

CALIFORNIA TRANSPORTATION COMMISSION

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REQUEST FOR PROPOSAL Notice to Prospective Proposers RFP Number CTC 10-004

November 9, 2010

You are invited to review and respond to this Request for Proposal (RFP) Number CTC 10-004, entitled Financial/Technical Consultant - Innovative Financing/Procurement. In submitting your proposal, you must comply with the instructions found herein.

As required by Governor Executive Order S-02-06, the California Transportation Commission (Commission) is committed to meeting the State's 25 percent (25%) Small Business participation goal. Certified Small Businesses, Micro Businesses, and Contractors willing to commit to subcontracting a minimum of 25 percent (25%) of their net proposal price to certified Small Businesses or Micro Businesses are encouraged to submit proposals.

Note that all Contracts (Agreements) entered into with the State of California will include by reference General Terms and Conditions that may be viewed and downloaded at Internet site <http://www.dgs.ca.gov/ols/Home.aspx>

The designated contact person for this RFP is:

Susan Bransen
Associate Deputy Director
California Transportation Commission
916-654-4245
susan.bransen@dot.ca.gov

Please note that no verbal information given will be binding upon the State unless such information is issued in writing as an official addendum. Technical questions regarding this solicitation will be addressed, in writing, in accordance with the Questions and Answers portion of this RFP. See Section C 2 Questions and Answers for more details.

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A) Purpose and Description of Services

Refer to the Proposed Form of Agreement, which is attached to this RFP as **Attachment 12, Exhibits A - E**. The purpose of this RFP is to solicit proposals from consultants specializing in the financial and technical aspects of public-private partnership, design-build and high-occupancy toll lane projects.

1) Description of Services

The California Transportation Commission (Commission) is requesting proposals from Contractors to provide the Commission with the following:

- a) Provide the Commission with expertise, advice, representation and assistance in order to fulfill the Commission's responsibilities with respect to Section 143 of the California Streets and Highways Code, as amended by Chapter 2 of the Statutes of 2009 (Senate Bill 4, Second Extraordinary Session); Chapter 6.5 (commencing with Section 6800) of Part 1 of Division 2 of the Public Contract Code, as added by Chapter 2 of the Statutes of 2009 (Senate Bill 4, Second Extraordinary Session); Section 149.7 of the California Streets and Highways Code, as added by Chapter 32 of the Statutes of 2006 (Assembly Bill 1467) and amended by Chapter 474 of the Statutes of 2009 (Assembly Bill 798); and Division 3 (commencing with Section 64100) as added to Title 6.7 of the Government Code by Chapter 474 of the Statutes of 2009 (Assembly Bill 798).
- b) Review of the financial strength and weakness of a proposed project and provide an assessment to the Commission as to the reasonableness of financing methods, lifecycle cost, cash flow analyses, cost/benefit analysis, debt structuring, and other financial models and/or reports submitted with project proposals and reports. Financing methods may include, but are not limited to, innovative finance, bonds, loans, and other financing delivery options, such as the Transportation Infrastructure Finance and Innovation act of 1998 (TIFIA), Grant Anticipation Revenue Vehicle (GARVEE) bonds and private activity bonds.
- c) Assist the Commission in fulfilling its responsibilities related to public private partnerships (P3) and design-build projects proposed or authorized under Section 143 of the Streets and Highways Code. The Contractor will review information presented in a P3 project proposal report and related attachments, and will provide the Commission with an independent evaluation and report of the reasonableness of the information presented by the Department of Transportation or a regional transportation agency in relation to a P3 project request for Commission approval. The Contractor's report will also conclude, citing specific references and reasons, as to whether or not the proposed project meets the Commission's scope and criteria for approval, as described in the Commission's policy guidance for approval of P3 projects (please see policy guidance at <http://www.catc.ca.gov/programs/P3.htm>). The Contractor's report will become part of the Commission's work product in selecting and approving a P3 project. Each P3 project will require a separate evaluation and report.
- d) Provide the Commission with an independent review and opinion on the reasonableness of the financial data included in regional transportation agency high-occupancy toll (HOT) lane applications and whether each application meets the financial eligibility requirements stated in the Commission's High-Occupancy Toll Lane Guidelines (please see guidelines and application information at <http://www.catc.ca.gov/programs/HOTLanes.htm>) and Section 149.7 of the California Streets and Highways Code. The Contractor's analysis will be part of the Commission's work product in determining project eligibility. Each HOT lane application will require a separate evaluation and report.

- e) Provide testimony as deemed necessary by the Commission. The Contractor will prepare and present reports to the Commission and other authoritative bodies including, but not limited to, the California Transportation Financing Authority and the Design-Build Demonstration Program Peer Review Committee.

2) Tasks

As the need for the Contractor's assistance is dependent on the number and timing of proposed Public Private Partnership (P3) project proposals and High-Occupancy Toll (HOT) Lane applications submitted to the Commission, the Contractor shall be available on an "on-call" basis for the duration of the contract. Work assignments will be requested through the issuance of a separate Task Order for each P3 project proposal or HOT Lane application received at any time during the contract period.

Each Task Order will be negotiated separately consistent with the terms and conditions of the Agreement, including the scope of work, schedule for completion, etc. (See **Attachment 12, Exhibit A**). The Contractor's report will be completed within 30 days from the approval date of a Task Order unless a different period is agreed to in the Task Order. Work under a Task Order will conclude after acceptance of the report by the Commission and any necessary follow-up, including testimony before the Commission or other authoritative body as directed by the Commission.

For each Task Order, the Contractor will meet with Commission staff to ensure a clear understanding of the work to be undertaken, will engage in regular communications with Commission staff and respective team members, and will prepare a memorandum that identifies all team members assigned including the priorities and communications protocol between all team members.

Over the course of each Task Order, the Contractor will ensure communication and coordination with Commission staff and team members. The Contractor and its team members will ensure frequent updates on the status of the project and will ensure that assignments are successfully completed within the timeframes established.

If the Contractor fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.

a) Public Private Partnership Project (P3) Proposal Task Orders

The Contractor will provide Commission staff with an independent evaluation, opinion, and report, within 30 days of the Commission's request to the Contractor to review the P3 project proposal, as follows:

- 1) The reasonableness of the proposal, assumptions, financial data, revenue projections, costs and findings on costs, potential risks to the state and others, and other pertinent information relative to the P3 Project Proposal and related attachments.
- 2) An evaluation and recommendation to assist the Commission in meeting its requirement to certify the Department of Transportation's determination of the useful life of the P3 project. This will include a review, evaluation and opinion on the useful life aspects of the P3 project including the financial aspects for maintenance and operations. This will include, but not be limited to, a report on the useful life determination findings including the reasonableness of the assumptions used, life cycle cost analysis, and potential risks.
- 3) Input as to whether or not, citing specific references and reasons, the proposed project meets the Commission's scope and criteria for approval as described in the Commission's policy guidance for approval of P3 projects, including the statutory requirements of Section 143 of

- the California Streets and Highways Code, with specific emphasis on Section (c) (3) related to performance objectives, Section (c) (4) related to demand forecasts, Section (d) related to the useful life determination, and Section (g) (1) (C) related to best value.
- 4) The Contractor will review the agreement provisions submitted with the project proposal report and identify whether the agreement provisions submitted with the proposal reflect the agreement provisions specified in Section 143. Additional comments and notes on other sections may be provided as appropriate.
 - 5) The Contractor will not provide a legal opinion as to whether the project proposal report (including lease agreement) meets Section 143 of the statute. Rather, the memorandum on the aforementioned focus areas and any other comments and notes in other areas that may arise will represent the professional judgment of the consulting team.
 - 6) Public testimony in support of the Contractor's report at Commission meetings and other meetings at the direction of the Commission.
 - 7) As additional materials are received in support of the P3 project proposal after the final report is prepared, the Contractor will evaluate these materials and update the report findings and/or provide ad hoc reports as deemed appropriate and necessary by the Commission.
 - 8) The Contractor will include a separate section in the final report citing specific recommendations or lessons learned to improve the Commission's policy guidance or to improve other aspects of the P3 process.
- b) High-Occupancy Toll (HOT) Lane Application Task Orders
The Contractor will review each high-occupancy toll lane application and submit a report to the Commission expressing an opinion within 30 days of the Commission's request to review the application, as follows:
- 1) The reasonableness of the financial data included in the regional transportation agency HOT lane application and whether the application meets the financial eligibility requirements stated in the Commission's HOT Lane Guidelines and AB 1467.
 - 2) Whether the application includes adequate evidence to support that the project is financially feasible; that the application includes a reasonable financial plan demonstrating financial guarantees; that the application includes a documented commitment to provide sufficient equity; that the application documents reasonable funding for project development and operations; and that the projected rate of return and life cycle cost estimates are reasonable.
 - 3) Public testimony in support of the Contractor's report at Commission meetings and other meetings at the direction of the Commission.
 - 4) As additional materials are received in support of the HOT lane application after the final report is prepared, the Contractor will evaluate these materials and update the report findings and/or provide ad hoc reports as deemed appropriate and necessary by the Commission.
 - 5) The Contractor will include a separate section in the final report citing specific recommendations or lessons learned to improve the Commission's policy guidance or to improve other aspects of the HOT Lane process.

B) Minimum Qualifications For Proposers

- 1) The Contractor must have the ability to conduct business in the State of California and must be available for communication within three hours on any business day. In addition, the Contractor must be able to make presentations, participate in meetings, conference calls, and fulfill other responsibilities as outlined in the Purpose and Description of Services Section A 1 and 2 above and the Scope of Work, **Attachment 12, Exhibit A**.
- 2) The Contractor must have a minimum of ten (10) years of combined experience in providing financial advisory services related to transportation infrastructure projects, including direct experience in public-private partnerships, TIFIA, transportation revenues and related funding sources and/or tax exempt bond financing, such as GARVEE and private activity bonds.
- 3) The Contractor must provide three satisfactory references and evidence of a California Business License and Certificate of Good Standing or equivalent documentation.

C) Proposal Requirements and Information

1) Time Schedule

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

EVENT	DATE	TIME (Pacific Time)
RFP available to prospective Proposers	11/9/10	
Written Question Submittal	11/15/10	
Final Date for Proposal Submission	12/6/10	3:00 PM
Proposal Opening	12/7/10	
Posting of Notice of Intent to Award	1/ 7/11	
Proposed Agreement Award Date (estimate)	1/14/11	

2) Questions and Answers

- A. Questions regarding this RFP must be submitted in writing by November 15, 2010.
- B. Written questions must include the individual's name, firm name, complete address, and must reference RFP No. CTC 10-004. Questions must be sent to the following address:

MAILED OR FAXED TO:
 California Transportation Commission, MS-52
 Attention: Susan Bransen
 1120 N Street, Suite 2300
 Sacramento, CA 95814
 (Fax No.: (916) 653-2134)
- C. Written responses to all questions will be collectively compiled and posted, as an Addendum, to the BidSync website at <http://www.bidsync.com/>. It is the responsibility of the Bidder to access the website for any changes or Addenda that may be posted. Refer to this RFP, **Section C) 1, Time Schedule**, for the schedule of events and dates/times. It is the responsibility of the Bidder to check BidSync for all Addenda.

3) Technical Proposal Requirements

An original proposal marked "ORIGINAL COPY" and 5 copies will be required for the Technical Proposal. Each Technical Proposal shall contain at a minimum, all required items listed below. Each requirement's location must be listed in a Technical Proposal, Table of Contents. Also see **Section C 8, Submission of Proposal**, for submittal details and **Attachment 5, Minimum Qualifications & Technical Proposal Criteria**.

a) **RFP Contact Person**

Provide the name, title, address, email address, telephone and fax numbers of the person who will serve as the Contractor's primary contact regarding this RFP.

b) **Minimum Qualifications**

Discuss how your firm meets the minimum qualifications described in Section B. This narrative should be accompanied by three satisfactory references and evidence of a California Business License and Certificate of Good Standing or equivalent documentation.

c) **Statement of Work**

The Proposer should describe and explain how the Contractor intends to meet each task/deliverable set forth in the **Purpose and Description of Services, Section A 1 & 2, and the State's Scope of Work Requirements Attachment 12, Exhibit A**. The Proposer should include the following as appropriate:

- A. Overview of the required tasks and outcomes
- B. Description of how the tasks will be performed
- C. Work plan for each task, including sub-task description,
- D. Samples of work from other projects, or outlines of what deliverables are proposed for the required tasks,
- E. Organization chart that identifies the proposed contract team (including subcontractors) for each deliverable and task
- F. Any other requirements shown in the Description of Services & Scope of Work.

d) **Technical Experience & Qualifications**

A. **Firm Overview**

- 1. Provide a brief description of your firm and its ownership structure.
- 2. Provide a general overview of the Contractor's presence in the State of California.
- 3. Discuss the location(s) of the office(s) from which the primary work on this engagement is to be performed.
- 4. Describe your firm's staffing, including principals, vice presidents, associates and analysts as of the date of your response to this RFP.
- 5. Explain any significant changes in staffing and/or organization of your firm during the previous three years.
- 6. Describe experience of the firm working with multi-disciplinary teams including legal and technical advisors (including traffic and engineering).

B. Engagement Manager and Team Member Qualifications

1. Identify all key personnel who would be directly involved in providing technical and financial advisory services to the Commission, and name of the firm's representative designated as the engagement manager.
2. Identify the name, title, years of experience, role, and location where each team member will be headquartered.
3. Provide resumes and references for all key personnel, including potential substitute personnel and all subcontractor personnel. The Contractor may not substitute members of the project team without prior written approval of the State.
4. Provide a description of the contract team and how the team provides for an organization with multiple subcontractors in each category to facilitate the selection of a team that avoids conflicts of interest for Task Orders.
5. Provide a description of the relevant experience and qualifications for each individual, including any special expertise that demonstrates the experience, competency, capability, and capacity to complete the required scope of work. This should include specific examples of projects completed by each team member that were of similar scope and complexity including:
 - Years of experience providing financial, legal and/or technical experience related to transportation infrastructure procurement and financing.
 - Knowledge and understanding of public private partnership, design-build and high-occupancy toll lane legislation and projects including financing methods, concepts and feasibility.
 - Knowledge and understanding of financing mechanisms including, but not limited to, the Grant Anticipation Revenue Vehicles (GARVEE) Bond Program and the Transportation Infrastructure Finance and Innovation Act (TIFIA).
 - Understanding of comprehensive development agreements with public or private entities for transportation projects.
 - Preparing, evaluating and assessing the reasonableness of revenue and demand forecasts.
 - Evaluating and assessing the reasonableness of useful life determinations including life cycle cost analysis for transportation infrastructure projects.
 - Evaluating reasonableness for the projected achievement of specific performance objectives including mobility, operations, safety and air quality.
 - Developing and assessing reasonableness of evaluation criteria for proposals based on qualifications and best value.
 - Written and verbal communication skills and abilities.

C. Contractor Financial and Technical Background

1. Provide specific examples of your firm's experience related to:
 - Working with or negotiating with major transportation construction firms and global infrastructure investors interested in public private partnership, design-build and high occupancy toll lane projects.
 - Negotiating and bringing projects to commercial and financial close.
 - Assisting federal, state, or local governments in developing public-private partnership, design-build, and high occupancy toll lane policies, guidelines, procedures and proposals.

- Knowledge and expertise with respect to state DOTs, FHWA, TIFIA, GARVEE, private activity bonds, private bank financing, financial tax issues, and/or Title 23, Section 129 toll agreements.
- Expertise with financial plans and financial modeling, value for money and cost benefit analyses.
- Preparing, reviewing, assessing the reasonableness of, and developing recommendations for bond and loan financing, feasibility studies and complex project management.
- Evaluating project performance objectives.
- Preparing, analyzing and/or evaluating performance objectives, useful life, life cycle costs, and revenue forecasts.

D. Prior Public Private Partnership/Design-Build/High-Occupancy Toll Lane Project and/or Proposal Engagement Experience

1. Please include the following information with respect to no more than five public private partnership, design-build, and/or high occupancy toll lane projects with which you have been involved, including, but not limited to:
 - Client name
 - Type of public private partnership, design-build or high occupancy toll lane project
 - Name of the project
 - Brief description of your firm's role and responsibility
 - List of key staff assigned
 - Engagement outcome
 - Total estimated cost of the project
 - Closing date or estimated closing date

e) **Subcontractors**

If subcontractors are to be used, the prospective Contractor must include in the Technical Proposal a description of each person by firm and the work to be done by each subcontract. No work shall be subcontracted unless listed in the proposal. List the subcontractor(s) name, the firm name, address, and contact person. Subcontractors are subject to all the terms, conditions and requirements of this subsequent contract. Describe Subcontractor qualifications with respect to the technical proposal requirements of this Section. The Contractor must obtain the advance written approval of the Contract Manager before substituting subcontractors. Please include resumes for all key subcontractor personnel. The cost of the subcontract work is to be itemized in the Cost Proposal as described below in the section entitled "Cost Proposal Requirements".

f) **Availability**

Please describe your firm's current capacity to perform work for the Commission and other clients and your ability to handle future public private partnership, design-build and high-occupancy toll lane project proposals.

g) **Page Headers and Page Numbering**

All pages of the Technical Proposal, including cover pages, Table of Contents, references and resumes, shall have the following header and page numbering format in the upper right-hand corner:

Technical Proposal
Date
RFP No. CTC 10-004
Attachment
Page # of ##

Brochures, tapes, drawings, and other promotional documents that are submitted with Technical Proposals shall be clearly identified as to the name of the Proposer and the RFP number.

4) Cost Proposal Requirements

A. Cost Detail Format

- 1) The proposed work should be broken down into the outline in the Work Plan and Work Schedule for each task [refer to **Section A 1 & 2 and Attachment 12, Exhibit A**] for the purpose of this proposal.
- 2) The resultant Agreement cannot exceed \$1,350,000. The Agreement amount assumes a minimum of six P3 project proposals and two HOT lane project applications over the duration of the Agreement period. The cost proposal, and only the cost proposal, shall itemize all items that will be charged to the Commission including travel charges that will be involved and included in the proposal amount. Costs shall be segregated to identify salary costs including hours, rates, classifications, by task(s) and deliverable(s). Hourly rates shall include all administrative overhead and fringe benefit expenses.
- 3) Cost proposals should be prepared to identify the cost proposed to review, evaluate and provide an opinion of (1) a P3 project proposal and (2) a HOT lane application. Each cost proposal should estimate the total cost to successfully meet the scope of work set forth in Section A 2 and Exhibit A relative to the evaluation and assessment of a P3 project proposal and a HOT lane project application including re-submittals of the same project proposal or application in the event supplementary information is required. The Commission expects that the cost proposals submitted will form the basis for determining the cost and level of effort when entering into individual Task Orders upon execution of the Agreement.
- 4) When estimating the level of effort with respect to the P3 project proposal scope of work as set forth in Exhibit A and Section A 2, review of the Commission's P3 policy guidance as well as the Commission staff report for the Presidio Parkway P3 Project Proposal is recommended. This information may be found at <http://www.catc.ca.gov/programs/P3.htm>.
- 5) When estimating the level of effort with respect to the HOT lane scope of work set forth in Exhibit A and Section A 2, review of the Commission's HOT Lane policy guidance as well as the eligibility review and determination report for the RCTC HOT Lane Project is recommended. This information may be found at: <http://www.catc.ca.gov/programs/HOTLanes.htm>.
- 6) The cost proposal shall follow the cost proposal format provided in **Attachment 4**. Cost Proposal information consists of: a Cost Proposal for a P3 Project Proposal and a Cost Proposal for a HOT Lane Application along with a Proposal/Proposer Certification Sheet, and any Special Program documents (See **Section D, Special Programs**).

B. Subcontracts

The breakdown of subcontract costs shall follow the same format.

C. Page Headers and Page Numbering

All pages of the Cost Proposal, including cover pages, Table of Contents, and if applicable, Special Programs documents such as the Bidder Declaration, GSPD-05-105, as appropriate; Target Area Contract Preference Act (TACPA), STD 830; Local Agency Military Base

Recovery Area ACT (LAMBRA), STD 832; and Enterprise Zone Act (EZA), STD 831 shall have the following header and page numbering format in the upper right-hand corner:

Cost Proposal
RFP No. CTC 10-004
Date
Attachment #
Page # of ##

5) **Darfur Contracting Act**

- A. The Darfur Contracting Act, PCC, Sections 10475-10481, applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in PCC, section 10475.
- B. If your company has not, within the previous three years, had any business activities or other operations outside of the United States, you do **not** need to complete the **Darfur Contracting Act Certification, Attachment 8**.
- C. A scrutinized company is a company doing business in Sudan as defined in PCC, section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (PCC, section 10477(a)).
- D. Therefore, PCC, section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency.

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

6) **Conflict of Interest**

State law prohibits state contractors from having certain financial interests pertaining to the Agreement. See State Contracting Manual section 7.10 for a summary of applicable laws at the following website: <http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx>. Please respond to the following inquiries:

- Describe if the Firm or any of its affiliates invest in infrastructure projects.
- Would the Firm or any of its affiliated investment funds (if any) be restricted from investing in projects in the State of California as a result of the State of California engaging the Firm to advise on public private partnership, design-build and high occupancy toll lane project proposals? Regardless of whether or not the answer to the previous question is in the affirmative, please describe the Firm's conflict of interest policy with respect to these types of matters.
- Please disclose any finder's fees, fee splitting, payments to consultants, or other contractual arrangements of the Firm that could be associated with this engagement.
- Has the Contractor considered an organization with multiple subcontractors in each category to facilitate the selection of a team that avoids conflict of interests for Task Orders?

7) **Regulatory Review of Firm**

Please disclose any investigation of the Contractor or enforcement or disciplinary actions taken within the past three (3) years by the Securities Exchange Commission, Fair Political Practices Commission, or other regulatory bodies.

8) Submission of Proposal

- A. If the proposal is made under a fictitious name or business title, the actual legal name of the Proposer must be provided.
- B. Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.
- C. The original proposal must be single sided and marked "ORIGINAL COPY". All documents contained in the original proposal package **must have original signatures** and **must be signed by a person who is authorized to bind the proposing firm**. All additional proposal sets may contain photocopies of the original package. The proposal package should be prepared in the least expensive method.
- D. The State does not accept alternate Agreement language from a prospective contractor. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions (GTC) are not negotiable. The GTC 610 may be viewed at Internet site <http://www.dgs.ca.gov/ols/Home.aspx>.
- E. Proposals must be submitted in one (1) sealed package/envelope. The one sealed package/envelope should then be described as set forth in Item F.
- F. Proposals must be submitted no later than 3:00 P.M., **December 6, 2010**, and addressed as follows (reference C.1, Time Schedule):

Proposals received **after** this date and time will **not** be considered and will be rejected unopened.

The proposal package/envelope must be plainly marked in the upper right hand corner with the RFP number and title, your firm name, address, and must be marked with "DO NOT OPEN", as shown in the following example:

SEALED PACKAGE/ENVELOPE

Agency/Firm Name
Address
RFP Number CTC 10-004
Financial/Technical Consultant - Innovative
Financing/Procurement

TECHNICAL & COST PROPOSAL
DO NOT OPEN

Proposals not submitted under sealed cover and marked as indicated may be rejected. If the proposal is made under a fictitious name or business title, the actual legal name of Proposer must be provided.

- G. All proposals shall include the documents identified in this RFP's **Required Attachment Checklist, Attachment 1**. Proposals not including the proper "required attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.
- H. Proposals must be submitted for the performance of all services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.

- I. Both Proposals (Technical and Cost Proposal) can be packaged and mailed together. Label (as instructed above) and mail or deliver package to the following location.

MAILED OR *DELIVER TO:

California Transportation Commission, MS-52
Attention: Susan Bransen
1120 N Street, Suite 2300
Sacramento, CA 95814

** If your proposal is hand delivered, you must have Commission staff note the date and time immediately upon arrival at the California Transportation Commission's Offices at 1120 N Street, Suite 2200, Sacramento CA.*

- J. Each prospective Contractor's Technical Proposal will be reviewed to determine if it meets the proposal requirements contained in the **Section C 3, Technical Proposal Requirements**. Failure to meet the requirements for the RFP shall be cause for rejection of the proposal.
- K. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The Commission may reject a proposal that is not responsive, does not meet the technical standards, or is not from a responsible proposer, or may reject all proposals. The Commission may also waive any immaterial deviation in a proposal. The Commission's waiver of immaterial defect shall in no way modify the RFP document or excuse the Proposer from full compliance with all requirements if the Proposer is awarded the Agreement.
- L. Costs for developing proposals and in anticipation of award of the Agreement are entirely the responsibilities of the Proposer and shall not be charged to the State of California.
- M. Only an individual who is authorized to contractually bind the proposing firm shall sign the **Proposal/Proposer Certification Sheet, Attachment 3**. The signature must indicate the title or position that the individual holds in the firm. The proposer's proposal may be rejected if the Proposal/Proposer Certification Sheet is not signed.
- N. A Proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline. Proposal modifications offered in any other manner, oral or written, will not be considered.
- O. A Proposer may withdraw its proposal by submitting a written withdrawal request to the Commission that is signed by the Proposer or an authorized agent. A Proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
- P. The Commission may modify the RFP up to the specified time of the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package. All addenda prior to the submission deadline are also posted on the California Transportation Commission's website: www.catc.ca.gov.
- Q. The Commission reserves the right to reject all proposals for reasonable cause.
- R. Proposers are cautioned to not rely on the Commission during the evaluation to discover and report to the Proposer any defects and errors in the submitted documents. Before submitting their documents, Proposers should carefully proof them for errors and adherence to the RFP requirements.
- S. More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any Proposer has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that Proposer. If there is reason for believing that collusion exists among the Proposers, none of the participants in such collusion will be considered in this or future procurements.

9) Evaluation Process

A. Format Review

1. At the time of proposal opening, each proposal will be checked for the presence and/or absence of required information in conformance with the submission requirements of this RFP. Proposals that do not provide requested information will be rejected as non-responsive.
2. Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the Proposer, shall be rejected.

B. Evaluation of Proposals

1. The Commission will evaluate each proposal to determine responsiveness to the Commission's needs. Proposals will first be reviewed against the **Minimum Qualifications requirements set forth in Section B 1 and 2 and as described on Attachment 5, Minimum Qualifications and Technical Proposal Criteria**. The Minimum Qualifications are scored based on pass/fail.
2. Only those proposals that meet the Minimum Qualifications will be rated by an evaluation committee using a consensus process for determining final scores.
3. An evaluation committee will evaluate those Technical Proposals that meet the proposal submission requirements and Minimum Qualifications. The evaluation will be based on the criteria shown on **Attachment 5, Minimum Qualifications and Technical Proposal Criteria**.
4. Cost Proposals should be submitted as set forth in **Attachment 4, Cost Proposal Worksheet**. The lowest cost proposal will receive the highest score. Other proposals will be scored as a ratio of their proposed cost to the lowest proposed cost.
5. The final proposal score will be a combined evaluation of the Technical Proposal and Cost Proposal. The Agreement will be awarded to the Proposer meeting the Minimum Qualifications and the requirements outlined in this RFP with the highest combined score, pending approval of any applicable Preference Programs set forth in this RFP. See **Attachment 6, Evaluation/Scoring Worksheet**.

C. Small Business Preference

1. Small business (SB) or Micro Business (MB) proposers certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), for evaluation purposes, shall be granted a five percent (5%) preference from the highest scored proposal (total score) if the highest scored proposal is from a non-certified small business or micro business.
2. Non-Small Business proposers who commit to subcontracting a minimum of 25% of their net bid price, in the categories most appropriate to accomplish the prescribed services, may also be granted this preference. Proposers must complete and return the Bidder Declaration form, GSPD-05-105 with the Proposal.
3. In the event of a precise tie, lots will be drawn, or if applicable, the tie will be broken in accordance with Government Code 14838 (f).

D. Miscellaneous Award Issues

1. If no proposals are received containing a price, which in the opinion of the Commission is a reasonable price, the Commission is not required to award an Agreement (Public Contract Code 10344 (d)).
2. The prospective Contractor is advised that should this RFP result in an award of an Agreement, the Agreement will not be in force and no work shall be performed until the Agreement is fully approved by the State and the Contractor is notified by the Contract Manager to begin work.

E. Pre-Award Audit

Prior to award of the Agreement, a pre-award audit may be performed. The pre-award audit will be conducted in accordance with Generally Accepted Governmental Auditing Standards as promulgated by the United States General Accounting Office. The scope of the audit will consist of such tests as the auditors consider necessary to assure that the Contractor satisfactorily meets the requirements outlined in Items 1-3 below prior to execution of the Agreement. Upon completion of a pre-award audit, if, in the Commission's judgment, one or more of these requirements is not satisfactorily met, Agreement award may be canceled.

1. At the time of the pre-award audit, the prospective Contractor must demonstrate through actual historical data that its accounting system is capable of accumulating and segregating reasonable, allocable and allowable costs. For new businesses, if actual historical data is unavailable or the accounting system is newly implemented, the system will be tested to determine whether the accounting system is adequate and, if necessary, recommend that an interim audit be performed. At a minimum, the Contractor must have an accounting system that meets the following objectives:
 - a) The ability to record and report financial data in accordance with Generally Accepted Accounting Principles and the Code of Federal Regulations, Title 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31.
 - b) The ability to accumulate and segregate reasonable, allocable and allowable costs through the use of a cost accounting system.
 - c) A system of record keeping ensuring that costs billed to the Commission will be supported by adequate documentation and in compliance with the terms of the Agreement and applicable Federal and State regulations.
 - d) Procedures to retain accounting records and source documentation as required by the terms of the Agreement and applicable Federal and State regulations.
 - e) A system of internal control, which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported and corrected.
2. The prospective Contractor must be financially capable of performing the work.
3. The costs proposed must be reasonable.

10) Award and Protest

- A. Notice of Intent to Award shall be posted at the California Transportation Commission, 1120 N Street, Sacramento, CA 95814 (Suite 2200), and on the following Internet site: www.catc.ca.gov for five (5) working days prior to awarding the Agreement.
- B. Proposers have the right to protest the award of California Transportation Commission Agreements subject to the following grounds, processes and procedures.

1. If any Proposer, prior to the award of Agreement, files a protest with the California Transportation Commission and the Department of General Services, Office of Legal Services, on the grounds that the (protesting) Proposer would have been awarded the Agreement had the Agency correctly applied the evaluation standard in the RFP, or if the Agency followed the evaluation and scoring methods in the RFP, the Agreement shall not be awarded until either the protest has been withdrawn or the State has decided the matter. It is suggested that you submit any protest by certified or registered mail to:

California Transportation Commission Attention: Bimla G. Rhinehart 1120 N Street, Suite 2200, MS 52 Sacramento, CA 95814 Phone Number: (916) 654-4245 Fax Number: (916) 653-2134	Department of General Services Office of Legal Services Attention: Protest Coordinator 707 Third Street, 7 th Floor West Sacramento, CA 95605 Phone Number: (916) 376-5080 Fax Number: (916) 376-5088
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2. Within five (5) days after filing the initial protest, the protesting Proposer shall file with the Department of General Services, Office of Legal Services and the California Transportation Commission a full and complete written statement specifying the grounds for the protest. It is suggested that you submit this complete written statement by certified or registered mail.
- C. Upon award of the Agreement, Contractor must complete and submit to the California Transportation Commission the Payee Data Record (STD 204), to determine if the Contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662. This form can be found on the Internet at <http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf> under the heading FORMS MANAGEMENT CENTER. No payment shall be made unless a completed STD 204 has been returned to the Commission.
 - D. Upon award of the Agreement, Contractor must sign and submit to the California Transportation Commission, page one (1) of the Contractor Certification Clauses (CCC 307), **Attachment 2**, or the form can be obtained via the Internet at <http://www.dgs.ca.gov/ols/Home.aspx>.

11) Disposition of Proposals

Per Public Contract Code section 10344 (c), all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The State cannot prevent the disclosure of public documents. However, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Notice of Intent to Award" is posted. We recommend that you copyright any proprietary material submitted.

12) Standard Conditions of Service

- A. Service shall be available no sooner than the express date set by the Commission and the Contractor, after all approvals have been obtained and the Agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, the Commission, upon five (5) days written notice to the Contractor, reserves the right to terminate the Agreement. In addition, the Contractor shall be liable to the State for the difference between Contractor's Proposal price and the actual cost of performing work by the second lowest Proposer or by another Contractor.
- B. All performance under the Agreement shall be completed on or before the termination date of the Agreement.
- C. Antitrust Provisions
 - 1. In submitting a proposal to a public purchasing body, the proposer offers and agrees that if the proposal is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the proposer for sale to the purchasing body pursuant to the proposal. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the proposer. (See GC, section 4552).
 - 2. If the awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid.
- D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action (See GC, section 4554).
- E. Loss Leader usage is prohibited in this Solicitation: It is unlawful for any person engaged in business within this State to sell or use any article or product as a "loss leader" as defined in Section 17030 of the California Business and Professions Code. "Loss Leader" means any article or product sold at less than cost: a) where the purpose is to induce, promote or encourage the purchase of other merchandise; or b) where the effect is a tendency or capacity to mislead or deceive purchasers of prospective purchasers; or c) where the effect is to divert trade from or otherwise injure competitors.
- F. No oral understanding or agreement shall be binding on either party.

D) Special Programs

The following Special Program(s) are applicable to this RFP:

1. Small Business or Micro Business Preference

GC Section 14835 et seq. requires that a five percent (5%) preference be given to contractors who qualify as a Certified Small Business or Micro Business. The rules and regulations of this law, including the definition of a Small Business for the delivery of services, are contained in 2 CCR 1896 et seq.

To claim the Small Business or Micro Business preference, your firm must have its principal place of business located in California and be certified by the Department of General Services, OSDS. The preference amount may not exceed \$50,000 for any proposal. If the prospective Contractor is claiming the five percent (5%) certified Small Business or Micro Business preference, complete the **Proposal/Proposer Certification Sheet, Section 16, Attachment 3** and attach a copy of your certification.

Pursuant to GC Section 14838 and 2 CCR 1896, if a proposer is not a certified Small Business but wishes to be eligible for the five percent (5%) "non-Small Business" preference, the proposer must subcontract at least 25 percent (25%) of its net proposed price to one or more certified Small Businesses. If the prospective Contractor is claiming the five percent (5%) "non-Small Business" preference, complete the **Proposal/Proposer Bidder Certification Sheet, Section 17, Attachment 3, and complete Bidder Declaration form, GSPD-05-105, Attachment 7, with the names of all certified Small Business firms being claimed for credit. Attach a copy of the subcontractor's Certified Small Business certificate for each Small Business subcontractor and a copy of all Small Business subcontractors' quote to the Bidder Declaration form, GSPD-05-105.**

Certified Small Business and Micro Business proposer(s) shall have precedence over "Non-Small Business" proposers in the application of Small Business preference(s).

Small Business Preferences may not be applied to any proposal deemed non-responsive with the solicitation instructions or from a responsible proposer.

Questions regarding the certification approval process or Small Business program should be directed to OSDS at (800) 559-5529 or (916) 375-4940. For the 24-Hour Recording & Mail Request call (916) 322-5060.

Or E-mail: osdchelp@dgs.ca.gov

Additional References: <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Small Business or Micro Business proposers or proposers using the "Non-Small Business" preference shall be granted a preference consisting of five percent (5%) of the highest responsible proposer's total score.

2. Target Area Contract Preference Act (TACPA), Local Agency Military Base Recovery Area Act (LAMBRA) and Enterprise Zone Act (EZA) preferences:

If the prospective contractor is claiming the TACPA, LAMBRA preferences and/or EZA, submit form DGS/DP 526, TACPA form STD 830; LAMBRA form STD 832; and/or EZA form STD 831. Refer to **Attachment 10** for link to required forms. A Bidder's Summary of Contract Activities and Labor Hours must accompany each of the listed preference form(s).

Additional References: <http://www.dgs.ca.gov/pd/Resources/publications/SCM3.aspx>

ATTACHMENT 1

REQUIRED ATTACHMENT CHECKLIST

A complete Proposal package will consist of the items identified below. Complete this checklist to confirm the items in your Proposal. Place a check mark or "X" next to each item that you are submitting to the Commission. All attachments identified below are applicable to this RFP and must be returned, as instructed, or your Proposal may be considered non-responsive. **Return this checklist with your Technical Proposal package.**

Technical Proposal and Attachments

NOTE: Return this Checklist with the Technical Proposal package.

Attachments

Attachment Name/Description

- _____ Minimum Qualifications and Technical Proposal as Stated in RFP (RFP Attachment 5)
- _____ Darfur Contracting Act, (RFP Attachment 8)
- _____ Proposal Attachment Checklist (RFP Attachment 1)
- _____ Contractor Certification Clauses (CCC 307). The CCC 307 can also be found on the Internet at <http://www.dgs.ca.gov/ols/Home.aspx>. Page one (1) must be signed and submitted prior to the award of the Agreement. (RFP Attachment 2)

Cost Proposal and Attachments

NOTE: All Cost Proposal Information and applicable Attachments MUST be packaged separately from the Technical Proposal package. **No Cost Information of any kind is allowed in the Technical Proposal.**

Attachments

Attachment Name/Description

- _____ Proposal/Proposer Certification Sheet (RFP Attachment 3)
- _____ Cost Proposal – P3 Task Order
Cost Proposal – HOT Lanes Task Order (RFP Attachment 4)
- _____ Bidder Declaration form, GSPD-05-105. (RFP Attachment 7)
- _____ Target Area Contract Preference Act (TACPA) (Attachment 10)
- _____ Local Agency Military Base Recovery Area (LAMBRA) Act (RFP Attachment 10)
- _____ Enterprise Zone Act (EZA) (RFP Attachment 10)
- _____ Payee Data Record (RFP Attachment 9)
- _____ Quotes from Small Business and/or Micro Business Subcontractors (RFP Attachment 11)

ATTACHMENT 2

CONTRACTOR CERTIFICATION CLAUSES

CCC-307

CERTIFICATION

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

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

CONTRACTOR CERTIFICATION CLAUSES

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

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs;
 - and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

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

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)
4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

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

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

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
6. SWEATFREE CODE OF CONDUCT:
 - a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).
7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code Section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

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

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

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

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

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

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

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

2. **LABOR CODE/WORKERS' COMPENSATION**: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. **AMERICANS WITH DISABILITIES ACT**: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits

discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
 - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

ATTACHMENT 3
PROPOSAL/PROPOSER CERTIFICATION SHEET

Only an individual who is authorized to bind the proposing firm contractually shall sign the Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. This Proposal/Proposer Certification Sheet must be signed and returned along with all "required attachments" as an entire package with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

- A. Our all-inclusive proposal is submitted in a sealed envelope marked "**Proposal - Do Not Open**".
- B. All required attachments are included with this certification sheet.
- C. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.
- D. The signature and date affixed hereon certifies that this proposal is a firm offer for a 90-day period.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause for Proposal Rejection

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
Indicate applicable license and/or certification information:		
9. Contractor's State Licensing Board Number	10. PUC License Number CAL-T-	11. Required
12. Proposer's Name (Print)	13. Title	
14. Signature	15. Date	
16. Are you certified with the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) as:		
a. Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____	b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____	
NOTE: A copy of your Certification is required to be included if either of the above items is checked " Yes ".		
Date application was submitted to OSDS, if an application is pending: _____		
17. Are you a Non-Small Business committing to the use of 25% Certified Small Business Subcontractor Participation? Yes <input type="checkbox"/> No <input type="checkbox"/>		
If Yes, complete and return the Bidder Declaration form, GSPD-05-105 with your proposal.		

Completion Instructions for PROPOSAL/PROPOSER CERTIFICATION SHEET

Complete the numbered items on the Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete if your firm holds a California contractor's license. This information will be used to verify possession of a contractor's license for public works agreements.
10	Complete if your firm holds a PUC license. This information will be used to verify possession of a PUC license for public works agreements.
11	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
12, 13, 14, 15	Must be completed. These items are self-explanatory.
16	If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.
17	Check the applicable box. Complete and return GSPD-05-105 with your proposal.

ATTACHMENT 4 – COST PROPOSAL WORKSHEET
(See Attachment 6 for Overall Evaluation/Scoring Worksheet)

The cost proposal submitted by the Prime Contractor will consist of two proposals, one cost proposal for the P3 scope of work and one cost proposal for the HOT Lane scope of work. One cost proposal for the P3 scope of work and one cost proposal for the HOT Lane scope of work will also be provided for each subcontractor. The highest cost subcontractor cost proposal for each of the P3 and HOT Lane cost proposals will be included on the Prime Contractor cost proposals, respectively. The Commission expects that the cost proposals submitted will form the basis for determining the cost and level of effort when entering into individual Task Orders upon execution of the Agreement.

Recommendation for Estimating Level of Effort:

P3 Cost Proposals - When preparing the cost proposal with respect to the P3 scope of work, in addition to the scope of work set forth in Exhibit A and Section A 1 & 2 of the RFP, review of the Commission’s P3 Policy Guidance as well as the Commission staff report for the Presidio Parkway P3 Project Proposal is recommended. This information may be found at <http://www.catc.ca.gov/programs/P3.htm>.

HOT Lane Cost Proposals - When preparing the cost proposal with respect to the HOT Lane scope of work, in addition to the scope of work set forth in Exhibit A and Section A 1 & 2 of the RFP, review of the Commission’s HOT Lane Policy Guidance as well as the eligibility review and determination report for the RCTC HOT Lane Project is recommended. This information may be found at: <http://www.catc.ca.gov/programs/HOTLanes.htm>.

Cost Proposal Scoring:

Cost proposals will be scored based on lowest cost. The lowest P3 cost proposal will receive the maximum (40) points. Other P3 cost proposals will receive a % (fraction) of the lowest P3 cost proposal. The lowest HOT Lane cost proposal will receive the maximum (10) points. Other HOT Lane cost proposals will receive a % (fraction) of the lowest HOT Lane cost proposal. Cost points awarded to both the P3 cost proposal and the HOT Lane cost proposal will be combined with the points awarded for technical criteria in determining the overall score. A maximum of 50 cost points are possible. The following example is intended to provide an understanding of how the scoring for cost proposals received will be calculated:

<u>P3 Cost Proposal Maximum Points = 40</u>			
	<u>Proposal 1</u>	<u>Proposal 2</u>	<u>Proposal 3</u>
P3 Cost Proposals	\$70,000	\$75,000	\$80,000
Scoring*	<u>40 Points</u>	<u>37.33 Points</u>	<u>35 Points</u>
<i>* Scoring Calculations</i>			
Proposal 1 – Lowest Cost = 40 Points			
Proposal 2 - (\$70,000/\$75,000 X 40 Points = 37.33 Points			
Proposal 3 – (\$70,000/\$80,000 X 40 Points = 35 Points			

<u>HOT Lanes Cost Proposal Maximum Points = 10</u>			
	<u>Proposal 1</u>	<u>Proposal 2</u>	<u>Proposal 3</u>
HOT Lanes Cost Proposals	\$70,000	\$75,000	\$80,000
Scoring*	<u>10 Points</u>	<u>9.33 Points</u>	<u>8.75 Points</u>
<i>* Scoring Calculations</i>			
Proposal 1 – Lowest Cost = 10 Points			
Proposal 2 - (\$70,000/\$75,000 X 10 Points = 9.33 Points			
Proposal 3 – (\$70,000/\$80,000 X 10 Points = 8.75 Points			

ATTACHMENT 4 (CONTINUED)

PRIME CONTRACTOR - COST PROPOSAL WORKSHEET
PUBLIC PRIVATE PARTNERSHIP (P3)

<u>PRIME DIRECT LABOR CLASSIFICATIONS</u>	<u>ESTIMATED HOURS**</u>		<u>HOURLY RATE */***</u>	<u>TOTAL</u>
Project Manager/Principal	150	@	_____	_____
List Other Key Personnel & Classifications:	100	@	_____	_____
TOTAL PRIME CONTRACTOR DIRECT LABOR				\$_____
PRIME CONTRACTOR TRAVEL COSTS (Estimate cost of Project Manager, one trip for two nights to Los Angeles)				\$_____
SUBCONTRACTOR(S) COST ***** (Insert Total Cost from Highest Subcontractor Cost Proposal)				\$_____
TOTAL COSTS (Prime Cost + Highest Subcontractor Cost)				\$_____

Legend:

- * Hourly rates shall include all direct labor and indirect costs. Indirect costs will not be reimbursed as a separate line item. The Commission expects the Contractor to use the hourly rates as set forth in the Cost Proposal for each of the listed individuals and classifications when entering into individual Task Orders.
- ** Hours are for cost proposal evaluation purposes only. However, the Commission expects the same or similar percentage of hours to be provided by each of the listed classifications when entering into individual Task Orders.
- *** These rates shall be in effect for the duration of the Agreement and will be used in the execution of each Task Order.
- ***** Include separate P3 Cost Proposal Worksheets for each subcontractor. Each individual Subcontractor P3 Cost Proposal must estimate 150 hours for the Project Manager and 100 hours for the Other Key Personnel & Classifications. Highest cost Subcontractor will be added to the Prime Contractor cost for cost proposal scoring purposes.

ATTACHMENT 4 (CONTINUED)

PRIME CONTRACTOR COST PROPOSAL WORKSHEET
HIGH-OCCUPANCY TOLL (HOT) LANE

<u>PRIME DIRECT LABOR CLASSIFICATIONS</u>	<u>ESTIMATED HOURS**</u>		<u>HOURLY RATE */***</u>	<u>TOTAL</u>
Project Manager/Principal	100	@	_____	_____
List Other Key Personnel & Classifications:	100	@	_____	_____
TOTAL PRIME CONTRACTOR DIRECT LABOR				\$_____
PRIME CONTRACTOR TRAVEL COSTS (Estimate cost of Project Manager, one trip for two nights to Los Angeles)				\$_____
SUBCONTRACTOR(S) COST ***** (Insert Total Cost from Highest Subcontractor Cost Proposal)				\$_____
TOTAL COSTS (Prime Cost + Highest Subcontractor Cost)				\$_____

Legend:

- * Hourly rates shall include all direct labor and indirect costs. Indirect costs will not be reimbursed as a separate line item. The Commission expects the Contractor to use the hourly rates as set forth in the Cost Proposal for each of the listed individuals and classifications when entering into individual Task Orders.
- ** Hours are for cost proposal evaluation purposes only. However, the Commission expects the same or similar percentage of hours to be provided by each of the listed classifications when entering into individual Task Orders.
- *** These rates shall be in effect for the duration of the Agreement and will be used in the execution of each Task Order.
- ***** Include separate HOT Lane Cost Proposal Worksheets for each subcontractor. Each individual Subcontractor HOT Lane Cost Proposal must estimate 100 hours for the Project Manager and 100 hours for the Other Key Personnel & Classifications. Highest cost Subcontractor will be added to the Prime Contractor cost for cost proposal scoring purposes.

ATTACHMENT 4 (CONTINUED)

SUBCONTRACTOR COST PROPOSAL WORKSHEET****
PUBLIC PRIVATE PARTNERSHIP (P3)

<u>SUBCONTRACTOR DIRECT LABOR CLASSIFICATIONS</u>	<u>ESTIMATED HOURS**</u>		<u>HOURLY RATE */***</u>	<u>TOTAL</u>
Project Manager/Principal	150	@	_____	_____
List Other Key Personnel & Classifications:	100	@	_____	_____
TOTAL SUBCONTRACTOR DIRECT LABOR				\$_____
SUBCONTRACTOR TRAVEL COSTS (Estimate cost of Project Manager, one trip for two nights to Los Angeles)				\$_____
TOTAL SUBCONTRACTOR COST****				\$_____

Legend:

- * Hourly rates shall include all direct labor and indirect costs. Indirect costs will not be reimbursed as a separate line item. The Commission expects the Contractor to use the hourly rates as set forth in the Cost Proposal for each of the listed individuals and classifications when entering into individual Task Orders.
- ** Hours are for cost proposal evaluation purposes only. However, the Commission expects the same or similar percentage of hours to be provided by each of the listed classifications when entering into individual Task Orders.
- *** These rates shall be in effect for the duration of the Agreement and will be used in the execution of each Task Order.
- **** Include separate P3 Cost Proposal Worksheets for each subcontractor. Each individual Subcontractor P3 Cost Proposal must estimate 150 hours for the Project Manager and 100 hours for the Other Key Personnel & Classifications. Highest cost Subcontractor will be added to the Prime Contractor cost for cost proposal scoring purposes.

ATTACHMENT 4 (CONTINUED)

SUBCONTRACTOR COST PROPOSAL WORKSHEET****
HIGH-OCCUPANCY TOLL (HOT) LANES

<u>SUBCONTRACTOR DIRECT LABOR CLASSIFICATIONS</u>	<u>ESTIMATED HOURS**</u>		<u>HOURLY RATE */***</u>	<u>TOTAL</u>
Project Manager/Principal	100	@	_____	_____
List Other Key Personnel & Classifications:	100	@	_____	_____
TOTAL SUBCONTRACTOR DIRECT LABOR				\$_____
SUBCONTRACTOR TRAVEL COSTS (Estimate cost of Project Manager, one trip for two nights to Los Angeles)				\$_____
TOTAL SUBCONTRACTOR COST****				\$_____

Legend:

- * Hourly rates shall include all direct labor and indirect costs. Indirect costs will not be reimbursed as a separate line item. The Commission expects the Contractor to use the hourly rates as set forth in the Cost Proposal for each of the listed individuals and classifications when entering into individual Task Orders.
- ** Hours are for cost proposal evaluation purposes only. However, the Commission expects the same or similar percentage of hours to be provided by each of the listed classifications when entering into individual Task Orders.
- *** These rates shall be in effect for the duration of the Agreement and will be used in the execution of each Task Order.
- ***** Include separate HOT Lane Cost Proposal Worksheets for each subcontractor. Each individual Subcontractor HOT Lane Cost Proposal must estimate 100 hours for the Project Manager and 100 hours for the Other Key Personnel & Classifications. Highest cost Subcontractor will be added to the Prime Contractor cost for cost proposal scoring purposes.

ATTACHMENT 5
MINIMUM QUALIFICATIONS AND TECHNICAL PROPOSAL CRITERIA
(See Attachment 6 for Overall Evaluation/Scoring Worksheet)

Minimum Qualifications (Pass/Fail)

Discuss how your firm meets the minimum qualifications described in Section B of the RFP. This narrative should be accompanied by (1) evidence of the Contractor's California Business License and a current certificate of good standing for the Contractor's firm issued by the California Secretary of State or explanation and equivalent documentation if not provided and (2) three proposer references. Firms that provide sufficient information to support the minimum qualifications will pass the minimum qualifications requirement.

Proposer References:

Submission of the reference information below is mandatory. Failure to complete and return references with your proposal will cause your proposal to be rejected and deemed nonresponsive. List below three references of similar types of services performed within the last five years. If three references cannot be provided, please explain on an attached sheet of paper. The Commission may contact the companies/entities listed in the Proposer References to verify that the Proposer has completed satisfactory work for clients to determine:

1. *Was the work completed satisfactorily?*
2. *Was the work completed on time?*
3. *Would the Client utilize the Proposer's services in the future?*

REFERENCE 1			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person	Telephone Number		
Dates of Service	Value or Cost of Service		
Brief Description of Service Provided			

REFERENCE 2			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person	Telephone Number		
Dates of Service	Value or Cost of Service		
Brief Description of Service Provided			

REFERENCE 3			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person	Telephone Number		
Dates of Service	Value or Cost of Service		
Brief Description of Service Provided			

ATTACHMENT 5 (Continued)
MINIMUM QUALIFICATIONS AND TECHNICAL PROPOSAL CRITERIA

Technical Qualifications (100 Maximum Points)

The technical qualifications will be evaluated and rated by an evaluation committee. Points will be awarded not to exceed the maximum points for each category below (i.e. quality response/more experience receives more points).

A. Statement of Work (25 Maximum Points)

1. Contractor demonstrates a clear understanding of the work required for each task (9 Maximum Points)
2. Contractor identifies a plan to accomplish each task and deliverable within established timeframes (8 Maximum Points)
3. Contractor provides a reasonable approach to Team Collaboration (8 Maximum Points)

B. Firm Overview (15 Maximum Points)

1. Structure of firm identifies an organization with a stable workforce of experienced management and staff to perform work under this agreement (5 Maximum Points)
2. Experienced in working with multi-disciplinary teams (10 Maximum Points)

C. Team Resumes - Engagement Manager and Team Member Qualifications (30 Maximum Points)

1. Team member qualifications and experience (*Note: Team Members Must Reconcile to Key Members Identified on Cost Proposal*)
 - a) Demonstrated involvement with P3 and HOT Lane projects including ability to negotiate and close financing, knowledge of financing/funding mechanisms, financing plans, financial modeling, value for money, cost benefit analysis, and forecast and revenue projections (10 Maximum Points)
 - b) Experience with developing and assessing qualifications and best value criteria (5 Maximum Points)
 - c) Experience in useful life determinations and evaluation of transportation performance objectives (5 Maximum Points)
2. Contractor's plan to utilize multiple qualified teams, made up of key qualified and experienced personnel, for avoiding conflicts of interest while ensuring completion of the required scope of work (10 Maximum Points)

ATTACHMENT 5 (Continued)
MINIMUM QUALIFICATIONS AND TECHNICAL PROPOSAL CRITERIA

D. Financial and Technical Experience (30 Maximum Points)

1. Maximum points will be awarded based on the P3 or HOT lane projects for which the firm successfully demonstrates work performed to support achievement of the experience required.
 - a) P3 & HOT Lane Experience - Demonstrated involvement with P3 and HOT Lane projects including expertise in developing and providing advice, representation and assistance for P3 and HOT Lane project proposals, assisting in proposer selection or reviewing unsolicited proposals, developing evaluation criteria for proposals based on qualifications and best value, and negotiating financial closings. (10 Maximum Points)
 - b) Financing Mechanisms - Demonstrated expertise with financing mechanisms, restrictions and requirements of state, federal, TIFIA, GARVEE, private activity bonds, private bank financing, financial tax issues, and/or Section 129 laws, regulations and agreements (10 Maximum Points)
 - c) Performance Objectives, Useful Life, Revenue Forecasts - Demonstrated experience in preparing, analyzing and/or evaluating performance objectives, useful life, life cycle costs, and revenue forecasts (10 Maximum Points)

**Attachment 6
Request for Proposal (RFP) Financial/Technical Consultant - Innovative Financing/Procurement
Evaluation/Scoring Worksheet**

Minimum Qualifications - Pass/Fail

Minimum of 10 years experience - financial advisory: transportation infrastructure/P3/TIFIA/GARVEE/revenues/financing.
State of California Business License & Certification of Good Standing or Equivalent
References

Technical Proposal Criteria - 100 Points Possible

(NOTE: See Technical Proposal Criteria at Attachment 5 for each subsection A - D below.)

- A. **Statement of Work** - Proposed Tasks and Deliverables accomplish the project goals - 25 points maximum
- B. **Firm Overview** describes ability to perform duties and manage multi-disciplinary teams - 15 points maximum
- C. **Team Resumes: Engagement Manager & Team Member Qualifications** - Resumes are included for each proposed project team member. Experience is sufficiently detailed to support the Statement of Work. Higher level of related experience receives higher score - 30 points maximum
- D. **Financial/Technical Experience** - Overall Statement of Experience & Qualifications highlights expertise in analyzing public transportation infrastructure projects - 30 points maximum

Cost - 50 Points Possible

Lowest cost receives high score, other proposals scored as a ratio of their proposed cost to the lowest proposed cost - 50 points maximum (40 Points Maximum for P3 Cost Proposal & 10 Points Maximum for HOT Lanes Cost Proposal)

Evaluation/Scoring Calculations		1	2	3	4
Contractor					
Offer					
Minimum Qualifications (Pass/Fail)	Pass/Fail				
Technical Score	Possible Points				
A. Statement of Work					
A.1 Understanding of Work	9				
A.2 Plan to Accomplish Work	8				
A.3 Approach to Team Collaboration	8				
B. Firm Overview					
B.1 Organizational Structure	5				
B.2 Multi-Disciplinary Teams	10				
C. Team Resumes/Experience					
C.1(a) P3 & HOT Lanes	10				
C.1(b) Evaluation Criteria	5				
C.1(c) Useful Life, Performance Objectives	5				
C.2 Conflict of Interest Strategy	10				
D. Financial/Technical Project Experience					
D.1(a) P3 & HOT Lanes	10				
D.1(b) Financing Mechanisms	10				
D.1(c) Performance Obj, Useful Life, Rev Forecasts	10				
Subtotal - Technical Points	100	0	0	0	0
Cost (Per Task Order)					
Possible Points					
P3 Task Order	40	\$ -	\$ -	\$ -	\$ -
HOT Lane Task Order	10	\$ -	\$ -	\$ -	\$ -
Subtotal - Cost Points	50	0	0	0	0
GRAND TOTAL	150	0	0	0	0

Attachment 7

Bidder Declaration Form, GSPD-05-105

To download the Bidder Declaration, GSPD-05-105 (REV 08/09), please see:

<http://www.documents.dgs.ca.gov/pd/poliproc/Master-BidDeclar08-09.pdf>

ATTACHMENT 8
Darfur Contracting Act

Public Contract Code Sections 10475 -10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal.

If your company has not, within the previous three years, had any business activities or other operations outside of the United States, you do **not** need to complete this form.

OPTION #1 - CERTIFICATION

If your company, within the previous three years, has had business activities or other operations outside of the United States, in order to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective proposer/bidder named below is **not** a scrutinized company per Public Contract Code 10476; and b) I am duly authorized to legally bind the prospective proposer/bidder named below. This certification is made under the laws of the State of California.

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

OPTION #2 – WRITTEN PERMISSION FROM DGS

Pursuant to Public Contract Code section 10477(b), the Director of the Department of General Services may permit a scrutinized company, on a case-by-case basis, to bid on or submit a proposal for a contract with a state agency for goods or services, if it is in the best interests of the state. If you are a scrutinized company that has obtained written permission from the DGS to submit a bid or proposal, complete the information below.

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

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Initials of Submitter</i>	
<i>Printed Name and Title of Person Initialing</i>	

ATTACHMENT 9

Payee Data Record (STD 204)

To download the Payee Data Record, STD 204, please see www.documents.dgs.ca.gov/osp/pdf/std204.pdf.

ATTACHMENT 10

Preference Programs - Forms

for

Target Area Contract Preference Act, STD 830

Enterprise Zone Act, STD 831

Local Area Military Base Recovery Act, STD 832

See: <http://www.dgs.ca.gov/pd/Resources/publications/SCM3.aspx>

ATTACHMENT 11

Quotes from Small Business

or

Micro Business Subcontractors

Bidder shall attach here copies of quotes from any Small Business or Micro Business subcontractors listed in the form GSPD-05-105.

ATTACHMENT 12

Proposed Form of Agreement, STD 213

Exhibit A – Scope of Work

Exhibit B – Budget Detail and Payment Provisions

Exhibit C – General Terms and conditions (GTC 610)

Exhibit D – Special Terms and Conditions

Exhibit E – Additional Provisions

**EXHIBIT A
(Standard Agreement)**

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER CTC XX - XXX
REGISTRATION NUMBER

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

STATE AGENCY'S NAME

CALIFORNIA TRANSPORTATION COMMISSION

CONTRACTOR'S NAME

2. The term of this Agreement is: TBD through TBD

3. The maximum amount of this Agreement is: \$TBD

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

Exhibit A and Attachment A.1 – Scope of Work page(s)

Exhibit B – Budget Detail and Payment Provisions page(s)

Exhibit C* – General Terms and Conditions Effective June 2010 GTC 610*

Check mark one item below as Exhibit D:

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions page(s)

Attachment 1 – Cost Proposal

Attachment 2 – Contractor's Certification Clause

Attachment 3 – Technical Proposal

Attachment 4 – Bidder Declaration, GSPD-05-105

Item shown with an Asterisk (*), is hereby incorporated by reference and made part of this agreement as if attached hereto.
This document can be viewed at www.ols.dgs.ca.gov/Standard+Language for Interagency Agreements (effective June 9, 2010).

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

CONTRACTOR		<i>California Department of General Services Use Only</i>
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)		
BY (Authorized Signature)	DATE SIGNED(Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME		
CALIFORNIA TRANSPORTATION COMMISSION		
BY (Authorized Signature)	DATE SIGNED(Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
BIMLA G. RHINEHART, EXECUTIVE DIRECTOR		
ADDRESS		
1120 N STREET, #2224 SACRAMENTO, CA 95814		

Exempt per:

**EXHIBIT A
 (Standard Agreement)**

SCOPE OF WORK

1. The work to be performed under this Agreement shall be in accordance with the Contractor's Technical Proposal entitled (NAME) dated (DATE), Attachment ____, the Contractor's Cost Proposal dated (Date), Attachment ____, and the Scope of Work, Exhibit A, of this Agreement. The proposals are attached hereto and incorporated by reference. If there is any conflict between the Contractor's proposals and this Agreement, this Agreement shall take precedence.
2. This Agreement will commence on the start date (DATE) as presented herein or upon approval by the Department of General Services (DGS), whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by DGS. The Contractor will not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Contract Manager. This Agreement shall expire on (DATE). The services shall be provided during working hours, Monday through Friday, except holidays. The parties may amend this agreement as permitted by law.
3. The project representatives during the term of this agreement will be:

State Agency: California Transportation Commission	Contractor:
Name: Susan Bransen, Contract Manager	Name:
Phone: (916) 653-2082	Phone:
Fax: (916) 653-2134	Fax:

Direct all inquiries to:

State Agency: California Transportation Commission	Contractor:
Section/Unit:	Section/Unit:
Attention: Susan Bransen, Contract Manager	Attention:
Address: 2200 N Street, 2 nd Floor, MS - 52	Address:
Phone: (916) 654-4245	Phone:
Fax: (916) 653-2134	Fax:

5. Detailed description of work to be performed and duties of all parties:

Contractor agrees to provide to the California Transportation Commission (Commission) with services as described herein:

- A. The Contractor agrees to provide the Commission with expertise, advice, representation and assistance in order to fulfill its responsibilities with respect to Section 143 of the California Streets and Highways Code, as amended by Chapter 2 of the Statutes of 2009 (Senate Bill 4, Second Extraordinary Session); Chapter 6.5 (commencing with Section 6800) of Part 1 of Division 2 of the Public Contract Code, as added by Chapter 2 of the Statutes of 2009 (Senate Bill 4, Second Extraordinary Session); Section 149.7 of the California Streets and Highways Code, as added by Chapter 32 of the Statutes of 2006 (Assembly Bill 1467) and amended by Chapter 474 of the Statutes of 2009 (Assembly Bill 798); and Division 3 (commencing with Section 64100) as added to Title 6.7 of the Government Code by Chapter 474 of the Statutes of 2009 (Assembly Bill 798).
- B. The Contractor agrees to review the financial strength and weakness of a proposed project and will provide an assessment to the Commission as to the reasonableness of financing methods, lifecycle

**EXHIBIT A
(Standard Agreement)**

cost, cash flow analyses, cost/benefit analysis, debt structuring, and other financial models and/or reports submitted with project proposals and reports. Financing methods may include, but are not limited to, innovative finance, bonds, loans, and other financing delivery options, such as the Transportation Infrastructure Finance and Innovation act of 1998 (TIFIA), Grant Anticipation Revenue Vehicle (GARVEE) bonds and private activity bonds.

- C. The Contractor agrees to provide assistance to the Commission in fulfilling its responsibilities related to public private partnerships (P3) and design-build projects proposed or authorized under Section 143 of the Streets and Highways Code. The Contractor will review information presented in a P3 project proposal report and related attachments, and will provide the Commission with an independent evaluation and report of the reasonableness of the information presented by the Department of Transportation or a regional transportation agency in relation to a P3 project request for Commission approval. The Contractor's report will also conclude, citing specific references and reasons, as to whether or not the proposed project meets the Commission's scope and criteria for approval, as described in the Commission's policy guidance for approval of P3 projects (please see policy guidance at <http://www.catc.ca.gov/programs/P3.htm>). The Contractor's report will become part of the Commission's work product in selecting and approving a P3 project. The Contractor agrees that each P3 project will require a separate evaluation and report.
- D. High Occupancy Toll (HOT) Lanes - The Contractor agrees to provide the Commission with an independent review and opinion on the reasonableness of the financial data included in the regional transportation agency HOT lane application and whether the application meets the financial eligibility requirements stated in the Commission's HOT Lane Guidelines (please see guidelines and application information at <http://www.catc.ca.gov/programs/HOTLanes.htm>) and Section 149.7 of the California Streets and Highways Code. The Contractor's analysis will be part of the Commission's work product in determining project eligibility. Each HOT lane application will require a separate evaluation and report.
- E. The Contractor agrees to provide testimony as deemed necessary by the Commission. The Contractor further agrees that any reports prepared by Contractor are public documents and may be presented to the Commission and other authoritative bodies including, but not limited to, the California Transportation Financing Authority and the Design-Build Demonstration Program Peer Review Committee.

6. Contractor Tasks, Responsibilities and Deliverables

A. Task Orders

- a) Work assignments under this Agreement shall be assigned by Task Orders. Each Task Order will be negotiated separately consistent with the terms and conditions of this Agreement. The Contract Manager shall prepare a draft Task Order, which shall include a scope of work, schedule for completion, etc., and send the draft Task Order to the Contractor's representative. Within five (5) business days of receipt of the draft Task Order, the Contractor shall submit a signed Task Order including a cost proposal based on Attachment ____ to this Agreement to the Contract Manager for signature.
- b) The Contractor may not begin work until the Commission Executive Director or designee has signed and approved the Task Order and the Contract Manager notifies the Contractor to proceed with the Task Order.
- c) The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. A Task Order may not be used to amend the Agreement nor may a Task Order term extend beyond the termination date of this Agreement.

**EXHIBIT A
(Standard Agreement)**

- d) The Contractor's report shall be completed within 30 days from the approval date of a Task Order unless another period is agreed to in the Task Order.
- e) Work under the Task Order will conclude after acceptance of the report by the Commission and any necessary follow-up, including testimony before the Commission or other authoritative body as directed by the Commission.
- f) If the Contractor fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- g) The total amount payable by the Commission for an individual Task Order shall not exceed the amount agreed to in the Task Order. Task Orders and/or Task Order revisions require written approval by the Contractor and the Commission's Executive Director or designee.
- h) As the need for the Contractor's assistance is dependent on the number and timing of proposed project requests submitted to the Commission, the Contractor shall be available on an "on-call" basis for the duration of the contract. The on-call activity can be requested through the issuance of Task Orders at any time during the contract period.

B. Acceptance Criteria

- a) It shall be the Commission's sole determination as to whether a deliverable has been successfully completed and is acceptable to the Commission. There must be a signed acceptance document for each deliverable before invoices can be processed for payment.
- b) Acceptance criteria shall consist of the following:
 - 1. Reports on written deliverables are completed as specified and approved.
 - 2. All deliverables must be in a format that can be used by the Commission.
 - 3. If a deliverable is not accepted, the Commission shall provide the rationale in writing within five business days of receipt of the deliverable.
- c) The Contractor will provide the Commission with its report, as described under the detailed description of work section, within 30 days of the Commission's Task Order approval date unless agreed to in the Task Order.

**EXHIBIT B
(Standard Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with, and not to exceed, the labor rates and other direct costs specified herein, which is attached hereto as Attachment 1 and made a part of this Agreement. Incomplete or disputed invoices shall be returned to the Contractor, unpaid, for correction.
- B. Invoices shall be itemized, include the Agreement number, Task Order number, dates of service, a list of classifications providing services, hourly rates by employee, other actual direct costs incurred and shall be submitted in triplicate not more frequently than monthly in arrears to:

California Transportation Commission
Attention: Susan Bransen, Contract Manager
1120 N Street, 2nd Floor, MS-52
Sacramento, CA 95814

- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.
- C. The State has the option to terminate the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

3. Prompt Payment Clause

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

4. Rates

Rates for services under this Agreement shall not exceed the rates set forth in the Contractors Cost Proposal found on Attachment ___ to this document.

**EXHIBIT B
(Standard Agreement)**

5. Allowable Costs and Payments

- A. The Contractor shall not commence performance of work or services until this Agreement has been approved by the State. No payment will be made prior to approval nor for any work performed prior to approval of this Agreement.
- B. Contractor personnel shall be available to interview and work statewide. There is no increase in hourly rates for different locations. Costs related to items such as travel, per diem and travel times to the designated base of operation for the contract are costs to the Contractor. The Commission will not pay for such costs as a separate item. The designated base of operation for this contract is Sacramento.

The only travel expense exception will be when the Contractor is required to travel to multiple sites that are not located in the same city or general vicinity of the designated base of operation for this Agreement. All travel expenses must be preauthorized by the Commission and included in the executed Task Order.

The Commission expects little or no travel will be necessary for this work. Reimbursement for transportation or subsistence costs shall not exceed the rates authorized to be paid non-represented state employees under current State Department of Personnel Administration rules and regulations.

- C. Other direct costs must be agreed to in advance through the executed Task Order and will be reimbursed at actual costs not to exceed the other direct costs included in the executed Task Order.
- D. The total amount payable by the State, shall not exceed \$_____.

6. Cost Principles

- A. The Contractor agrees that Title 48 Code of Federal Regulations (CFR), Chapter 1, Part 31, Contract Cost Principles and Procedures (48 CFR Part 31), shall be used to determine the allowable individual items of cost.
- B. The Contractor also agrees to comply with Federal procedures in accordance with Title 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR Part 18).
- C. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 49 CFR Part 18 are subject to repayment by Contractor to State.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

**EXHIBIT C
(Standard Agreement)**

GENERAL TERMS AND CONDITIONS

PLEASE NOTE: This page will not be included with the final agreement. The General Terms and Conditions will be included in the agreement by reference to Internet site:

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

**EXHIBIT D
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SPECIAL TERMS AND CONDITIONS

1. **Excise Tax**

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. **Settlement of Disputes**

In the event of a dispute, Contractor shall file a "Notice of Dispute" with Bimla Rhinehart, Executive Director, California Transportation Commission, within ten (10) days of discovery of the problem. Within ten (10) days, the Executive Director or Designee shall meet with the Contractor and Project Manager for purposes of resolving the dispute. The decision of the Commission's Executive Director or Designee shall be final.

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

3. **Evaluation of Contractor**

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

4. **Agency Liability**

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

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5. Subcontractors

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relationship between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- B. The Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted except for subcontractors listed on the Cost Proposal (Attachment ____).
- C. Any substitution of Subcontractors shall comply with the requirements of Public Contract Code Section 4100 et seq., and must be approved in writing by the Contract Manager in advance of assigning work to a substitute Subcontractor.

6. Contractor's Reports and/or Meetings

- A. The Contractor shall submit progress reports if requested by the Contract Manager to allow the Contract Manager to determine if the Contractor is performing to expectations or is on schedule, to provide communication of interim findings, and to afford occasions for airing difficulties or special problems encountered so that remedies can be developed.
- B. The Contractor shall meet with the Contract Manager as needed to discuss progress on the Agreement and individual Task Orders.
- C. Prior to completion of individual Task Orders, the Contractor shall hold a final meeting with the Contract Manager to present findings, conclusions and recommendations and shall submit a comprehensive final report.
- D. Any document or written report prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, a list of all contracts and subcontracts (including dollar amounts) relating to the preparation of those documents or reports if the combined costs for work by non-employees of the Contractor exceed \$5,000.

7. Publication

- A. The Contractor shall not copyright any report required by this Agreement.
- B. The reports required by this Agreement shall become the property of the State, and all publication rights are reserved to the State.
- C. The title pages of each report shall bear an appropriate inscription acknowledging the sources of funds used to produce the report.
- D. Reports shall contain the following disclaimer in a separate section preceding the main body of the document:

"The contents of this report reflect the views of the author who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official view or

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policies of the State of California or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation.”

8. Confidentiality of Data

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

9. Retention of Records/Audits

- A. For the purpose of determining compliance with Public Contract Code Section 10115, et seq., and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, subcontractors and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including, but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the State or Federal government shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- B. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this Article.

10. Prohibition From Bidding

The Agreement is subject to the provisions of Section 10365.5 of the Public Contract Code which states: “No contractor who has been awarded a consulting services agreement may submit a bid for, nor be awarded an agreement for, the provision of services, goods and supplies, or any other related action which is required, suggested or otherwise deemed appropriate in the end product of the original consulting services agreement.”

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ADDITIONAL PROVISIONS

1. **Consultant - Staff Expenses**

The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have a contractual relationship with any governmental entity.

2. **Progress Payments**

In accordance with Public Contract Code Section 10346, progress payments will be made to the Contractor if so requested for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the contract amount shall be withheld pending final completion of the contract. Since this contract consists of the performance of separate and distinct tasks, then any funds so withheld with regard to a particular task may be paid upon completion of that task.

3. **Conflict of Interest**

- A. Contractor certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who exercises any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement.
- C. Contractor shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- D. Contractor agrees to ensure that all individuals assigned, individually and collectively, do not and will not have a conflict of interest, real or apparent, with respect to each individual Task Order and the scope of work set forth therein. The Contractor further agrees to notify the Commission at such time a conflict of interest may arise.

4. **Right to Terminate**

- A. The State reserves the right to terminate this Agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.
- B. The Agreement can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.
- C. This Agreement may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.

5. **Force Majeure**

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Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

6. Labor Code/Workers Compensation

Contractor certifies and is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor affirms to comply with such provisions before commencing the performance of the work of this contract.

7. Licenses and Permits

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this contract.

In the event, any license(s) and/or permit(s) expire at any time during the term of this contract; Contractor agrees to provide the Commission a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

8. Insurance Requirements

A. When the Contractor submits a signed contract to the State, Contractor shall furnish to the State a certificate of insurance, stating that there is:

- a. Liability insurance presently in effect for the Contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.
- b. Automobile liability including non-owned auto liability, of not less than \$1,000,000 per occurrence for volunteers and paid employees providing services supported by this Agreement.
- c. Professional liability of not less than \$1,000,000 as it appropriately relates to the services rendered. Coverage shall include medical malpractice and/or errors and omissions.

B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management, or be provided through partial or total self-insurance acceptable to the Department of General Services.

C.. The certificate of insurance will include provisions a, b, and c, in their entirety:

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- a. That the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
- b. That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this contract are concerned.
- c. That the State will not be responsible for any premiums or assessment on the policy.
- D.. Contractor agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Contractor agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Department of General Services, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.
- E. The Commission will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.

9 . Antitrust Claims

- A. The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Code Sections set out below.
 - a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

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- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.