



Bus Stop Improvement Project Design Services Request for Proposals

January 2024

THE IMPERIAL COUNTY TRANSPORTATION COMMISSION

Request for Proposals For Bus Stop Improvement Project Design Services

I. INTRODUCTION

The Imperial County Transportation Commission (ICTC) is seeking a qualified consulting engineer to collect survey information, design plans and specification for its Bus Stop Improvement Project at various locations within Imperial County. This Request for Proposal (RFP) describes the project, the required scope of services, the consultant selection process, and the minimum information that must be included in the consultant's response to the RFP. The Imperial County Transportation Commission shall hereinafter be referred to as "ICTC".

The services are anticipated to be full time for the duration of the work, which will be completed by private contract secured through the public bidding process. One firm will be selected for the completion of this federal project.

The purpose of the Request for Proposal (RFP) is to provide the Imperial County Transportation Commission with the assurance that this project is completed in compliance with all local, state, and federal provisions (where applicable).

II. GENERAL BACKGROUND

ICTC is the regional transportation planning and regional public transit agency for the Imperial Valley region. ICTC builds consensus, makes strategic plans, obtains and allocates resources, contracts for transit services and provides information on a broad range of topics pertinent to the Imperial Valley region's transportation services and infrastructure.

ICTC is an independent public agency governed by a Commission composed of city council members and county supervisors from each of the region's eight (8) local governments and the Imperial Irrigation District (IID). Membership includes the cities of Brawley, Calipatria, Calexico, El Centro, Holtville, Imperial, Westmorland, the County of Imperial and the IID.

The region of the Imperial Valley contains approximately 4,598 square miles. Agriculture, with irrigation is the second largest industry, behind employment in the government sector. Most of the area's geography is flat at or below sea level. The climate is described as an arid desert with summer temperatures reaching 115° Fahrenheit.

ICTC administers contracts with third parties for the operation of the inter-city regional and intra-city circulator public bus systems. In addition, ICTC administers third party contracts for intra-city paratransit systems.

Qualified entities are invited to submit written proposals for project consideration in accordance

with this request. These services will be conducted under a contract with Imperial County Transportation Commission, hereinafter referred to as “ICTC” and the consultant entity, hereinafter referred to as “Consultant”. The contracts will be regulated according to the provisions of all federal, state and local laws and ordinances that are applicable. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775.

Disadvantaged Business Enterprises (DBE), Minority Business Enterprise (MBE), Women Business Enterprise (WBE) and Veteran Owned Businesses (VOB) are encouraged to participate. The DBE goal for this federal project is as follows:

- Bus Stop Improvement Project Design Services- 15%

The Executive Director of the ICTC will make a recommendation to the Commission for award of contract. All responsive proposals will be considered and evaluated, however, the ICTC is not guaranteeing to accept any Consultant’s proposal, recommendations, or pricing.

III. ESTIMATED PROJECT SCHEDULE

ICTC anticipates the process for nominating and selecting a consultant and awarding the contract will be according to the following tentative schedule:

A.	Advertise and Issue RFP	January 8, 2024
B.	Non mandatory Prebid meeting (teleconference available)	January 25, 2024
C.	Proposal Due Date	February 9, 2024
D.	Provider Ranking and Staff Recommendation (non-public opening)	Week of February 12, 2024
E.	Oral Interviews (if utilized)	Week of February 19, 2024
F.	Selection and Notification Award	March 2024 (estimate)
G.	Approval of Contract	March 2024 (estimate)
H.	Notice of Award/Notice to Proceed	March 2024 (estimate)
I.	Project Kick Off	March 2024 (estimate)
J.	Final Design	May 2024

IV. PROJECT SUMMARY

A. Project Background/Project Description

ICTC is planning a bus stop improvement project that aims to enhance the overall experience and efficiency of public transportation by upgrading existing bus stops and designing new ones with modern and user-friendly features. The project is initiated in response to the growing demand for public transportation and the need to provide riders with safe, accessible, and comfortable transit options.

The current state of bus stops in the area exhibits several shortcomings, such as outdated infrastructure, lack of amenities, insufficient seating, inadequate lighting, and limited accessibility for people with disabilities.

The design work for the bus stop improvement project will focus on addressing these issues and implementing innovative solutions to create a more convenient and attractive transit experience. The project will be executed in collaboration with Imperial County cities and community stakeholders to ensure a holistic and inclusive approach.

Some of the components of the bus stop improvement project are as follows:

1. **Accessibility:** All bus stops will comply with universal design principles, ensuring that they are accessible to people with disabilities and seniors.
2. **Shelter and seating:** New bus stops will feature weather-resistant shelters to protect riders from rain, sun, and other harsh weather conditions. Comfortable seating will be provided to enhance the passenger waiting experience.
3. **Lighting and safety:** Adequate lighting will be installed to enhance safety and security during nighttime travel.
4. **Community and agency engagement:** Throughout the project's design phase, community engagement programs will be conducted to gather feedback and ideas from residents, bus riders, and local businesses.

B. Fee Estimate Range

Proposers should review the scope of work and provide their best pricing and hours that they determine to be required to accomplish this project. Cost proposals must be submitted at the time of proposal submittal.

C. Payment

The selected consultant will be paid by the fixed fee method, with itemized monthly

invoices based on deliverables or portions of work completed. ICTC will retain 10% from each invoice to be settled annually.

V. SCOPE OF REQUIRED SERVICES

The selected firm shall be responsible for completing the assessment of all existing bus stops, identifying recommended improvements at each bus stop selected with cost estimates and the design of recommended improvements based on the provided budget. Design shall include preparation of plans, specifications and construction contract documents, and estimates for the bus stops selected for improvement. All work shall be performed under the direction of a licensed engineer registered with the State of California. No subcontractors shall be utilized without prior authorization by ICTC.

The scope of work includes:

1. Project management, meetings
2. Utility company notifications, investigation and confirmation (if any)
3. Records (right of way) search
4. Field review (identifying existing conditions of each bus stop)
5. Completing and filing encroachment permits as needed
6. Topographic survey as needed
7. Cost estimates
8. Preparation of contract documents, construction plans and specifications (including recommended improvements which may include but at not limited to sidewalk, bus pad installations, signage, lightning, ADA compliance, etc.)

Project management and meetings: Consultant shall prepare plans in conformance with ICTC standards, policies, and procedures. Consultant shall be responsible for maintaining continuous communication with the Project Manager and ensure project delivery on schedule and within budget. Consultant shall be required to attend a kick-off meeting with staff to review project in detail, and determine requirements and procedures for sign, ongoing review, and coordination. Consultant shall also participate in coordination meetings with ICTC and agency where bus stop is located to discuss amenities and shelter type.

Records Research: The consultant will obtain available as-built drawings, survey data, and utility contract information from the cities. Field verification of existing conditions are the responsibility of the consultant.

Topographic Survey: Topographic survey may be necessary where sidewalk or curb and gutter needs to be reconstructed to meet ADA compliance.

Cost estimates: Consultant shall prepare quantity calculations and a detailed engineer's estimate in spreadsheet format. Estimates shall include the calculated cost by location and recommended improvements. Consultant shall utilize current cost data to develop construction cost estimates.

Contract documents, Construction Plans and Specifications: Consultant shall prepare the contract documents, specifications and require special provisions applicable to the project and project location, utilizing ICTC and agency standards, the American Public Works Association Standard Special Provisions and the Caltrans Standard Specifications and Plans and/or American Public Works Association ("APWA"). The consultant will submit plans and specifications at levels of 65-90-100% completion. ICTC will provide comments and recommendations. It is anticipated that all infrastructure improvements will be completed in city right of way and no property acquisition will be required.

VI. LOCATION

ICTC in collaboration with some Imperial County cities, has developed a list of proposed bus stop locations that will be included in the improvement process. The list is the following:

City of El Centro

- El Centro Public Library (Frontage Road)
- E Danenberg Dr. and IV Mall .(near Starbucks)
- E Danenberg Dr. and Plaza Dr. (near Spectrum)
- Ross Ave. and 10th St. (both sides near Bucklin Park)
- Aurora Ave. (near Bucklin Park)

City of Calipatria

- Main St. and Lake Ave.
- Main St. and Park Ave.
- S. Commercial Ave. and Bonita Pl.
- N. Brown Ave. and E. Alexandria St.

City of Westmorland

- Main St. and Center St.

VII. RESPONSIBILITIES OF ICTC

1. This RFP is being conducted in accordance with "One Step RFP" as per Chapter 10, "Consultant Selection", of the Caltrans Local Assistance Procedures Manual.

2. ICTC will direct the development of the project, provide management oversight, and conduct administrative arrangements only.
3. ICTC will pay an agreed upon amount normally within 30 days after receipt of an invoice.
4. ICTC will not provide dedicated workspace facilities, but upon request will provide a conference room for meetings.
5. ICTC reserves the right to perform any portion of the scope of work by ICTC personnel or other consultants should ICTC determine it would be in the best interest of ICTC to do so.

VII. COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

No Government Obligation to Third Parties

The federal government shall not be subject to any obligations or liabilities to any third-party Vendor, or any other person in a party to the Grant Agreement or Cooperative Agreement in connection with the performance of this contract. Notwithstanding any concurrence provided by the federal government in or approval of any solicitation, sub agreement, or third-party contract, the federal government continues to have no obligations or liabilities to any party, including the third-party Vendors.

False or Fraudulent Statements or Claims

The Vendor recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. Section 3801, et seq., and U.S. Department of Transportation (DOT) regulations, "Program Fraud Civil Remedies," 49 C.F.R., Part 31, apply to its actions pertaining to this contract. Accordingly, by signing the contract, the Vendor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the contract. In addition to other penalties that may be applicable, the Vendor also acknowledges that if it makes 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 amended, on the Vendor to the extent the federal government deems appropriate. The Vendor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government in connection with an urbanized area formula project finances with federal assistance authorized by 49 U.S.C. , Section 5307, the government reserves the right to impose on the Vendor the penalties of 18 U.S.C., Section 1001 and 49 U.S.C.,

ACCESS TO RECORDS AND REPORTS

Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Vendor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United

States or any of their authorized representatives access to any books, documents, papers and records of the Vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Vendor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representative including any Project Management Oversight Vendor, access to Vendor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance.

Federal Changes

The Vendor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Vendor's failure to so comply shall constitute a material breach of this contract.

Civil Rights

In accordance with Title VI of the Civil Rights Act, the Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Vendor agrees to comply with applicable Federal implementing regulations and other implementing requirement FTA may issue.

The following equal employment opportunity requirements apply to the underlying contract: In accordance with Title VII of the Civil Rights Act, the Vendor agrees to comply with all applicable equal employment opportunity requirements of the U.S. Department of Labor 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 Vendor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, 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 Vendor agrees to comply with any implementing requirements FTA may issue. In accordance with section 102 of the Americans with Disabilities act, the Vendor 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.

Incorporation of Federal Transit Administration Terms

The preceding provisions include, in part, certain Standard Terms and conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would be in violation of the FTA terms and conditions.

Prohibition on Certain Telecom and Video Surveillance Services or Equipment

The Vendor certifies through the signing of this contract that it does not and will not use any equipment, system, or service that uses “covered telecommunications equipment or services” as a substantial or essential component of any system or as critical technology as part of any system. The Vendor will include this certification as a flow down clause in any contract related to this Contract.

Energy Conservation

The Vendor 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 Federal Energy Policy and Conservation Act.

DBE Prompt Payment/Return of Retainage

The Vendor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Vendor’s receipt of payment for that work. In addition, the Vendor is required to return any retainage payments to its subcontractors within 30 days after the subcontractor’s work related to this contract is satisfactorily completed.

VIII. PROPOSAL REQUIREMENTS

A. GENERAL

1. The proposal should be concise, well organized and demonstrate the proposer’s qualifications and experience applicable to the project. The proposal shall be limited to 100 pages, inclusive of resumes, graphics, forms, pictures, artwork, photographs, cover letter, etc., but not of letters of commitment from subcontractors. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing

and processing and should result in no more than five hundred (500) words per page.

2. The written proposal must include a discussion of the proposer's approach to the project, a breakdown and explanation of project tasks, a proposed project schedule, an estimate of costs and documentation of the firm and consultant's qualifications for the scope of work. The cost estimate should be submitted in a separate sealed envelope.
3. If any subcontractors are utilized, the lead Consultant must submit a description of the firm, the portion of work to be done, and cost of each subcontractor.
4. Provide information about the Consultant's use of Disadvantaged Business Enterprises (DBEs). Consultant must give consideration to DBE firms as specified in 23 CFR 177.5(b), 49 CFR Part 26, and in Exhibit 10-1, Notice to Bidders/Proposer Disadvantaged Business Enterprise information, elsewhere in this RFP. The provisions of 49 CFR, Part 26 require that a local agency receiving federal-aid funds comply with the Disadvantage Business Enterprise (DBE) program, and that DBE firms have the opportunity to participate in the projects (see Chapter 9, "Civil Rights and Disadvantaged Business Enterprises", of the LAPM including any updates). Such steps include the considering of DBE firms by the proposing consultants. When feasible, organize the project schedule and task requirements to encourage participation in the contract by DBE firms. Local agencies should be fully aware of all of the subcontracting opportunities in their consultant contracts.
5. The proposer will be evaluated based upon the information submitted in accordance with the evaluation criteria in **Section XI**, and compliance with all requirements of this RFP.

B. CONTENTS

Include a table of contents with identification of each section and page number.

Summary of Qualifications and Experience

1. State whether the firm is local, regional, national, or international.
2. Identify the owner(s) of the firm and legal status (sole proprietor, corporation, etc.)
3. Give the location of the office from which work is anticipated to be done and the number of employees of the company.

4. Identify the qualifications and resumes of all individuals who will be associated with this service. Include professional registration and affiliations.
5. Summarize specific experiences and qualifications for similar and related projects, both federally funded and locally funded. Describe the services previously performed such as studies, reports, etc. List at least three (3) referenced with telephone numbers and email contact addresses (if available).

Analysis of Effort/Methodology

1. Describe the approach to how the work will be performed. The proposal shall indicate any specific techniques or methodology to be utilized.
2. The proposal shall include a sample project timeline with specific tasks envisioned for this project, including staffing.
3. Indicate what participation, data and products will be requested from ICTC.
4. Indicate deliverables to be provided and when.

Cost and Fees

One firm will be selected for this project. Cost proposal must be submitted at the time of proposal submittal. The cost proposal and exhibit 10-H for this project must be sealed in a self-addressed stamped envelope. Please note that the selected firm will need to submit invoices that are itemized and broken down by project number. The cost proposal envelope must identify the proposing firm and the project. A separate cost proposal/exhibit 10H Example 1 shall be submitted for this project. The cost proposals shall consider the following:

1. Develop costs and fees for the services requested. Submit a not to exceed fee proposal based on anticipated fully burdened hourly rates.
2. When preparing cost and fees, consider the scope of work involving project kick off and review of available documentation, material submittals, project documentation and prepare a lump sum fixed fee breakdown based on anticipated staff and hours. Costs should be organized for full time hourly rates. Such hourly rates should be fully burdened or loaded, including full compensation for all overhead and profit. Billing rates shall include provision for normal office costs, including but not limited to office rental, utilities, insurance, cell phone, equipment, normal supplies and materials, in-house reproduction services, and local travel costs.

3. Breakdown shall include pre-construction services. No subcontractors shall be utilized without prior authorization by ICTC and modification to submitted DBE subcontractors' list or goal is discouraged and may lead to project funding issues.
4. Firm may submit their own format of the cost proposal, however, Exhibit 10-H Example 1 LAPM must be submitted as part of the proposal. Executable copies of Exhibit 10-H Example 1 and all other updated LAPM forms can be found here:
<https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

Cost and Fees

Prior to execution of the agreement with ICTC, the successful firm must provide evidence of insurance coverage as noted in the sample contract and insurance requirement exhibit. The successful firm will be required to maintain the required coverages, at its sole cost and expense, throughout the entire term and any subsequent modification terms of the contract.

Insurance requirements noted in sample contract and insurance exhibit are based on projected ICTC estimates. Insurance requirements may be adjusted once the final cost and fees proposal is reviewed.

IX. SUBMITTAL REQUIREMENTS

- A. Proposals shall be submitted in two (2) sealed packages. Each package shall be clearly marked and indicating which services the responses pertain to. The proposal shall be held in confidence until the award of the contract. At that time, it becomes a matter of public record. The individual price proposal sheet shall be retained as proprietary and confidential, if so, marked as "confidential."
 1. Provider shall submit package No. 1 with one (1) original, four (4) copies and one (1) PDF copy on a thumb drive, each marked "***Bus Stop Improvement Project Design Services***" The package shall bear the Provider's name and address.
 2. Provider shall submit package No. 2 with one (1) original and four (4) copies in a sealed envelope marked "***Bus Stop Improvement Design Services Cost/Price Proposal***." The envelope shall bear the Provider's name and address.
- B. The proposal transmittal letter and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.

- C. The proposal must be addressed to and received no later than 4 P.M., local time, on February 9, 2024 at the office of:

David Aguirre, Executive Director
Imperial County Transportation Commission
1503 N. Imperial Suite 104
El Centro, CA. 92243

Postmarks will not be accepted in lieu of this requirement.

- D. Proposals are to be submitted in sealed packages with the following information clearly marked on the outside of each package.
1. Name of proposer
 2. Project title
 3. Package Number (e.g., 1 of 2)
- E. Failure to comply with requirements of the RFP may result in disqualification. ICTC is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. ICTC reserves the right to disqualify a proposed detailed cost estimate with mathematical or clerical errors, inconsistencies or missing information which prevent ICTC from fully evaluating the proposal. ICTC may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of ICTC.
- F. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.

X. PRE-SUBMITTAL ACTIVITIES

A. Questions Concerning Request for Proposals

A non-mandatory pre-bid meeting is scheduled for 9:00AM on January 25, 2024..

All questions relating to the RFP will be addressed as an addendum to the RFP, which will be posted on the www.imperialctc.org website. Questions must be received from prospective bidders in writing via mail, facsimile, E-mail or hand delivery no later than 3 P.M. local time, on January 5, 2024 addressed to:

David Aguirre, Executive Director
Imperial County Transportation Commission
1503 N. Imperial Ave. Suite 104
El Centro, CA 92243
760-592-4494
E-mail: davidaguirre@imperialctc.org

B. Revision/Addendum/Cancellation to the Request for Proposals

ICTC reserves the right to revise or cancel the RFP or issue addendum prior to the date that proposals are due. Revisions, cancellations or addendums to the RFP shall be posted on the ICTC website at www.imperialctc.org least one full business day prior to the deadline for proposals. It is the responsibility of the proposer to contact the ICTC project coordinator and check the Web site for any revisions related to this RFP.

XI. CONSULTANT EVALUATION AND SELECTION PROCESS

- A. ICTC will establish an Evaluation Committee (“Committee”) for this project that may include representatives from ICTC and its member agencies with experience and expertise in the related discipline(s).
- B. Based upon the proposals deemed “responsive”, the Committee may select a short-list of qualified firms for this project. The short-listed firms will be invited for oral interviews. The consultant’s project lead or manager will then be expected to make a presentation to the Committee that summarizes the creative and bilingual public outreach and associated approach recommended for this project.
- C. ICTC reserves the right to make final consultant selection based solely upon evaluation of the written proposals, without short-listing firms or conducting oral interviews, should it find it to be in its best interest to do so. The Committee may interview the short-listed firms. Based upon the written proposal, interview, and reference scores, and other appropriate evaluation factors, the Committee will rank the qualified finalists.
- D. The Committee will recommend the top-ranked proposer to ICTC’s Executive Director who will request Commission authority to award a contract. The Commission has final authority for selection. The proposer selected will be sent a Notice of Award/Notice to Proceed.

XII. EVALUATION CRITERIA

Sample evaluation criteria for proposals are attached for your information as Exhibit A.

ICTC will utilize a one-step selection process. ICTC reserves the right to include an oral interview process component. If an oral interview is considered, selected firms will be notified.

Proposals will be reviewed by an evaluation committee. The evaluation committee's assessment and recommendations shall be forwarded to the Executive Director for review. The Director shall provide a report of the committee's evaluation and recommendations, along with his recommendation, for the selection of a firm to the ICTC Board for final review and approval to enter into negotiations for an agreement. All firms submitting a proposal will be notified of final rankings.

Please take note that ICTC reserves the right to select any consultant who is determined qualified and may not correlate to a number 1, number 2 or even number 3 ranked consultant. Additionally, ICTC reserves the right to reject any and all proposals submitted and/or requested additional information for clarification.

Consultants are to submit (1) original, three (3) copies, and one (1) electronic copy in Portable Document Format (PDF) on a USB Thumb Drive of the proposal to the appropriate submission place on the specified date and time. Proposals must be clearly titled:

**Imperial County Transportation Commission
Proposals for Design Services
Bus Stop Improvement Project**

Proposals are to be delivered in a sealed envelope, no later than 4:00 PM on February 9, 2024 addressed as follows:

David Aguirre
Executive Director
Imperial County Transportation Commission
1503 N. Imperial Ave. Suite 104
El Centro, CA 92243

XII. SPECIAL CONDITIONS

A. Reservations

This RFP does not commit ICTC to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for

work. ICTC may reject bids without providing the reason(s) underlying the declination. A failure to award a contract to the lowest bidder will not result in a cause of action against ICTC.

B. Public Records

All proposals submitted in response to this RFP become the property of ICTC and public records and, as such, may be subject to public review.

C. Right to Cancel

ICTC reserves the right to cancel or revise, for any reason, in part or in its entirety, this RFP. If ICTC cancels the RFP prior to the deadline for proposals or revises the RFP, notification will be placed on ICTC's Web site. www.imperialctc.org

D. Additional Information

ICTC reserves the right to request additional information and/or clarification from any or all proposers to this RFP but is under no obligation to do so.

E. Conflict of Interest

ICTC has established a policy concerning potential conflict of interest in program management, design and construction. This policy applies to all proposers and their proposed consultants/subconsultants. See Standard Sample Agreement for Services in the Attachments for any additional information and any required certifications by consultants and their subconsultants.

F. Public Information

Consultants who wish to release information to the public regarding consultant selection, contract award or data provided by ICTC must receive prior written approval from ICTC before disclosing such information to the public.

G. Data Collection

Upon completion of this project, the accumulated documentation becomes the property of the ICTC. The selected consultant will turn over all data, documents, reports, graphs, maps, etc. to ICTC staff.

H. Contract for Services

The selected consultants will be required to sign a customized version of the attached "Standard Sample Agreement for Services" in the Attachments and to

provide the insurance certificates and all other required documentation within fifteen (15) calendar days of issuance of the Notice of Intent to Award.

XIV. PROTESTS

ICTC will consider all protests regarding the contracting process or the award of a contract submitted by 4:00 P.M. on the deadlines discussed below. ICTC will only review protests submitted by an actual or prospective proposer or someone else whose direct economic interest would be affected by the award of a contract or by failure to award a contract. A protest by any adversely affected person must be made in writing and must be mailed or hand delivered to ICTC. A protest which does not strictly comply with ICTC's protest procedures will be rejected.

Protests relating to the content of the RFP package must be filed within ten (10) business days after the date the RFP is made available to the public by ICTC. Protests relating to the intent to make an award solicited by an RFP must be filed within ten (10) business days of the decision to award. The date of filing shall be the date of receipt of protests by ICTC. Untimely protests will be rejected.

If deemed necessary, ICTC shall notify all proposers of record that a protest has been filed and that the award has been postponed until further notice. If necessary, proposers will be asked to extend the time for acceptance of their proposal in order to avoid the need for re-advertisement of the solicitation.

A. Protest Contents

A letter of protest must set forth detailed grounds for the protest and be fully supported with technical data, documentary evidence, names of witnesses and other pertinent information related to the subject being protested. The protest must also state the law, rule, regulation or practice on which the protest is based. The protestor must demonstrate or establish a clear violation of a specific law or regulation.

If the protestor considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest document, and alleged proprietary information shall be so identified wherever it appears.

Protests shall be addressed to:

David Aguirre, Executive Director
Imperial County Transportation Commission
1503 N. Imperial Ave. Suite 104

El Centro, CA 92243

B. Reply to Protest

An ICTC Protest Committee appointed by the Executive Director will review all protests in a timely manner and reply to the protest, in writing, within ten (10) business days. All material submitted by the protestor will be considered. Such material will not be withheld from any interested party outside of ICTC or any agency which may be involved with the contract except to the extent that the withholding of information is permitted or required by law or regulation.

C. Request for Protest Reconsideration

Upon receipt of an adverse decision by the Executive Director of the ICTC, the protestor may file a request for protest reconsideration. A request for protest reconsideration must be directed to the Executive Director in writing and received within ten (10) full business days from the postmark date of the reply from ICTC.

The Executive Director will respond to the request for protest reconsideration within ten (10) full business days and schedule a review with the Commission. The decision of the Commission will be final. No further protests will be heard by ICTC.

D. State Appeal Process

Under certain limited circumstances, and after the protester has exhausted all administrative protest remedies made available at the local level, an interested party may protest to the California Department of Transportation (Department).

Department review of any protest will be limited to:

1. Local agency's failure to have or follow its own protest procedures or its failure to review a complaint or protest.
2. Violations of the Federal or State law or regulations.

The protest filed with Department shall include:

1. The name and address of the protester.
2. Clear identification of the local agency responsible for the RFP process.
3. A statement of the grounds for protest and any supporting documentation (the grounds for protest filed with Department must be fully supported to the extent feasible. Additional materials in

- support of an initial protest will only be considered if authorized by the FTA regulations).
4. A copy of the protest filed with the local agency, and a copy of local agency's decision, if any.
 5. Indication of the desired ruling or relief from Department.

Such support should be sent to:

The California Department of Transportation
Division of Rail and Mass Transportation
P.O. Box 942874 - MS 39
Sacramento, CA 94274-0001”

Attachments:

- A. Proposal Evaluation Form
- B. Sample Consultant Agreement
- C. Federal Clauses (Exhibit E on Sample Agreement)
- D. Exhibit 9-B: Local Agency DBE Annual Submittal Form
- E. Exhibit 10-I: Notice to Proposers Disadvantage Business Enterprise Information
- F. Exhibit 15-H: DBE Information- Good Faith Efforts
- G. Exhibit 10-H: Cost Proposal (submitted in separate sealed envelope)
- H. Exhibit 10-O1: Consultant Proposal DBE Commitment
- I. Exhibit 10-02: Local Agency Proposer DBE Information
- J. Exhibit 10-Q: Disclosure of Lobbying Activities
- K. Exhibit 17-F: Final Report- Utilization of DBE's
- L. Exhibit 17-O: DBE Certification Status Change

Attachment A

Proposal Evaluation Form

PROPOSAL EVALUATION FORM



Recommendation and Architectural/Design Engineering
Bus Stop Improvement Project

DATE: _____

EVALUATOR: _____

RESPONDENT: _____

RATING POINTS:

5 = excellent
4 = good
3 = above average
2 = average
1 = below average
0 = unsatisfactory

CRITERIA	WEIGHT FACTOR	X	RATING	=	WEIGHTED RATING
A. Technical Approach	0.35				
• Responsiveness & understanding of work to be done, (i.e. scope of work)	(0.20)		_____		_____
• Specific experience with similar design services	(0.15)		_____		_____
B. Project Management	0.30				
• Capacity to perform the scope of work and the ability to conclude in a timely manner	(0.20)		_____		_____
• Quality of staff based on recent experience	(0.10)		_____		_____
C. References	(0.05)		_____		_____
D. Familiarity and/or specific experience with local, state and federal project procedures using LAPM for local agency advertised projects.	(0.25)		_____		_____
E. Overall quality of proposal, including qualifications and thoroughness.	(0.05)		_____		_____
			Subtotal Score		_____
F. Previous Experience and Performance working with ICTC					_____
					(0 to -5)
			Total Score		_____

Note: Positive previous experience and no previous experience will constitute a score of zero (0). Negative experience points will be deducted from the overall score.

Comments:

Attachment B

Draft Contract Agreement

1 **AGREEMENT FOR SERVICES**

2
3 THIS AGREEMENT FOR SERVICES (“Agreement”), made and entered into this ____ day of
4 ____July_____, 2024, is by and between the **IMPERIAL COUNTY TRANSPORTATION**
5 **COMMISSION** (“ICTC”) and _____ (“CONSULTANT”) (individually, “Party;”
6 collectively, “Parties”).

7 **W I T N E S S E T H**

8 **WHEREAS**, ICTC desires to retain a qualified individual, firm or business entity to provide
9 professional services for _____ (“the Project”); and

10 **WHEREAS**, ICTC desires to engage CONSULTANT to provide services by reason of its
11 qualifications and experience for performing such services, and CONSULTANT has offered to provide the
12 required services for the Project on the terms and in the manner set forth herein.

13 **NOW, THEREFORE**, ICTC and CONSULTANT have and hereby agree to the following:

14 1. **DEFINITIONS.**

15 1.1. “RFP” shall mean ICTC’s request for proposals entitled “Imperial County Transportation
16 Commission (ICTC) Request for Proposals _____” dated _____. The RFP is attached as
17 **Exhibit “A”** and incorporated herein by this reference.

18 1.2 “Proposal” shall mean CONSULTANT’s proposal entitled _____. The
19 Proposal is attached as **Exhibit “B”** and incorporated herein by this reference.

20 2. **CONTRACT COORDINATION.**

21 CONSULTANT shall assign a single Contract Manager to have overall responsibility for the
22 progress and execution of this Agreement. _____ is hereby designated as the Contract
23 Manager for CONSULTANT. Should circumstances or conditions subsequent to the execution of this
24 Agreement require a substitute Contract Manager for any reason, the Contract Manager’s designee shall be
25 subject to the prior written acceptance and approval of ICTC.

26 3. **DESCRIPTION OF WORK.**

1 3.1. CONSULTANT shall provide all materials and labor to perform this Agreement consistent
2 with the RFP and Proposal. In the event of a conflict among this Agreement, the RFP, and the Proposal, the
3 RFP shall take precedence over the Proposal and this Agreement shall take precedence over both.

4 3.2. CONSULTANT shall perform additional or extra work if required, utilizing the per hour
5 rate set forth in Exhibit "C".

6 4. WORK TO BE PERFORMED BY CONSULTANT.

7 4.1. CONSULTANT shall comply with all terms, conditions and requirements of the Proposal
8 and this Agreement.

9 4.2. CONSULTANT shall perform such other tasks as necessary and proper for the full
10 performance of the obligations assumed by CONSULTANT hereunder.

11 4.3. CONSULTANT shall:

12 4.3.1. Procure all permits and licenses, pay all charges and fees, and give all notices that
13 may be necessary and incidental to the due and lawful prosecution of the services to be performed
14 by CONSULTANT pursuant to this Agreement;

15 4.3.2. Use the standard of care usual to CONSULTANT's profession to keep itself fully
16 informed of all applicable existing and proposed federal, state and local laws, ordinances,
17 regulations, orders and decrees which may affect those engaged or employed under this Agreement,
18 any materials used in CONSULTANT's performance under this Agreement or the conduct of the
19 services under this Agreement;

20 4.3.3. At all times observe and comply with, and cause all of its employees to observe and
21 comply with all of said laws, ordinances, regulations, orders and decrees mentioned above; and

22 4.3.4. Immediately report to ICTC in writing any discrepancy or inconsistency it discovers
23 in said laws, ordinances, regulations, orders and decrees mentioned above in relation to any plans,
24 drawings, specifications or provisions of this Agreement.

25 4.4. Any videotape, reports, information, data or other material given to, or prepared or
26 assembled by, CONSULTANT pursuant to this Agreement shall be the property of ICTC and shall not be
27 made available to any individual or organization by CONSULTANT without the prior written approval of
28 ICTC. The preceding restriction shall not apply to information which is in the public domain, was

1 previously known to CONSULTANT, was acquired by CONSULTANT from others who have no
2 confidential relationship to ICTC with respect to same, or which through no fault of CONSULTANT
3 comes into the public domain. CONSULTANT shall not be restricted from releasing information,
4 including confidential information, in response to a subpoena, court order, or other legal process.
5 CONSULTANT shall not be required to resist such subpoena, court order, or legal process, but shall
6 promptly notify ICTC in writing of the demand for information before responding to such demand.

7 **5. REPRESENTATIONS BY CONSULTANT.**

8 5.1. CONSULTANT understands and agrees that ICTC has limited knowledge in the multiple
9 areas specified in the Proposal. CONSULTANT has represented itself to have experience in these fields
10 and understands that ICTC is relying upon such representation.

11 5.2. Subject to 5.2.1, CONSULTANT represents and warrants that it is a lawful entity
12 possessing all required licenses and authorities to do business in the State of California and perform all
13 aspects of this Agreement.

14 5.2.1. CONSULTANT shall not commence any work pursuant to this Agreement or
15 provide any other services, or materials, in connection therewith until CONSULTANT has received
16 written authorization from ICTC to do so.

17 5.3. CONSULTANT represents and warrants that the people executing this Agreement on behalf
18 of CONSULTANT have the authority of CONSULTANT to sign this Agreement and bind
19 CONSULTANT to the performance of all duties and obligations assumed by CONSULTANT herein.

20 5.4. CONSULTANT represents and warrants that any employee, contractor and/or agent who
21 will be performing any of the duties and obligations of CONSULTANT herein possess all required licenses
22 and authorities, as well as the experience and training, to perform such tasks.

23 5.5. CONSULTANT represents and warrants that the allegations contained in the Proposal are
24 true and correct.

25 5.6. CONSULTANT understands that ICTC considers the representations made herein to be
26 material and would not enter into this Agreement with CONSULTANT if such representations were not
27 made.

28 **6. COMPENSATION.**

1 The total compensation payable under this Agreement shall not exceed _____dollars - unless
2 otherwise previously agreed to by ICTC.

3 7. PAYMENT.

4 CONSULTANT will bill ICTC on a not to exceed time and material basis upon completion of the
5 project or as set forth in the cost schedule attached hereto as **Exhibit "C"**. ICTC shall pay CONSULTANT
6 for completed and approved services upon presentation of its itemized billing. Notwithstanding the
7 foregoing, ICTC may retain 5% of the total compensation until the work to be performed has been
8 completed in accordance with this Agreement, as determined by ICTC, and payment in full of all
9 subcontractors of CONSULTANT.

10 8. METHOD OF PAYMENT.

11 8.1 CONSULTANT shall at any time prior to the 15th day of any month, submit to ICTC a
12 written claim for compensation for services performed. The claim shall be in a format approved by ICTC.
13 CONSULTANT may expect to receive payment within a reasonable time thereafter and in any event in the
14 normal course of business within thirty (30) days after the claim is submitted.

15 9. TERM AND TIME FOR COMPLETION OF THE WORK.

16 9.1. This Agreement shall commence on the date first written above and shall remain in effect
17 through completion of the Project unless otherwise terminated as provided herein.

18 9.2. Program scheduling shall be as described in Exhibit "A" unless revisions to Exhibit "A" are
19 approved by both ICTC and CONSULTANT's Contract Manager. Time extensions may be allowed for
20 delays caused by ICTC, other governmental agencies, or factors not directly brought about by the
21 negligence or lack of due care on the part of CONSULTANT.

22 10. SUSPENSION OF AGREEMENT.

23 ICTC shall have the authority to suspend this Agreement, wholly or in part, for such period as
24 deemed necessary due to unfavorable conditions or to the failure on the part of CONSULTANT to perform
25 any provision of this Agreement. CONSULTANT will be paid the compensation due and payable to the
26 date of suspension.

27 11. SUSPENSION AND/OR TERMINATION.

28 11.1. ICTC retains the right to terminate this Agreement for any reason by notifying

CONSULTANT in writing seven (7) days prior to termination and by paying the compensation due and payable to the date of termination; provided, however, if this Agreement is terminated for fault of CONSULTANT, ICTC shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which have been performed in accordance with the terms and conditions of this Agreement. Said compensation is to be arrived at by mutual agreement between ICTC and CONSULTANT; should the Parties fail to agree on said compensation, an independent arbitrator shall be appointed and the decision of the arbitrator shall be binding upon the Parties.

11.2. Upon such termination, CONSULTANT shall immediately turn over to ICTC any and all copies of videotapes, studies, sketches, drawings, computations and other data, whether or not completed, prepared by CONSULTANT in connection with this Agreement. Such materials shall become the permanent property of ICTC.

12. INSPECTION.

CONSULTANT shall furnish ICTC with every reasonable opportunity for ICTC to ascertain that the services of CONSULTANT are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to ICTC's inspection and approval. The inspection of such work shall not relieve CONSULTANT of any of its obligations to fulfill its Agreement as prescribed.

13. OWNERSHIP OF MATERIALS.

All original drawings, videotapes and other materials prepared by or in possession of CONSULTANT pursuant to this Agreement shall become the permanent property of ICTC and shall be delivered to ICTC upon demand.

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14. INTEREST OF CONSULTANT.

14.1. CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder.

1 14.2. CONSULTANT covenants that, in the performance of this Agreement, no sub-contractor or
2 person having such an interest shall be employed.

3 14.3. CONSULTANT certifies that no one who has or will have any financial interest pursuant to
4 this Agreement is an officer or employee of ICTC.

5 15. INDEMNIFICATION.

6 A. Indemnity for Professional Services. To the furthest extent allowed by law, Consultant
7 shall indemnify, hold harmless and defend ICTC and its members, board members, officers, officials,
8 and employees, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether
9 in contract, tort or strict liability, including but not limited to personal injury, death at any time and
10 property damage), and from any and all claims, demands and actions in law or equity (including
11 reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence,
12 recklessness or willful misconduct of Consultant, its principals, officers, and employees, in the
13 performance of professional services under this Agreement.

14 B. Other Indemnities. Other than in the performance of professional services, and to the
15 fullest extent allowed by law, Consultant shall indemnify, hold harmless and defend ICTC and its
16 members, board members, officers, officials, and employees, from any and all loss, liability, fines,
17 penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not
18 limited to personal injury, death at any time and property damage), and from any and all claims,
19 demands and actions in law or equity (including reasonable attorney's fees and litigation expenses)
20 arising or alleged to have arisen directly or indirectly out of performance of this Agreement.
21 Consultant's obligations under the preceding sentence shall apply regardless of whether ICTC or any of
22 its members, board members, officers, officials, employees, agents or volunteers are negligent, but shall
23 not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active
24 negligence, or caused by the willful misconduct, of ICTC, or any of its members, board members,
25 officers, officials, employees, agents or volunteers.

26 C. If Consultant should subcontract all or any portion of the services to be performed under
27 this Agreement, Consultant shall require each subcontractor to indemnify, hold harmless and defend
28

1 ICTC and its members, board members, officers, officials, employees, agents and volunteers in
2 accordance with the terms of the preceding paragraphs.

3 D. This section shall survive termination or expiration of this Agreement.

4 16. INDEPENDENT CONTRACTOR.

5 In all situations and circumstances arising out of the terms and conditions of this Agreement,
6 CONSULTANT is an independent contractor, and as an independent contractor, the following shall
7 apply:

8 16.1. CONSULTANT is not an employee or agent of ICTC and is only responsible for the
9 requirements and results specified by this Agreement or any other agreement.

10 16.2. CONSULTANT shall be responsible to ICTC only for the requirements and results
11 specified by this Agreement and except as specifically provided in this Agreement, shall not be subject
12 to ICTC's control with respect to the physical actions or activities of CONSULTANT in fulfillment of
13 the requirements of this Agreement.

14 16.3. CONSULTANT is not, and shall not be, entitled to receive from, or through, ICTC, and
15 ICTC shall not provide, or be obligated to provide, CONSULTANT with Worker's Compensation
16 coverage or any other type of employment or worker insurance or benefit coverage required or provided
17 by any Federal, State or local law or regulation for, or normally afforded to, an employee of ICTC.

18 16.4. CONSULTANT shall not be entitled to have ICTC withhold or pay, and ICTC shall not
19 withhold or pay, on behalf of CONSULTANT, any tax or money relating to the Social Security Old Age
20 Pension Program, Social Security Disability Program, or any other type of pension, annuity, or disability
21 program required or provided by any Federal, State or local law or regulation.

22 16.5. CONSULTANT shall not be entitled to participate in, or receive any benefit from, or
23 make any claim against any ICTC fringe program, including, but not limited to, ICTC's pension plan,
24 medical and health care plan, dental plan, life insurance plan, or any other type of benefit program, plan,
25 or coverage designated for, provided to, or offered to ICTC's employee.

26 16.6. ICTC shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or local
27 tax, including, but not limited to, any personal income tax, owed by CONSULTANT.

1 16.7. CONSULTANT is, and at all times during the term of this Agreement, shall represent
2 and conduct itself as an independent contractor, not as an employee of ICTC.

3 16.8. CONSULTANT shall not have the authority, express or implied, to act on behalf of, bind
4 or obligate ICTC in any way without the written consent of ICTC.

5 17. INSURANCE.

6 Throughout the life of this Agreement, Consultant shall pay for and maintain in full force and
7 effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by
8 the California Insurance Commissioner to do business in the State of California and rated not less than
9 "A- VII" in Best's Insurance Rating Guide, or (ii) as may be authorized in writing by ICTC's Executive
10 Director or his/her designee at any time and in his/her sole discretion. The following policies of
11 insurance are required:

12 (i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the
13 most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form
14 CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising
15 injury" with coverage for premises and operations (including the use of owned and non-owned
16 equipment), products and completed operations, and contractual liability (including, without limitation,
17 indemnity obligations under the Agreement) with limits of liability of not less than the following:

18 \$1,000,000 per occurrence for bodily injury and property damage

19 \$1,000,000 per occurrence for personal and advertising injury

20 \$2,000,000 aggregate for products and completed operations

21 \$2,000,000 general aggregate

22 (ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as
23 the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01,
24 and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code
25 1 - Any Auto) with limits of liability of not less than \$1,000,000 per accident for bodily injury and
26 property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.
(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

(v) PROFESSIONAL LIABILITY (Errors and Omissions) insurance appropriate to Consultant's profession, with limits of liability of \$2,000,000 per claim/occurrence and \$2,000,000 policy aggregate.

In the event Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Consultant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Consultant shall also be responsible for payment of any self-insured retentions. At no time shall ICTC be responsible for the payment of any deductibles or self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to ICTC. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Consultant shall furnish ICTC with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for ICTC, Consultant shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing operations and completed operations) and Automobile Liability insurance policies shall name ICTC, its members, board members, officers, officials, employees and agents as an additional insured. All such policies of insurance, excluding Professional Liability and Workers Compensation, shall be endorsed so Consultant's insurance shall be primary and no contribution shall be required of ICTC, its members, board members, officers, officials, employees, agents or volunteers. The coverage(s) shall contain no special limitations on the scope of protection afforded to ICTC, its members, board members, officers, officials, employees and agents.

1 The Workers' Compensation insurance policy shall contain a waiver of subrogation as to ICTC, its
2 members, board members, officers, employees, agents and volunteers.

3 If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made
4 coverage form:

5 (i) The retroactive date must be shown, and must be before the effective date of this Agreement
6 or the commencement of work by Consultant.

7 (ii) Insurance must be maintained and evidence of insurance must be provided for at least 5
8 years after completion of the work or termination of the Agreement, whichever first occurs.

9 (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy
10 form with a retroactive date prior to the effective date of the Agreement, or work commencement date,
11 Consultant must purchase extended reporting period coverage for a minimum of 5 years after
12 completion of the work or termination of the Agreement, whichever first occurs.

13 (iv) A copy of the claims reporting requirements must be submitted to ICTC for review.

14 (v) These requirements shall survive expiration or termination of the Agreement.

15 Consultant shall furnish ICTC with all certificate(s) and applicable endorsements effecting
16 coverage required hereunder. **All certificates and applicable endorsements are to be received and**
17 **approved by ICTC's Executive Director or his/her designee in his/her sole discretion prior to**
18 **ICTC's execution of the AGREEMENT and before work commences.** Upon request by ICTC,
19 Consultant shall provide for review of redacted copies of insurance policies at Consultant's corporate
20 office. This requirement shall survive expiration or termination of this Agreement.

21 If at any time during the life of the Agreement or any extension, Consultant or any of its sub-
22 Consultants fail to maintain any required insurance in full force and effect, all work under this
23 Agreement shall be discontinued immediately, until notice is received by ICTC that the required
24 insurance has been restored to full force and effect and that the premiums therefore have been paid for a
25 period satisfactory to ICTC. Any failure to maintain the required insurance shall be sufficient cause for
26 ICTC to terminate this Agreement. No action taken by ICTC hereunder shall in any way relieve
27 Consultant of its responsibilities under this Agreement.
28

1 The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the
2 liability of Consultant, including, without limitation, liability under the indemnity provisions of this
3 Agreement. The duty to indemnify ICTC shall apply to all claims and liability regardless of whether any
4 insurance policies are applicable. The policy limits do not act as a limitation upon the policy limits do
5 not act as a limitation upon the amount of indemnification to be provided by Consultant. Approval or
6 purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the
7 liability of Consultant, its principals, officers, agents, employees, persons under the supervision of
8 Consultant, vendors, suppliers, invitees, sub-Consultants, or anyone employed directly or indirectly by
9 any of them.

10 If Consultant should subcontract all or any portion of the services to be performed under this
11 Agreement, Consultant shall require each sub-Consultant to provide insurance protection in favor of
12 ICTC, its members, board members, officers, officials, employees, agents and volunteers in accordance
13 with the terms of each of the preceding paragraphs, except that the sub-Consultant's certificates and
14 endorsements shall be on file with Consultant and ICTC prior to the commencement of any work by the
15 sub-Consultant.

16 18. ASSIGNMENT.

17 Neither this Agreement nor any duties or obligations hereunder shall be assignable by
18 CONSULTANT without the prior written consent of ICTC. CONSULTANT may employ other
19 specialists to perform services as required with prior approval by ICTC.

20 19. NON-DISCRIMINATION.

21 During the performance of this Agreement, CONSULTANT shall not unlawfully discriminate
22 against any employee or applicant for employment or employee of ICTC or member of the public
23 because of race, religion, color, national status, age, or sex. CONSULTANT shall ensure that the
24 evaluation and treatment of its employees and applicants for employment and employees and members
25 of the public are free of such discrimination. CONSULTANT shall comply with all provisions of the
26 Fair Employment and Housing Act (Government Code §12900, *et seq.*). The applicable regulations of
27 the Fair Employment Housing Commission implementing Government Code §12900 set forth in
28 Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this

Agreement by reference and made a part hereof as if set forth in full. CONSULTANT shall abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONSULTANT shall also abide by the American Disabilities Act and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONSULTANT shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargain or other agreement. CONSULTANT shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work pursuant to this Agreement.

20. NOTICES AND REPORTS.

20.1. All notices and reports pursuant to this Agreement shall be in writing and may be given by personal delivery or by mailing by certified mail, addressed as follows:

ICTC

CONSULTANT

Attn: Executive Director
Imperial County Transportation Commission
1503 N. Imperial Ave., Ste 104
El Centro, CA 92243

20.2. All notices and reports pursuant to this Agreement may be given by personal delivery or by mailing by certified mail at such other address as either Party may designate in a notice to the other Party given in such manner.

20.3. Any notice given by mail shall be considered given when deposited in the United States Mail, postage prepaid, addressed as provided herein.

21. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between ICTC and CONSULTANT relating to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements, understandings, provisions, negotiations, representations, or statements, either written or oral.

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22. MODIFICATION.

1 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid
2 unless the same is in writing and signed by both parties.

3 23. PARTIAL INVALIDITY.

4 If any provision in this Agreement is held by a court of competent jurisdiction to be invalid,
5 void, or unenforceable, the remaining provisions will nevertheless continue in full force without being
6 impaired or invalidated in any way.

7 24. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.

8 As used in this Agreement and whenever required by the context thereof, each number, both
9 singular and plural, shall include all numbers, and each gender shall include a gender. CONSULTANT
10 as used in this Agreement or in any other document referred to in or made a part of this Agreement shall
11 likewise include both singular and the plural, a corporation, a partnership, individual, firm or person
12 acting in any fiduciary capacity as executor, administrator, trustee or in any other representative capacity
13 or any other entity. All covenants herein contained on the part of CONSULTANT shall be joint and
14 several if more than one person, firm or entity executes the Agreement.

15 25. WAIVER.

16 No waiver of any breach or of any of the covenants or conditions of this Agreement shall be
17 construed to be a waiver of any other breach or to be a consent to any further or succeeding breach of
18 the same or any other covenant or condition.

19 26. CHOICE OF LAW.

20 This Agreement shall be governed by the laws of the State of California. This Agreement is
21 made and entered into in Imperial County, California. Any action brought by either Party with respect
22 to this Agreement shall be brought in a court of competent jurisdiction within said County.

23 27. ATTORNEY'S FEES.

24 If either Party herein brings an action to enforce the terms thereof or declare rights hereunder,
25 each Party in any such action, on trial or appeal, shall bear its own attorney's fees and costs.

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27 ///

28 28. AUTHORITY.

1 Each individual executing this Agreement on behalf of CONSULTANT represents and warrants
2 that:

3 28.1. He/She is duly authorized to execute and deliver this Agreement on behalf of
4 CONSULTANT;

5 28.2. Such execution and delivery is in accordance with the terms of the Articles of
6 Incorporation or Partnership, any by-laws or Resolutions of CONSULTANT and;

7 28.3. This Agreement is binding upon CONSULTANT accordance with its terms.

8 29. COUNTERPARTS.

9 This Agreement may be executed in counterparts.

10 30. REVIEW OF AGREEMENT TERMS.

11 This Agreement has been reviewed and revised by legal counsel for both ICTC and
12 CONSULTANT, and no presumption or rule that ambiguities shall be construed against the drafting
13 Party shall apply to the interpretation or enforcement of the same or any subsequent amendments
14 thereto.

15 31. NON-APPROPRIATION.

16 31.1. All obligations of ICTC are subject to appropriation of resources by various federal,
17 State, and local agencies, including but not limited to the U.S. Department of Transportation
18 (“DOT”) and the California Department of Transportation (“Caltrans”).

19 31.2. This Agreement is valid and enforceable only if sufficient funds are made available to
20 ICTC for the purposes of this Project. In addition, this Agreement is subject to any additional
21 restrictions, limitations, conditions, or any statute enacted by Congress, State Legislature, or
22 ICTC, and any regulations prescribed therefrom, that may affect the provisions, terms, or
23 funding of this Agreement.

24 31.3. If sufficient funds for the Project are not appropriated, this Agreement may be amended
25 or terminated in order to reflect said reduction in funding.

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1 33. WORKERS' COMPENSATION CERTIFICATION.

2 33.1. Prior to the commencement of work, CONSULTANT shall sign and file with ICTC the
3 following certification: "I am aware of the provisions of California Labor Code §§3700 et seq.
4 which require every employer to be insured against liability for workers' compensation or to
5 undertake self-insurance in accordance with the provisions of that code, and I will comply with
6 such provisions before commencing the performance of the work of this contract."

7 33.2. This certification is included in this Agreement and signature of the Agreement shall
8 constitute signing and filing of the certificate.

9 33.3. CONSULTANT understands and agrees that any and all employees, regardless of hire
10 date, shall be covered by Workers' Compensation pursuant to statutory requirements prior to
11 beginning work on the Project.

12 33.4. If CONSULTANT has no employees, initial here: _____.

13 34. DISADVANTAGED BUSINESS ENTITY COMPLIANCE.

14 34.1. When applicable, CONSULTANT represents and warrants that it has fully read the
15 applicable Disadvantaged Business Enterprise ("DBE") requirements pertaining to this Project
16 and has fully and accurately completed any and all required DBE forms.

17 34.2. CONSULTANT represents and warrants that it will comply with all applicable DBE
18 requirements for this Project.

19 34.3. CONSULTANT shall comply with any applicable DBE provisions attached hereto as
20 **Exhibit "D"** and incorporated by this reference as though fully set forth herein.

21 34.4. If any state or federal funds are withheld from ICTC or not reimbursed to ICTC due to
22 CONSULTANT's failure to either comply with the DBE requirements set forth in the RFP and
23 this Agreement, or to meet the mandatory DBE goals as determined by ICTC, Caltrans, the
24 Federal Highway Administration, and/or any other state or federal agency contributing funds to
25 the Project, then CONSULTANT shall fully reimburse ICTC the amount of funding lost. ICTC
26 reserves the right to deduct any such loss in funding from the amount of compensation due to
27 CONSULTANT under this Agreement.
28

1 34.5. In addition to the above, CONSULTANT's failure to comply with DBE
2 requirements/goals shall subject it to such sanctions as are permitted by law, which may include,
3 but shall not be limited to the following:

4 34.5.1. Termination of this Agreement;

5 34.5.2. Withholding monthly progress payments;

6 34.5.3. Compensatory, special, incidental, liquidated and other damages; and/or

7 34.5.4. Designation of CONSULTANT as "nonresponsible," and disqualification from
8 bidding on future public works projects advertised by ICTC.

9 35. **APPENDIX E OF THE TITLE VI ASSURANCES.**

10 During the performance of this contract, the CONSULTANT, for itself, its assignees, and
11 successors in interest agrees to comply with the following nondiscrimination statutes and
12 authorities; including but not limited to:

13 35.1. Pertinent Nondiscrimination Authorities:

14 (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq, 78 stat. 252),
15 prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

16 (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of
17 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose
18 property has been acquired because of Federal or Federal-Aid programs and projects);

19 (c) Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination
20 on the basis of sex);

21 (d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended,
22 (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

23 (e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.)
24 (prohibits discrimination on the basis of age);

25 (f) Airport and Airway Improvement Act of 1982, 949 U.S.C. § 4 71, Section 47123), as
26 amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

27 (g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope,
28 coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age

1 Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by
2 expanding the definition of the terms “programs or activities” to include all the programs
3 or activities of the Federal-aid recipients, subrecipients and contractors, whether such
4 programs or activities are Federally funded or not);

- 5 (h) Titles II and III of the Americans with Disabilities Act, which prohibit
6 discrimination on the basis of disability in the operation of public entities, public
7 and private transportation systems, places of public accommodation, and certain
8 testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of
9 Transportation regulations at 49 C.F.R. parts 37 and 38;
- 10 (i) The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. §
11 47123) (prohibits discrimination on the basis of race, color, national origin, and
12 sex);
- 13 (j) Executive Order 12898, Federal Actions to Address Environmental Justice in
14 Minority Populations and Low-Income Populations, which ensures discrimination
15 against minority populations by discouraging programs, policies, and activities
16 with disproportionately high and adverse human health or environmental effects
17 on minority and low-income populations;
- 18 (k) Executive Order 13166, Improving Access to Services for persons with Limited
19 English Proficiency, and resulting agency guidance, national origin
20 discrimination includes discrimination because of limited English proficiency
21 (LEP). To ensure compliance with Title VI, you must take reasonable steps to
22 ensure that LEP persons have meaningful access to your programs (70 Fed. Reg.
23 at 74087 to 74100);
- 24 (l) Title IX of the Education Amendment of 1972, as amended, which prohibits you
25 from discriminating because of sex in education programs or activities (20 U.S.C.
26 1681 et seq).

27 36. ADDITIONAL FEDERAL CLAUSES.
28

During the performance of this Agreement, the CONSULTANT, for itself, its assignees, and successors in interest, agrees to comply with the Federal Clauses attached hereto as **Exhibit "E"** and incorporated by this reference as though fully set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

IMPERIAL COUNTY TRANSPORTATION COMMISSION:

CHERYL VIEGAS-WALKER
Chair

ATTEST:

CRISTI LERMA
Secretary to the Commission

CONSULTANT:

By:_____

APPROVED AS TO FORM:

ERIC HAVENS
COUNTY COUNSEL

By:_____

Attachment C
Federal Clauses (Exhibit E in
Draft Agreement)

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

1. Source of Funding:

This contract entered _____ between _____
on _____ (DATE) _____ (AWARDING AGENCY)
and _____ for
(CONTRACTOR)

(PROJECT)
is being funded with the following fund source(s) and amounts:

FUND SOURCE	AMOUNT

Parties referenced in the following clauses are defined as:

“AWARDING AGENCY” is the subrecipient of the State of California Department of Transportation.

“PROJECT” is the AWARDING AGENCY’s federally-supported project.

“CONTRACTOR” is the third-party vendor who has entered into this third-party contract with the AWARDING AGENCY to provide goods or services directly to the AWARDING AGENCY for the accomplishment of the PROJECT.

“Subagreements” are agreements made between the CONTRACTOR and any subcontractors to facilitate the accomplishment of this third-party contract.

For All Third-Party Contract Awards Excluding Micro-Purchases, Except Construction Contracts Exceeding \$2,000.00

No Obligation to Third-Parties by use of a Disclaimer

- A. No Federal Government Obligation to Third Parties. The CONTRACTOR agrees that, absent of the Federal Government’s express written consent, the Federal Government shall not be subject to any obligations or liabilities to any contractor, any third-party contractor, or any other person not a party to the Grant Agreement in connection with the performance of the PROJECT. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, or third-party agreement, the Federal Government continues to have no obligation or liabilities to any party, including the CONTRACTOR or third-party contractor.
- B. Third-Party Contracts and Subagreements Affected. To the extent applicable, federal requirements extend to third-party contractors and their contracts at every tier, and to the subagreements of third-party contractors and the subagreements at every tier. Accordingly, the CONTRACTOR agrees to include, and to require its third-party contractors to include appropriate clauses in each third-party contract and each subagreement financed in whole or in part with financial assistance provided by the FTA.
- C. No Relationship between the California Department of Transportation and Third-Party Contractors. Nothing contained in this Contract or otherwise, shall create any contractual

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

relationship, obligation or liability between the California Department of Transportation and any third-party contractors, and no third-party contract shall relieve the CONTRACTOR of his responsibilities and obligations hereunder. The CONTRACTOR agrees to be fully responsible to the AWARDING AGENCY for the acts and omissions of its third-party contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONTRACTOR. The CONTRACTOR'S obligation to pay its third-party contractors is an independent obligation from the AWARDING AGENCY'S obligation to make payments to the CONTRACTOR. As a result, the California Department of Transportation shall have no obligation to pay or to enforce the payment of any moneys to any third-party contractor.

- D. Obligations on Behalf of the California Department of Transportation. The CONTRACTOR shall have no authority to contract for or on behalf of, or incur obligations on behalf of the California Department of Transportation.
- E. AWARDING AGENCY Approval of Subagreements. The AWARDING AGENCY shall approve in writing all proposed Subagreements, Memorandums of Understanding (MOU), or similar documents relating to the performance of the Contract prior to implementation. The CONTRACTOR agrees that it will not enter into any Subagreements unless the same are approved in writing by the AWARDING AGENCY. Any proposed amendments or modifications to such Subagreements must be approved by the AWARDING AGENCY prior to implementation.

Program Fraud and False or Fraudulent Statements or Related Acts

- A. The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 et seq. and US Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this PROJECT. Upon execution of an underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, and pertaining to the underlying contract or the federally assisted PROJECT for which this contracted work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR 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 in the CONTRACTOR to the extent the Federal Government deems appropriate.
- B. The CONTRACTOR 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 FTA under the authority of 49 U.S.C. Section 5307, the Government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.
- C. The CONTRACTOR agrees to include the above two clauses in each subagreement financed in whole or in part with Federal Assistance provided by the California Department of

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

Transportation. It is further agreed that these clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records

The AWARDING AGENCY, the California Department of Transportation, the State Auditor General, and any duly authorized representative of the Federal government shall have access to any books, records, and documents of the CONTRACTOR and its subcontractors that are pertinent to this Contract of audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. The CONTRACTOR shall include a clause to this effect in every subagreement entered into relative to the PROJECT.

Record Keeping

The CONTRACTOR and all subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Contract. All parties shall make such materials available at their respective offices at all reasonable times during the performance and for three (3) years from the date of final payment under this Contract and all subagreements.

Accounting Records

The CONTRACTOR shall establish and maintain separate accounting records and reporting procedures specified for the fiscal activities of the PROJECT. The CONTRACTOR'S accounting system shall conform to generally accepted accounting principles (GAAP) and uniform standards that may be established by California Department of Transportation. All records shall provide a breakdown of total costs charged to the PROJECT including properly executed payrolls, time records, invoices, and vouchers.

Federal Changes, Amendments to State, and Local Laws, Regulations, and Directives

The terms of the most recent amendments to any federal, State, or local laws, regulations, FTA directives, and amendments to the grant or cooperative contract that may be subsequently adopted, are applicable to the PROJECT to the maximum extent feasible, unless the California Department of Transportation provides otherwise in writing.

Civil Rights (Title VI, EEO, & ADA)

During the performance of this Contract, the CONTRACTOR its assignees and successors in interest, agree to comply with all federal statutes and regulations applicable to grantee subrecipients under the Federal Transit Act, including, but not limited to the following:

- A. Race, Color, Creed, National Origin, Sex. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e, and federal transit law at 49 U.S.C. Section 5332, the CONTRACTOR Agrees to comply with all applicable equal employment opportunity (EEO) requirements of the U.S. Department of Labor (U.S. DOL) regulations, "Office of Labor," 41 CFR Parts 60 et seq., (which implement 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. Section 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the PROJECT. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

termination, rates of pay or other forms of compensation; and selection from training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements the California Department of Transportation may issue.

- B. Nondiscrimination. The CONTRACTOR, with regard to the work performed by it during the contract term shall act in accordance with Title VI. Specifically, the CONTRACTOR shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. Department of Transportation's Regulations, including employment practices when the Contract covers a program whose goal is employment. Further, in accordance with Section 102 of the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. Section 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements the California Department of Transportation may issue.
- C. Solicitations for Subcontractors Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation by the CONTRACTOR for work performed under a subagreement, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the subcontractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports. The CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the AWARDING AGENCY or the California Department of Transportation to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish the information, the CONTRACTOR shall certify to the AWARDING AGENCY of the California Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of the CONTRACTOR'S noncompliance with the nondiscrimination provisions of the Contract, the AWARDING AGENCY shall:
1. Withholding of payment to the CONTRACTOR under the Contract until the CONTRACTOR complies, and/or
 2. Cancellation, termination, or suspension of the Contract, in whole or in part.
- F. Incorporation of Provisions. The CONTRACTOR shall include the provisions of these paragraphs A through F in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONTRACTOR will take such action with respect to any subcontractor or procurement as the AWARDING AGENCY or the California Department of Transportation may direct as a

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such directions, the CONTRACTOR may request the AWARDING AGENCY to enter into such litigation to protect the interest of the AWARDING AGENCY, and, in addition, the CONTRACTOR may request the California Department of Transportation to enter into such litigation to protect the interests of the California Department of Transportation.

G. Section 504 and Americans with Disabilities Act Program Requirements

The CONTRACTOR will comply with 49 CFR Parts 27, 37, and 38, implementing and Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as amended.

Incorporation of FTA Terms

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any California Department of Transportation requests which would cause the California Department of Transportation to be in violation of the FTA terms and conditions. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any AWARDING AGENCY requests which would cause the AWARDING AGENCY to be in violation of the FTA terms and conditions.

Prohibition on certain telecommunications and video surveillance services or equipment.

AWARDING AGENCY is prohibited from obligating or expending loan or grant funds to:

- A. Procure or obtain;
- B. Extend or renew a contract to procure or obtain; or
- C. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 1. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 2. Telecommunications or video surveillance services provided by such entities or using such equipment.
 3. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

- D. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- E. CONTRACTOR represents and warrants that it has performed a due diligence review of its supply chain and that no such "covered telecommunications equipment or services" shall be provided to the AWARDING AGENCY that would cause the AWARDING AGENCY to be in violation of the prohibition contained in the Act.

Energy Conservation

The CONTRACTOR agrees to comply with the mandatory energy efficiency standards and policies within the applicable California Department of Transportation energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42, U.S.C. Section 6321 et seq.

Awards Exceeding \$10,000.00

Additional Termination Provisions

- A. Termination for Convenience (General Provision). When it is in the AWARDING AGENCY's best interest, the AWARDING AGENCY reserves the right to terminate this Contract, in whole or in part, at any time by providing a TEN (10) DAY WRITTEN NOTICE to the CONTRACTOR. The CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to the AWARDING AGENCY. If the CONTRACTOR has any property in its possession belonging to the AWARDING AGENCY, the CONTRACTOR will account for the same, and dispose of it in the manner the AWARDING AGENCY directs.
- B. Termination for Default (General Provision). If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, the AWARDING AGENCY may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the AWARDING AGENCY that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the CONTRACTOR, the AWARDING AGENCY, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

- C. Mutual Termination. The PROJECT may also be terminated if the AWARDING AGENCY and the CONTRACTOR agree that its continuation would not produce beneficial results

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

commensurate with the further expenditure of funds or if there are inadequate funds to operate the PROJECT equipment or otherwise complete the PROJECT.

Awards Exceeding \$25,000.00

Debarment and Suspension

- A. The CONTRACTOR agrees to comply with the requirements of Executive Order Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. Section 6101 note; and U.S. DEPARTMENT OF TRANSPORTATION regulations on Debarment and Suspension and 49 CFR Part 29.
- B. Unless otherwise permitted by the California Department of Transportation, the CONTRACTOR agrees to refrain from awarding any third-party contract of any amount to or entering into any sub-contract of any amount with a party included in the "U.S. General Services Administration's (U.S. GSA) List of Parties Excluded from Federal procurement and Non-procurement Program," implementing Executive Order Nos. 12549 and 12689, "Debarment and Suspension" and 49 CFR Part 29. The list also include the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible for contract award under statutory or regulatory authority other than Executive Order Nos. 12546 and 12689.
- C. Before entering into any subagreements with any subcontractor, the CONTRACTOR agrees to obtain a debarment and suspension certification from each prospective recipient containing information about the debarment and suspension status and other specific information of that AWARDING AGENCY and its "principals," as defined at 49 CFR Part 29.
- D. Before entering into any third-party contract exceeding \$25,000.00, the CONTRACTOR agrees to obtain a debarment and suspension certification from each third-party contractor containing information about the debarment and suspension status of that third-party contractor and its "principals," as defined at 49 CFR 29.105(p). The CONTRACTOR also agrees to require each third-party contractor to refrain from awarding any subagreements of any amount, at any tier, to a debarred or suspended subcontractor, and to obtain a similar certification for any third-party subcontractor, at any tier, seeking a contract exceeding \$25,000.00.

Legal Matters Concerning a Covered Transaction

- A. If a current or prospective legal matter that may affect the Federal Government or STATE emerges, the AWARDING AGENCY must promptly notify the STATE. The AWARDING AGENCY must include a similar notification requirement in its Third Party Agreements and must require each CONTRACTOR to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.
 - 1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government or STATE as a party to litigation or a legal disagreement in any forum for any reason.
 - 2. Matters that may affect the Federal Government or STATE include, but are not limited to, the Federal or STATE Government's interests in the Award, the accompanying Underlying

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

Agreement, and any Amendments thereto, or the Federal or STATE Government's administration or enforcement of federal laws, regulations, and requirements.

3. The AWARDING AGENCY must promptly notify the STATE, if the AWARDING AGENCY has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving FY2020 Contractors Manual – Procurement 9-49 federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the AWARDING AGENCY and STATE, or an agreement involving a principal, officer, employee, agent, or CONTRACTOR of the AWARDING AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the AWARDING AGENCY, including divisions tasked with law enforcement or investigatory functions.

Awards Exceeding \$100,000.00

Provisions for Resolution of Disputes, Breaches, or Other Litigation

The AWARDING AGENCY and the CONTRACTOR shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the CONTRACTOR shall submit to the AWARDING AGENCY Representative for this Contract or designee a written demand for a decision regarding the disposition of any dispute arising under this Contract. The AWARDING AGENCY Representative shall make a written decision regarding the dispute and will provide it to the CONTRACTOR. The CONTRACTOR shall have the opportunity to challenge in writing within ten (10) working days to the AWARDING AGENCY's Executive Director or his/her designee. If the CONTRACTOR'S challenge is not made within the ten () day period, the AWARDING AGENCY Representative's decision shall become the final decision of the AWARDING AGENCY. The AWARDING AGENCY and the CONTRACTOR shall submit written, factual information and supporting data in support of their respective positions. The decision of the AWARDING AGENCY shall be final, conclusive, and binding regarding the dispute, unless the CONTRACTOR commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

Lobbying

- A. The CONTRACTOR agrees that it will not use federal assistance funds to support lobbying. In accordance with 31 U.S.C. and U.S. Department of Transportation Regulations, "New Restrictions on Lobbying." 49 CFR Part 20, if the bid is for an award for \$100,000.00 or more the AWARDING AGENCY will not make any federal assistance available to the CONTRACTOR until the AWARDING AGENCY has received the CONTRACTOR'S certification that the CONTRACTOR has not and will not use federal appropriated funds to pay any person or organization to influence or attempt 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 the awarding of any federal grant,

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

cooperative agreement, or any other federal award from which funding for the PROJECT is originally derived, consistent with 31 U.S.C. Section 1352, and;

- B. If applicable, 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 office 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 federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the form instructions.
- C. The CONTRACTOR shall require that the language of the above two clauses be included in the award documents for all sub-awards at all tiers (including subagreements, sub-grants, and contracts under grants, loans, and cooperative agreements) which exceed \$100,000.00 and that all awarding agencies shall certify and disclose accordingly.

This Contract is a material representation of facts upon which reliance was placed when the Contract was made or entered into. These provisions are a prerequisite for making or entering into a Contract imposed by Section 1352, Title 31, U.S. Code. Any person who fails to comply with these provisions shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

Clean Water

- A. The CONTRACTOR 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 CONTRACTOR agrees to report each violation to the AWARDING AGENCY and understands and agrees that the AWARDING AGENCY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. The CONTRACTOR also agrees to include these requirements in each subagreement exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Awards Exceeding \$150,000.00

Buy America

The CONTRACTOR shall comply with the Buy-America requirements of 49 U.S.C. 5323(j) and 49 CFR Part 661 for all procurements of steel, iron, and manufactured products used in PROJECT. Buy-America requirements apply to all purchases, including materials and supplies funded as operating costs, if the purchase equals or exceeds \$150,000.00. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(c) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

Clean Air

- A. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. The CONTRACTOR agrees to report each violation to the AWARDING AGENCY and understands and agrees that the AWARDING AGENCY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

- B. The CONTRACTOR also agrees to include these requirements in each subagreement exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Awards with Transport of Property or Persons

U.S. Flag Requirements (Cargo Preferences)(Fly America)

- A. Shipments by Ocean Vessel. For third-party contracts that may involve equipment, materials, or commodities which may be transported by ocean vessels, the CONTRACTOR and subagreements must comply with 46 U.S.C. Section 55303 and 46 CFR Part 381, "Cargo Preferences-U.S. Flag Vessels."
- B. Shipments by Air Carrier. For third-party contracts that may involve shipments of federally assisted property by air carrier, the CONTRACTOR and subagreements must comply with the "Fly America" Act and 49 U.S.C. Section 40118, "Use of United States of America Flag Carriers," and 41 CFR Section 301-10.131 through 301-10.143.
- C. Project Travel. In accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1973, as amended, ("Fly America" Act), 49 U.S.C. 40118 and 41 CFR Part 301-10, the CONTRACTOR and all subcontractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation, to the extent such service is available or applicable.

Awards with Transit Operations

Transit Employee Protective Arrangements (Transit Operation Only)

The CONTRACTOR agrees to comply with applicable transit employee protective requirements, as follows:

- A. The CONTRACTOR agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. 5333(b), and U.S.DOL guidelines at 29 CFR Part 215, and any amendments there to.
- B. The CONTRACTOR also agrees to include the applicable requirements in each subagreement involving transit operations financed in whole or in part with federal assistance provided by the FTA.

Charter Service Operations

(Transit Operation and Rolling Stock Only) The CONTRACTOR agrees to comply with 49 U.S.C. Section 5323(d) and 49 CFR Part 604, which provides that recipients and awarding agencies of the FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions listed at 49 CFR-Subpart B. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation. The CONTRACTOR assures and certifies that the revenues generated by its incidental charter bus operations (if any) are, and shall remain, equal to or greater than the cost (including depreciation on federally assisted equipment) of providing the service. The

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

CONTRACTOR understands that the requirements of 49 CFR Part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this contract, and any violation of this contract may require corrective measures and the imposition of penalties, including debarment from the receipt of further federal assistance for transportation.

School Bus Operations

(Transit Operation and Rolling Stock Only) Pursuant to 49 U.S.C. 5323(F) and 49 CFR Part 605, the CONTRACTOR agrees that it and all its subcontractors will: (1) engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323(F) and implementing regulations, and (2) comply with requirements of 49 CFR Part 605 before providing any school transportation using equipment of facilities acquired with federal assistance awarded by the FTA and authorized by 49 U.S.C. Chapter 53 or Title 23 U.S.C. for transportation projects. The CONTRACTOR understands that the requirements of 49 CFR Part 605 will apply to any school transportation it provides, that the definitions of 49 CFR Part 605 apply to any school transportation agreement, and a violation of the contract may require corrective measures and the imposition of penalties, including debarment from the receipt of further federal assistance for transportation.

Vehicle Operator Licensing

The CONTRACTOR is required to comply with all applicable requirements of the Federal Motor Carrier Safety Administration regulations and the California Vehicle Code including, but not limited to, the requirement that all vehicle operators have a valid State of California driver's license, including any special operator license that may be necessary for the type of vehicle operated.

Drug-Free Workplace (FTA Section 5311 Awards)

The CONTRACTOR certifies by signing a Contract with the AWARDING AGENCY that it will provide a drug-free workplace, and shall establish policy prohibiting activities involving controlled substances in compliance with Government Code Section 8355, et seq. The CONTRACTOR is required to include the language of this paragraph in award documents for all sub-awards at all tiers (including subagreements, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all awarding agencies shall disclose accordingly. To the extent the CONTRACTOR, any third-party contractor at any tier, any AWARDING AGENCY at any tier, or their employees, perform a safety sensitive function under the PROJECT, the CONTRACTOR agrees to comply with, and assure the compliance of each affected third-party contractor at any tier, each affected AWARDING AGENCY at any tier, and their employees with 49 U.S.C. Section 5331, and the FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug use in Transit Operations," 49 CFR Part 655.

The following drug and alcohol testing options are compliant with drug and alcohol rules. One of these options must be selected. Options 2 and Options 3 require additional information to be completed:

Drug and Alcohol Testing Option 1

The CONTRACTOR agrees to:

Participate in the AWARDING AGENCY's drug and alcohol program established in compliance with 49 CFR Part 655.

Drug and Alcohol Testing

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

Option 2

The CONTRACTOR agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the California Department of Transportation, or the AWARDING AGENCY to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The CONTRACTOR agrees further to certify annually its compliance with Part 655 before (insert date) and to submit the Management Information System (MIS) reports before (insert date) to (insert title and address of person responsible for receiving information). To certify compliance the CONTRACTOR shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

Drug and Alcohol Testing

Option 3

The CONTRACTOR agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the California Department of Transportation, or the AWARDING AGENCY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The CONTRACTOR agrees further to certify annually its compliance with Part 655 before (insert date) and to submit the Management Information System (MIS) reports before (insert date) to (insert title and address of person responsible for receiving information). To certify compliance the CONTRACTOR shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The CONTRACTOR agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the AWARDING AGENCY wishes the contractor to use) as its policy statement as required under 49 CFR Part 655; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the CONTRACTOR agrees to: (to be determined by the AWARDING AGENCY, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

Awards with Rolling Stock

Bus Testing

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. Section 5318(e), 5323(c), and the FTA regulations, "Bus Testing," 49 CFR Part 665, and any revision thereto, including the certification that before expending any federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or before authorizing final acceptance of that bus, that model of bus will have been tested at the ALTOONA Bus Research and Testing Center. The CONTRACTOR must obtain the final testing report and provide a copy of the report to the AWARDING AGENCY.

Pre-Award and Post Delivery Audit

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. Section 5323(l), 5323(m), and the FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, and any revision thereto.

Miscellaneous Special Requirements

Intelligent Transportation Systems (ITS) National Architecture

To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation System (ITS) Architecture and Standards as required by 23 U.S.C. Section 517(d), 23 U.S.C. Section 512 note, and 23 CFR Part 655 and 940, and follow the provisions of the FTA Notice, "FTA National ITS Architecture Policy on Transit projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives the FTA may issue at a later date, except to the extent the FTA determines otherwise in writing.

DBE Contract Assurance

The CONTRACTOR, or SUBCONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR or SUBCONTRACTOR shall carry out applicable requirement of 49 CFR Part 26 in the award and administration of [Federal] DOT-assisted contracts. Failure by the CONTRACTOR or SUBCONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of the Standard Agreement between the STATE and the AWARDING AGENCY, the termination of this contract by the AWARDING AGENCY, or such other remedy the STATE or AWARDING AGENCY deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the CONTRACTOR from future bidding as non-responsive.

AWARDING AGENCY shall notify the CALTRANS DBELO in the event the AWARDING AGENCY finds the CONTRACTOR or SUBCONTRACTOR is in violation of 49 CFR Part 26 within five (5) business days the finding is made.

DBE Participation Goal

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The contract goal for participation of Disadvantaged Business Enterprises (DBE) for this contract is 1%.

Offerors are required to document sufficient DBE participation to meet the contract goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53

(3)(i)(A). Award of this contract is conditioned on submission of the following:

1. If the offer meets the DBE contract goal the offeror must include with the offer a completed ADM-0227F form.
2. If the offer cannot meet the DBE contract goal the offeror must include with the offer a completed ADM-0312F form that documents the offeror's good faith efforts (GFE) and ADM-0227F form. The AWARDING AGENCY must document concurrence with the offeror's GFE and provide a copy of the GFE to Caltrans DRMT Compliance Liaison for additional concurrence prior to contract award.

THIRD PARTY CONTRACT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

The CONTRACTOR shall not terminate the DBE subcontractors listed on ADM-0227F without the AWARDING AGENCY's prior written consent and concurrence from the CALTRANS DBELO. The AWARDING AGENCY may provide such written consent only if the CONTRACTOR has good cause to terminate the DBE firm. Before transmitting a request to terminate, the CONTRACTOR shall give notice in writing to the DBE SUBCONTRACTOR of its intent to terminate and the reason for the request. The CONTRACTOR shall give the DBE five (5) days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the contract for any reason, the CONTRACTOR shall make good faith efforts (GFE) to find another DBE subcontractor to substitute for the original DBE and immediately notify the AWARDING AGENCY in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement.

Continued Compliance

The AWARDING AGENCY shall monitor the CONTRACTOR'S DBE compliance during the life of this contract and submit to the STATE a completed ADM-3069 form in each their request for reimbursement (RFR) packet.

Prompt Payment and Return of Retainage

- A. The AWARDING AGENCY shall comply with 49 CFR Part 26.29 and ensure the CONTRACTOR pay its subcontractors performing work satisfactorily completed related to this contract no later than thirty (30) days after the CONTRACTOR's receipt of payment for that work from the AWARDING AGENCY.
- B. Unless the approved project is for Construction, the CONTRACTOR shall not hold retainage (withhold retention) from any subcontractor. The STATE shall not hold retainage (i.e. withhold retention) from any CONTRACTOR.
- C. If a dispute arises regarding Construction projects only, the CONTRACTOR may exercise its rights under California Public Contract Code (PCC) Sections 10262 and 10262.5 or California Business and Professions Code (BPC) Section 7108.5, as applicable.
- D. The CONTRACTOR is required to pay its subcontractors for satisfactory performance of work related to this Agreement no later than 30 days after the CONTRACTOR's receipt of payment for that work from the AWARDING AGENCY. In addition, the CONTRACTOR is required to return any retainage (retention) payment to any subcontractor within 30 days after the subcontractor's work related to this Agreement is satisfactorily completed.

Recycled Products

The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Attachment D

Exhibit 9-B Local Agency DBE
Annual Submittal Form

Exhibit 9-B: Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 11
District Local Assistance Engineer

The information for Exhibit 9-B presented herein is in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation (Caltrans) Disadvantaged Business Enterprise (DBE) Program Plan.

The Imperial County Transportation Commission of Imperial County submits our annual 9-B information for the Federal Fiscal Year 2023 / 2024, beginning on October 1 and ending on September 30.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

(Please provide the name, address, phone number, fax number, and electronic mail address of the DBELO for the coming Federal Fiscal Year.)

Planned Race-neutral Measures

(Please detail the race-neutral measures your Local Agency plans to implement for the upcoming Federal Fiscal Year per 49 CFR 26.51 and Section V of the Caltrans DBE Program Implementation Agreement for Local Agencies.)

Prompt Pay

49 CFR 26.29(b) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor. (Attached is a listing of the three methods. On the attachment, please designate which prompt payment provision the Local Agency will use.)

Prompt Pay Enforcement Mechanism

49 CFR 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause with the Local Agency's prior written approval. **Please briefly describe the monitoring and enforcement mechanisms in place to ensure that all subcontractors, including DBEs, are promptly paid.**



(Signature)

02-21-23

(Date)

David Aguirre, Interim Executive Director
IMPERIAL COUNTY TRANSPORTATION COMMISSION
ADMINISTERING AGENCY

(760 592-4494
(Phone Number)

(Signature of Caltrans District Local Assistance Engineer)

(Date)

Distribution: (1) Original – DLAE
(2) Signed copy by the DLAE – Local Agency

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29(b)) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the Local Agency to ensure prompt and full payment of any retainage.

- ☐ **Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code [for construction contracts](#), and [Section 3321 of the California Civil Code for consultant contracts](#). This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- ☐ **Method 2:** No retainage will be held by the agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in seven (7) days [for construction contracts and fifteen \(15\) days for consultant contracts](#) after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code [for construction contracts](#), and [Section 3321 of the California Civil Code for consultant contracts](#). This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- ☒ **Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within seven (7) days [for construction contracts and fifteen \(15\) days for consultant contracts](#) after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code [for construction contracts](#), and [Section 3321 of the California Civil Code for consultant contracts](#). This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Attachment E

Exhibit 10-I Notice to Proposer's Disadvantage Business Enterprise Information

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

(Federally funded projects only)

The Agency has established a DBE goal for this Contract of _____

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards **meeting** the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included in **best qualified consultant’s executed consultant contract**. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Civil Rights [website](#)
 - 1. Click on the link titled Disadvantaged Business Enterprise;
 - 2. Click on Search for a DBE Firm link;
 - 3. Click on [Access to the DBE Query Form](#) located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

Attachment F

Exhibit 15-H DBE Information-Good Faith Efforts

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS

Cost Proposal Due Date _____ PE/CE

Federal-aid Project No(s). _____ Bid Opening Date _____ CON

The _____ established a Disadvantaged Business Enterprise (DBE) goal of _____ for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) **calendar** days from cost proposal due date or bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicate that the proposer or bidder has met the DBE goal. This form protects the proposer's or bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

The following items are listed in the Section entitled "Submission of DBE Commitment" of the Special Provisions, **please attach additional sheets as needed:**

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

- C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to meet or exceed the DBE contract goal.

Items of Work	Proposer or Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
---------------	---	--------------------	-------------	------------------------

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

- F. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining bonding, lines of credit or insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization

Method/Date of Contact

Results

- H. Any additional data to support a demonstration of good faith efforts:

Attachment G

Exhibit 10-H Cost Proposal

SAMPLE COST PROPOSAL 3

**COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)**

Note: Mark-ups are Not Allowed

☐ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

Unit/Item of Work:

(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study) Include as many Items as necessary.

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Classification)*	_____	_____	_____
Sub-professional/Technical**	_____	_____	_____
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
4. ODC items shall be based on actual costs and supported by historical data and other documentation.
5. ODC items that would be considered "tools of the trade" are not reimbursable.
6. Billing Hourly Rates must be actual, allowable, and reasonable.

SAMPLE COST PROPOSAL 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

13. Generally Accepted Accounting Principles (GAAP)
14. Terms and conditions of the contract
15. [Title 23 United States Code Section 112](#) - Letting of Contracts
16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
18. [48 Code of Federal Regulation Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____

Signature: _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Attachment H

Exhibit 10-01 Consultant Proposal DBE Commitment

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
3. Project Description: _____
4. Project Location: _____
5. Consultant's Name: _____ 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section			
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ Consultant's Ranking after Evaluation: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
11. TOTAL CLAIMED DBE PARTICIPATION			%
12. Preparer's Signature _____ 13. Date _____ 14. Preparer's Name _____ 15. Phone _____ 16. Preparer's Title _____			<p>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</p>
21. Local Agency Representative's Signature _____ 23. Local Agency Representative's Name _____ 25. Local Agency Representative's Title _____	22. Date _____ 24. Phone _____		

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT**CONSULTANT SECTION**

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Location** - Enter the project location as it appears on the project advertisement.
- 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
- 20. Consultant's Ranking after Evaluation** - Enter consultant's ranking after all submittals/consultants are evaluated. Use this as a quick comparison for evaluating most qualified consultant.
- 21. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 22. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 23. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 24. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 25. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

Attachment I

Exhibit 10-02 Local Agency
Proposer DBE Information

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
3. Project Description: _____
4. Project Location: _____
5. Consultant's Name: _____ 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: _____
8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section		14. TOTAL CLAIMED DBE PARTICIPATION	\$
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			%
23. Local Agency Representative's Signature _____ 24. Date _____ 25. Local Agency Representative's Name _____ 26. Phone _____ 27. Local Agency Representative's Title _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 15. Preparer's Signature _____ 16. Date _____ 17. Preparer's Name _____ 18. Phone _____ 19. Preparer's Title _____	

DISTRIBUTION: 1. Original – Local Agency
2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT**CONSULTANT SECTION**

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation - \$:** Enter the total dollar amounts entered in the "DBE Dollar Amount" column. **%:** Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

Attachment J

Exhibit 10-Q Disclosure of
Lobbying Activities

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: _____	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
13. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12: (attach Continuation Sheet(s) if necessary)		
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>		
17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity 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 a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04

Attachment K

Exhibit 17-F Final Report-Utilization of DBE's

Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprises (DBE) and First-Tier Subcontractors

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Acceptance Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment
				Non-DBE	DBE		
15. ORIGINAL DBE COMMITMENT AMOUNT \$ _____				16. TOTAL			

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
17. Contractor/Consultant Representative's Signature		18. Contractor/Consultant Representative's Name	
		19. Phone	
		20. Date	
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAVE BEEN MONITORED			
21. Local Agency Representative's Signature		22. Local Agency Representative's Name	
		23. Phone	
		24. Date	

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

Attachment L
Exhibit 17-O DBE Certification
Status Change

EXHIBIT 17-O DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. DBE Contact Information		10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/Decertification Date (Letter Attached)	13. Comments	

If there were no changes in the DBE certification of subcontractors/subconsultants, indicate on the form.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

14. Contractor/Consultant Representative's Signature		15. Contractor/Consultant Representative's Name		16. Phone	17. Date
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED					
18. Local Agency Representative's Signature		19. Local Agency Representative's Name		20. Phone	21. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.