manner as “generated data.” “Generated data” shall be the property of the Authority, unless and only to the extent that it is specifically provided otherwise



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in this Agreement.

**31. RIGHTS IN DATA AND COPYRIGHT**

- A. The term “subject data” used in this section means recorded information, whether or not copyrighted, that is developed, delivered, or specified to be delivered under this Agreement. The term includes, but is not limited to, graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. The term does not include financial reports, cost analyses, and similar information incidental to Project administration.
- B. The following restrictions apply to all subject data first produced in the performance of this Agreement:
- i. Except for its own internal use, the Consultant may not publish or reproduce such data in whole or in part, or in any manner or form, nor may the Consultant authorize others to do so, without the written consent of the FRA.
  - ii. As authorized by 49 C.F.R. § 18.34, or 49 C.F.R. § 19.36, as applicable, the FRA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes:
    - a. Any work developed under a grant, cooperative agreement, sub-grant, sub-agreement, or other third party contract, irrespective of whether or not a copyright has been obtained; and
    - b. Any rights of copyright to which a Grantee, subgrantee, or a third party contractor purchases ownership with federal assistance.
- C. The FRA may make available to any FRA Grantee, subgrantee, third party contractor, or third party subcontractor, either the FRA’s license in the copyright to the “subject data” derived under this Agreement or a copy of the “subject data” first produced under this Agreement. In the event that such a Project which is the subject of this Agreement is not completed, for any reason whatsoever, all data developed under that Project shall become subject data as defined herein and shall be delivered as the FRA may direct.
- D. To the extent permitted by State law, the Consultant agrees to indemnify, save and hold harmless the FRA, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Consultant of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use or disposition of any data furnished under this Agreement. The Consultant shall not be required to indemnify the FRA for any such liability arising out of the wrongful acts of employees or agents of the FRA.
- E. The Consultant agrees to include the requirements of this section in its lower-tier subcontracts for planning, research, development, or demonstration under the Project.



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**32. SIGNAGE**

The Consultant is strongly encouraged to post a sign at all fixed project locations at the most publicly accessible location and a plaque in all purchased or rehabilitated rail cars announcing that the project or equipment was funded by the U.S. Department of Transportation, Federal Railroad Administration, with funds provided through the American Recovery and Reinvestment Act. The configuration of the signs or plaques will be consistent with guidance issued by the Office of Management and Budget and/or the Department of Transportation and approved by the FRA.



	<b>(3)</b>	Fringe Benefit %	Overhead %	General Administration %	Combined %
NORMAL		xx% +	xx% +	xx% =	<b>(4a)</b> xx%
OVERTIME		xx% +	xx% +	xx% =	<b>(4b)</b> xx%
			<b>(5)</b> FIXED FEE %	AT RISK FEE %	
			xx%	xx%	

**BILLING INFORMATION**

**CALCULATION INFORMATION**

Name/Classification <sup>1</sup>	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate <sup>2</sup>	Hourly Range for Class
	Normal	Overtime	From	To			
<b>(6)</b>	<b>(7)</b>	<b>(7)</b>	<b>(8)</b>	<b>(8)</b>	<b>(9)</b>	<b>(10)</b>	<b>(11)</b>
Bill Jones, Project Manager	166.57	N/A	07/01/02	06/30/03	0.0%	57.12	N/A
	166.57	N/A	07/01/03	06/30/04	0.0%	57.12	N/A
Eric Blake/Safety Officer	89.67	134.51	07/01/02	06/30/03	5.0%	30.75	N/A
	94.17	141.26	07/01/03	06/30/04	5.0%	32.29	N/A
	98.86	148.29	07/01/04	06/30/05	5.0%	33.90	N/A
Administrative Assistant	48.12	72.18	07/01/02	06/30/03	5.0%	16.50	15.00 to 17.50
	50.54	75.81	07/01/03	06/30/04	5.0%	17.33	15.75 to 18.38
	53.07	79.61	07/01/04	06/30/05	5.0%	18.20	16.54 to 19.29

- For all key team members that are listed on the Prime Consultant's Organization Chart, list the name and corresponding job classification. For all other employees (i.e. support staff/non-professional) list only the job classification. Teams members subject to FLSA are not eligible for overtime.
- For named employees enter the actual hourly rate. For classifications only, list the average hourly rate for that classification.
- Note employees/classifications that are subject to prevailing wage requirements with an asterisk (\*).



## Cost Proposal Guidelines

The California High-Speed Rail Authority's Contract and Procurement Office (Contracts) will work directly with the Prime Consultant concerning the Agreement and the Cost Proposal. The Prime Consultant is responsible for coordinating with their Subconsultant(s) to develop the Cost Proposal. The Prime Consultant is responsible for obtaining valid cost proposal information and/or forms from its Subconsultant(s) and submitting that information to Contracts. The Prime Consultant is required to have a designated Point of Contact to work with Contracts.

**Audit Review of Cost Proposal** - The Consultant's Cost proposal will be subject to an Audit review.

- To assist Authority Audit personnel, the Prime Consultant shall provide a contact person's name, telephone number, fax number and email address for themselves and each Subconsultant.
- For each Subconsultant the Prime shall provide the estimated total percentage(s) of the work anticipated to be performed by the Subconsultant.
- When submitting the Cost Proposal, the Subconsultant information may be submitted in a "cover letter" and/or on a separate page.
- The Consultant and its subconsultants are required to be able to provide supporting documents for all proposed costs.
- If a revised cost proposal is required of the Prime and Subconsultants as a result of audit findings or cost negotiations, the Consultant will provide a new cost proposal with all requested revision(s) and a revised date. The revised cost proposal date shall be the same for the prime and subconsultants and the revised date shall be on each page of the revised cost proposal.

Instructions for completing the Cost Proposal are enumerated on the Sample Cost Proposal as follows:

1. The Prime and Subconsultant's Cost Proposal should be submitted in the format of the Sample Cost Proposal (HSR 210).
2. On the right hand side of the page indicate the contract number(s), the attachment letter, the firm's name, date prepared, and page number of numbers (i.e. 1 of 6, 2 of 6, 3 of 6, etc.).
3. In the middle, center of the page, indicate the firm's percentages for the fringe benefits, overhead, and general administration for normal and overtime percentages. The firm's fringe benefits, overhead, and general administration percentages must comply with federal regulations, as identified in Exhibit B and are subject to Authority audit review/approval.
4. **Combined %** - The combined percentage is the fringe benefit, overhead, and general administration percentage for both Normal and Overtime percentages. Provide combined percentages rates separately for "Normal" and Overtime" hours.

The combined percentage figures for "Normal" and "Overtime" hours may remain the same if the firm's business practice does not accumulate overhead costs separately for "Normal" and "Overtime" hours.

5. **Fee** - As a separate line item, indicate the fee percentage proposed. It should be noted that the fee percentage is subject to negotiation.
6. **Name and Classification** - For all key team members that are listed on the Prime Consultant's organization chart, list the name and corresponding job classification. The job classification title should be descriptive of the function the team member will perform for the project. For all other employees (i.e. support staff, non-professional) list the job classification. When the Consultant has a "pool" of employees that can perform the necessary tasks and may need to assign different personnel within the same classification to perform the work, the "job classification" and "hourly range for



class” may be utilized. The listing of specifically “named individuals” versus “classification only” is an issue that may be discussed and decided at the cost negotiation meeting. On the form, note employees/classifications that are subject to prevailing wage requirements with an asterisk (\*).

7. **Loaded Hourly Billing Rate** - Under “Loaded Hourly Billing Rates” the firm will list the “Normal”, and “Overtime” rates for all named individuals and/or classifications. To complete the “Loaded Hourly Billing Rates” section combines the applicable hourly wage rate with the combined overhead and fixed fee percentages. Below is the formula for calculating the “loaded rate” (with example figures):

$$\begin{array}{rcl} \text{Actual/Average Hourly Rate} & \times & \text{Combined \%} & = & \text{(A)} \\ \$30.75 & \times & 1.6754 & = & \$51.518 \text{ } (\$51.52) \end{array}$$

$$\begin{array}{rcl} \text{Actual/Average Hourly Rate} & + & \text{(A)} & = & \text{(B)} \\ \$30.75 & + & \$51.52 & = & \$82.27 \end{array}$$

$$\begin{array}{rcl} \text{(B)} & \times & \text{Fee \%} & = & \text{(C)} \\ \$82.27 & \times & 0.09 & = & \$7.404 \text{ } (\$7.40) \end{array}$$

$$\begin{array}{rcl} \text{(B)} & + & \text{(C)} & = & \text{Loaded Rate} \\ \$82.27 & + & \$7.40 & = & \$89.67 \end{array}$$

Overtime may be “not applicable” (N/A) for some of the classifications. Overtime is not available for all contracts. Overtime should be listed as “N/A” for exempt employees and with the Overtime Loaded Hourly Billing Rate for employee(s) subject to the Fair Labor Standards Act (FLSA).

8. **Hourly Rates** - The “Effective Date of Hourly Rates” will be the date of the Interviews, as listed in the RFQ.
9. **Escalation** - See Section 3 of Exhibit B-1. Escalation increases are subject to negotiation and Authority audit review/approval.
10. **Actual Hourly Rate** - Where a specific employee is named, provide the “Actual Hourly Rate” and the effective dates of the rate.

Average Hourly Rate - Where only the classification is listed, provide the “Average Hourly Rate” for the general classification. Even though the employee is not named in the cost proposal, the Contract Manager shall pay the “actual salary rate” for the individual that is utilized from the “employee pool”.

11. **Named Employee(s)** - With specifically named employee, the “Hourly Range for Class” should indicate “not applicable” (N/A).

Classification Employee(s) - With the classification only, provide the “Hourly Range for Class” rate for that classification.

12. **Other Direct Costs** - Indicate any anticipated “Other Direct Cost” (ODC) items, including in-house billing rates. Each Consultant is responsible for billing the Authority for their ODCs at “actual” cost, without any additional markup or profit. ODCs are subject to Authority audit review/approval.
- In-house billing rates are generally for those services provided by the Consultant rather than by an outside vendor. For example, a Consultant may perform all of its reprographic work in-house and bill at an established per page billing rate. The established in-house billing rate should be supported and based on actual costs incurred by the Consultant. Or, a Consultant may send out



their reprographic work and pay an outside vendor. ODC items are expenditures that are directly related to the contract/project, which are not captured in the Consultant's Overhead Percentages.

- If part of the contracted work is to be subcontracted, the Consultant shall submit ODCs for each Subconsultant.
- Only one ODC sheet should be included with the Prime Consultant's cost proposal that combines the Prime and Subconsultants ODC items. Normally, ODC items will vary from Consultant to Consultant depending on the accounting method utilized by the Consultant; the ODC items listed on the "sample" form may vary from one Consultant to another. If an item listed on the ODC sample form is captured in the Consultant's Overhead Percentages, the Consultant should note "not applicable" (N/A) in that section.



## Forms and Certifications

- Form A: Schedule of Subcontractor(s)/ Subconsultant(s)
- Form B: Organizational Conflicts of Interest Disclosure Statement
- Cert. 1: Certification Regarding Miscellaneous State Requirements
- Cert. 2: Offeror's Overall Project 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



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

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

(Add rows/pages as needed)

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

**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 Offeror 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 Offeror and its team (including Offeror, Offeror Team members, and all Subcontractors identified at the time of the submittal of its SOQ, and their respective personnel) which may result, or could be viewed as, an organizational conflict of interest in connection with the RFQ.



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

\_\_\_\_\_  
Offeror



**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 Offeror (also referred to "Contractor" herein) to the clause(s) listed below. This certification is made under the laws of the State of California.

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

**CONTRACTOR CERTIFICATION CLAUSES:**

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

**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:
  1. the dangers of drug abuse in the workplace;
  2. the person's or organization's policy of maintaining a drug-free workplace;
  3. any available counseling, rehabilitation and employee assistance programs; and,
  4. penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
  1. receive a copy of the company's drug-free workplace policy statement; and,
  2. 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](http://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.

**Tax Delinquency** – The undersigned certifies that the contractor does not appear on either list of the 500 largest tax delinquencies pursuant to Revenue and Taxation Code Section 7063 or 19195.

## **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

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

5. 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):

1. 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.
2. 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):

1. 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.
2. 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:
  - a. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
  - b. 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
  - c. 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.**

*[If Offeror is a joint venture, a copy of this certification must be completed by each joint venture member.]*





**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 RFQ. .

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 Offeror and all joint venture members of the Offeror.*



**Cert. 4: Darfur Contracting Act Certification**

Pursuant to Public Contract Code Section 10478, if an Offeror 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,  
Initials business activities or other operations outside of the United States.

**OR**

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

**OR**

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

**CERTIFICATION for Paragraph No. 3**

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

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

*[If Offeror is a joint venture, a copy of this certification must be completed by each joint venture member.]*



## **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 2 CFR Part 180, the Offeror certifies to the best of its knowledge and belief, that it and its principals:

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

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

Certify to the above       Cannot certify to the above.

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

The Offeror 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).

\_\_\_\_\_  
Signature of Person Certifying

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Organization Name,  
Address, and Telephone**



## 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. Each applicable subcontractor must complete and certify.

In accordance with the provisions of Appendix B to 2 CFR Part 180, the prospective lower tier participant (subcontractor) certifies to the best of its knowledge and belief, that it and its principals:

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

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

Certify to the above       Cannot certify to the above.

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

\_\_\_\_\_  
Signature of Person Certifying

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Organization Name,  
Address, and Telephone



**Cert. 7: Non-Collusion Affidavit**

State of \_\_\_\_\_ §  
 \_\_\_\_\_ §  
 County of \_\_\_\_\_ §

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_ ,  
 (Position / Title) (Company)

the party making the foregoing SOQ, and that the SOQ is:

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

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

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

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

- Fix the Price Proposal of the Offeror or any other Offeror, or
- Fix any overhead, profit, or cost element, or that of any other Offeror, or
- 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 Offeror 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

\_\_\_\_\_  
 (Offeror)



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 Offeror, all joint venture members of the Offeror, 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 Offeror, relationship to the Offeror: \_\_\_\_\_



**Cert. 9: Non-Discrimination Certification**

In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, the Offeror 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 Rail Delivery Partner.

**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:

- No federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

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

Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Company Name: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Company Official)

\_\_\_\_\_  
(Title of Company Official)

Note: If Offeror is a Joint Venture, each Joint Venture member shall provide the above information and sign the certification.

