



SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

REQUEST FOR PROPOSALS (RFP) 17-1001622

FOR

SAN BERNARDINO TRANSPORTATION ANALYSIS MODEL UPDATE

KEY RFP DATES

RFP Issue Date:	November 3, 2016
Question Submittal Deadline:	November 10, 2016 @ 4:00 p.m.
Proposal Due Date:	December 6, 2016 @ 2:00 p.m.
Interview Date:	December 20, 2016 (Tentative)
Contract Award:	February 1, 2017
Notice To Proceed:	February 2017

November 3, 2016

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS (RFP) 17-1001622,
“SAN BERNARDINO TRANSPORTATION ANALYSIS MODEL
(SBTAM) UPDATE” (hereinafter referred to as “Project”)**

The San Bernardino County Transportation Authority (“SBCTA”) invites proposals from qualified firms to provide the services as identified in this RFP.

Firms intending to submit proposals should note the “Key RFP Dates” on the cover of this RFP. It is our intention, subject to approval by SBCTA’s Awarding Authority, to have the selected firm under contract by February 2017. Firms submitting proposals will be evaluated based on qualifications, prior experience with the same or similar type of services identified in the attached Scope of Work, proposed staffing, the firm’s understanding of the needs and requirements of the Project, cost and price, and overall value to SBCTA as identified in this RFP.

The RFP and all RFP schedule updates and addenda, together with other important information, are available on SANBAG’s/SBCTA’s website at: www.sanbag.ca.gov, click on “Vendor Portal”, then select “Bid Opportunities”. The website is the official means of notification to all prospective proposers. Firms are requested to check the website periodically, and no less frequently than weekly, for RFP schedule updates, addenda, and other information. All proposers will be held accountable for compliance with all updates, addenda and other information posted on the website. Please note that SBCTA will not be responsible for mailing any addenda, schedule updates or other information to any firm.

Proposals are due on or before **2:00 p.m., Tuesday, December 6, 2016.**

All questions related to this RFP must be put in writing and submitted to SBCTA no later than **4:00 p.m., on Thursday, November 10, 2016.** All questions must be clearly labeled, “**Written Questions**” and submitted electronically to:

Alicia Johnson
Procurement Analyst

procurement@sanbag.ca.gov
RFP17-1001622

Questions received after the deadline may or may not be responded to at the sole discretion of SBCTA. Questions received by the deadline or responded to after the deadline at the discretion of SBCTA, and the written responses will be posted via written addendum on SANBAG's/SBCTA's website at www.sanbag.ca.gov, click on "Vendor Portal", then select "Bid Opportunities".

If the contract is awarded, the firm awarded the contract will be required to comply with all applicable laws and regulations, including but not limited to, equal opportunity laws and regulations.

Firms using subconsultants are encouraged to subcontract with small and disadvantaged businesses to the maximum extent possible.

The award of this contract is subject to the availability, appropriation and receipt of federal, State and/or local funds sufficient to carry out the work identified in this RFP.

SBCTA

REQUEST FOR PROPOSALS 17-1001622

FOR

“SAN BERNARDINO TRANSPORTATION ANALYSIS MODEL UPDATE”

I. PROPOSAL INSTRUCTIONS

A. INTRODUCTION

The San Bernardino County Transportation Authority (“SBCTA”) is soliciting proposals from qualified firms (“firms” or proposers”) to assist SBCTA with **the San Bernardino Transportaton Analysis Model Update** (“Project”).

B. CONTACT INFORMATION

All inquiries, contacts or questions related to this RFP shall be directed to:

Alicia Johnson
Procurement Analyst
SBCTA
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715
(909) 884-8276
procurement@sanbag.ca.gov

Proposers are cautioned not to discuss this RFP with any official, Board Member or employee of SBCTA, other than the staff identified herein. Neither proposers, nor anyone representing the proposer, are to discuss this RFP with any consultant or contractor engaged by SBCTA for assistance in preparing a response to the RFP. Violation of this prohibition may result in disqualification of the proposer.

C. PRE-PROPOSAL CONFERENCE

Not Applicable

D. WRITTEN QUESTIONS/CLARIFICATIONS

All questions and or clarifications to this RFP, must be put in writing and submitted electronically to procurement@sanbag.ca.gov, and they must be received by SBCTA no later than **4:00 p.m., on Thursday, November 10, 2016**. Questions received after the date and time specified may or may not be responded to, at the sole discretion of SBCTA. All questions/clarifications must be clearly labeled **“Written Questions – RFP17-1001622”**. SBCTA is not responsible for failure to respond to questions that are not appropriately marked. SBCTA’s responses to the questions received by the date and time identified herein, including SBCTA’s answers will be posted on SANBAG’s/SBCTA’s website at www.sanbag.ca.gov, click on “Vendor Portal”, then select “Bid Opportunities”.

E. ADDENDA

Any changes to this RFP will be made by written addendum and posted on SANBAG’s/SBCTA’s website. SBCTA will not be bound to any modifications to or deviations from the requirements set forth in this RFP as a result of any oral discussions and/or instructions. Proposers shall acknowledge any addenda in their proposal.

F. CONTRACT TYPE

A Time and Materials contract will be used for the Project. Any work provided by the selected firm that is not specifically covered by the contract will not be reimbursed. Please refer to the form of contract attached to this RFP for more detailed information.

G. INFORMED PROPOSER

Proposers shall review the Scope of Work (Attachment A), the Price List (Attachment B), and the contract (Attachment C) for a complete understanding of the terms and conditions of this RFP. Proposers are expected to be fully aware of the conditions, requirements, and Scope of Work before submitting any proposal. Failure to do so will be at the proposer’s own risk. By submitting a proposal, the proposer represents that it is legally qualified and fully capable of performing quality work to achieve SBCTA’s objectives and comply with all requirements identified in this RFP and any and all schedule updates, addenda and other information and instructions posted on SANBAG’s/SBCTA’s website or provided in the Pre-Proposal Conference as set forth above.

H. CONFLICT OF INTEREST

Any person or firm that has assisted SBCTA in preparing any aspect of this RFP or any cost estimate associated with the Scope of Work related to this RFP is prohibited from submitting a proposal in response to this RFP. Firms that received assistance from any such person or entity, or who will use the services of such person or entity in performing the work will be disqualified. A firm who is prohibited from submitting a proposal in response to this RFP will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time.

I. PRE CONTRACTUAL EXPENSES

SBCTA shall not be liable for any pre-contractual expenses incurred by the firm in preparation or submission of their proposal. The proposer shall not include any such expenses as part of their price proposal. Prohibited pre-contractual expenses include any and all expenses incurred by the proposer prior to issuance of the Notice To Proceed by SBCTA.

J. IRAN CONTRACTING ACT OF 2010

Intentionally Omitted

K. PREVAILING WAGES

Intentionally Omitted

L. MATERIALS FURNISHED BY SBCTA

All software, data, reports, surveys, drawings, and other documents furnished to the consultant by SBCTA for the consultant's use in the performance of work shall be made available only for use in performing the assignment and shall remain the sole property of SBCTA. All such materials shall be returned to SBCTA upon completion of Work, termination of the contract, or other such time as SBCTA may determine.

M. DISADVANTAGED BUSINESS OPPORTUNITIES

Though no DBE goal is set for this Project, SBCTA encourages participation from small and Disadvantaged Business Enterprise (DBE). Firms interested in the DBE program may contact Jeffery Hill, Procurement Manager at (909) 884-8276.

II. PROPOSAL SUBMITTAL

Proposals are due at or before **2:00 p.m., Tuesday, December 6, 2016**. One original, 6 copies, and a CD or Flash Drive with a PDF version of the proposal, are to be submitted to:

Alicia Johnson
Procurement Analyst
SBCTA
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715
ATTENTION: PROPOSAL FOR RFP 17-1001622

All proposals are to be submitted in a sealed package, clearly marked with RFP number and title and clearly marked with the proposer's name and address. Postmarks will not be accepted in lieu of receiving proposals by the date and time specified. **Proposals received after the date and time specified will be returned to the firm without further consideration or evaluation.**

Please note that where two or more firms, persons or entities wish to submit one proposal in response to this RFP, they should do so on a prime/subconsultant basis rather than as a joint venture. SBCTA will contract with a single firm, person or entity only and not with a joint venture.

A. PROPOSAL CONTENT

The proposal is limited to 30 (8 ½" x 11") pages in no less than 11-point font. This page limit includes the Table of Contents, tabs and resumes. Charts and schedules may be included in 11" x 17" format. Each page must be consecutively numbered. Proposals and cover letters shall not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. The page limit does not include the outside cover, section dividers, or cover letter. Proposals that do not contain the required information will be deemed non-responsive and will not be considered.

If at any time during the RFP process, a firm makes any changes to proposed key personnel or subconsultants, the firm must notify SBCTA in writing of those proposed changes as soon as they are known. SBCTA reserves the right to accept or reject such proposed changes or to revise the evaluation scoring to reflect the proposed staffing changes.

All proposals must include the following information:

1. Cover Letter

- Identification of all proposed subconsultants including description of the work to be performed by the firm and each subconsultant proposed for the Project and an estimate of the percentage of work to be performed by each subconsultant.
- Indicate the location of the office from which the work will be performed.
- A memorandum from a principal of each subconsultant indicating the specific portion of the Work the subconsultant will be performing.
- Acknowledgement of all addenda.
- A signed statement by an officer of the prime firm attesting that all information in the proposal is true and correct.
- A signature of an authorized person within the prime firm who can bind the firm to the terms and conditions of the RFP.
- A statement that the proposal shall remain valid for 120 days from the date of submission.
- A list of all prime contracts (if any) awarded to the proposer by SANBAG or SBCTA for the last five (5) years. The list shall include a short description of the

project, the award date, completion date, name of assigned Project Manager and contract value.

2. Contract Termination Circumstances

If proposer has ever been terminated from a contract, describe the facts and circumstances in detail. Firms shall refer to SBCTA Policy No. 11000 for details. Firms may download the Policy from SANBAG's/SBCTA's website at www.sanbag.ca.gov, click on "Vendor Portal", and then click on "Bid Opportunities".

3. Technical Information

The technical portion of the proposal shall include the following information:

a. Qualifications, Related Experience, and References

This section of the proposal should establish the ability of the proposed team to satisfactorily perform the required work by reasons of: experience in performing work of the same or similar nature; demonstrated experience working with agencies and cities directly involved in this Project, if applicable; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Specifically:

- Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees. Include confirmation that the prime and subconsultants are registered with the Department of Industrial Relations if Prevailing Wages are applicable.
- Provide a general description of the firm's current financial condition; identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede ability to complete the Project.
- Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and the participation in such work by the key personnel proposed for assignment to this Project. Highlight the firm's and key personnel's experience with the work or services identified in the Scope of Work.
- Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.
- Provide a list of past joint work by the proposer and each subconsultant, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.

- Provide a minimum of three (3) references for work of a similar nature to what is in this RFP. Furnish the name, title, address, telephone number, and e-mail address of the person(s) at the client organization who is most knowledgeable about the work performed. References may also be supplied from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

This section of the proposal should establish the method that will be used to manage the Project as well as identify key personnel assigned and their qualifications.

Specifically:

- Provide education, experience and applicable professional credentials of proposed staff.
- Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this Project, current assignment, level of commitment to that assignment, availability for this assignment, and how long each person has been with the firm. SBCTA reserves the right to review, approve and/or designate the positions and functions deemed to be “key” to the Project and request information concerning key personnel not listed as such by the proposer.
- Furnish brief resumes (not more than two [2] pages each) for the proposed key personnel.
- Include a Project organization chart that clearly delineates communication and reporting relationships among the project staff, including subconsultants.
- Include a statement that key personnel will be available to the extent proposed, or designated by SBCTA, for the duration of the Project, acknowledging that no person designated as "key" to the Project shall be removed or replaced without the prior written concurrence of SBCTA.

c. Project Approach/Work Plan

This section of the proposal shall provide a narrative that addresses the Scope of Work and shows understanding of the Project needs and requirements.

Specifically:

- Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the firm’s ability to accomplish the project objectives and to meet the Project schedule.
- Outline sequentially the activities that would be undertaken in completing the tasks and specify who in the firm would perform the work.

- Furnish a Project schedule for each task and subtask in terms of elapsed weeks from commencement date.
- Identify methods that will be used to ensure quality control as well as budget and schedule control for the Project.
- Identify any special issues or problems that are likely to be encountered during this project and how will they be addressed.

Proposers are encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

4. **Forms** – Proposers are required to complete and submit the following form, which are included in this RFP, with their proposal:

- Form 12-B, “Bidders List of Subcontractors”.

5. **Price Proposal**

Proposers shall complete the pricing documents in this RFP identified as Attachment B and submit with their proposal.

6. **Scope of Work and / or Contract Exceptions**

SBCTA does not anticipate making substantive changes to its form contract. Proposers are asked to include in their proposals a written discussion of any and all proposed exceptions to or deviations from SBCTA’s Scope of Work or form of contract presented herein as Attachment C. Proposers will be deemed to have accepted any and all terms and conditions not objected to or identified for any exception or deviation in the proposal and no further negotiations of any such term or condition will occur. SBCTA will not negotiate exceptions or deviations not presented in the proposal and may reject proposals where identified exceptions or deviations affect terms of conditions that SBCTA considers non-negotiable.

7. **Appendices**

Information considered pertinent to this RFP or to the evaluation of qualifications of the proposer, which has not been specifically solicited in any of the aforementioned sections, may be placed in a separate appendix section. Appendices are not included within the page limit set forth above. Appendices should be relevant and brief.

III. **ACCEPTANCE OF PROPOSALS**

SBCTA reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in a proposal. SBCTA reserves the right to withdraw or cancel this RFP at any time without prior notice and SBCTA makes no representation that any contract will be awarded to any firm responding to this RFP. SBCTA

reserves the right to reject all proposals and to re-issue (or not re-issue) a new RFP for the same or similar Work. SBCTA reserves the right to postpone proposal openings for its own convenience. Proposers may withdraw their proposals before the proposal submittal date by submitting a written request signed by an authorized representative of the firm and delivered to SBCTA's Procurement Manager at the address identified herein.

IV. CONSULTANT SELECTION CRITERIA AND WEIGHTS

The primary objective of SBCTA is to select a qualified firm to perform the Scope of Work for SBCTA at a fair and reasonable cost. In addition, SBCTA has established the following criteria for the selection process:

- A. The selection process shall be fair, open, and competitive.
- B. The selection of the firm will be based on clearly stated objectives identified in this RFP.
- C. Selection of the firm shall be based upon demonstrated competence, professional qualifications, experience, and capabilities and overall best value to perform the required Work identified in the Scope of Work.
- D. Upon review of the proposals, a shortlist of firms within the competitive range will be invited to an interview tentatively scheduled for **Tuesday, December 20, 2016** at SBCTA's office located at 1170 W. 3rd Street, San Bernardino, CA 92410. The contract will be awarded to the firm who offers the overall best value, best conforming to the RFP, which is in the opinion of SBCTA, most advantageous to SBCTA and with which a successful negotiation and agreement on cost and price can be concluded. The determination of the competitive range is at the sole discretion of SBCTA's Evaluation Committee.
- E. SBCTA reserves the right to reject any and all proposals and to negotiate with any responsible, responsive firm. SBCTA is under no obligation to award a contract for the Scope of Work. At the conclusion of the evaluation process, the Evaluation Committee will recommend to the body or officer having authority to award the Contract on behalf of SBCTA ("Awarding Authority") the firm that offers the best overall value to SBCTA. SBCTA may or may not engage in negotiations with firms who submit proposals, therefore, the firm's proposal should contain the most favorable terms and conditions including pricing, since the selection and award may be made without any discussion with any firm.
- F. Proposals will be evaluated based on the criteria and weights identified herein.
 - **Qualifications, Related Experience and References:** Firm's experience, years in business, and past and current client references; technical expertise and professional competence in areas directly related to this RFP; number of years' experience performing similar work; demonstrated ability to manage and coordinate the work; deliver quality products and services; deliver projects within

budget and on schedule; and experience working with public agencies identified in this RFP. - 20 points.

- **Proposed Staffing and Project Organization:** Technical expertise and professional competence in areas directly related to the work identified in the RFP; level of experience, certifications, licenses required and training key personnel assigned, including subconsultants, if applicable; strength of experience and stability of proposed personnel; breadth and depth of resources, coordination of Work and quality control; availability of proposed staffing; and concurrence with restrictions on changes to key personnel. - 30 points.
- **Work Plan:** Depth of understanding of SBCTA's needs and requirements, understanding of the Scope of Work. Proposer's approach and methodology/systems reflecting the ability to provide the requested work. Demonstrated knowledge of the work being requested; identification and knowledge of all requirements cited in the Scope of Work; and proposed technical and procedural innovations identified in the proposal. - 30 points.
- **Price:** Reasonableness of fee proposed. The price proposal follows prescribed format; includes breakdown of labor and expenses; is competitive with the marketplace of the same or similar services; and the proposed level of effort is consistent with the Scope of Work. - 20 points.

G. SBCTA shall select the highest ranked firms to participate in the interview process. The number of firms so invited shall be at the discretion of SBCTA, but shall not be less than two. Firms who are invited to the interview will be asked a series of questions which will be scored. The maximum score for the interviews is 100 points. Upon completion of the interview, the Evaluation Committee shall compile their interview scores. The interview will be weighted - 60% and the technical proposal will be weighted 40% for a total of 100%.

V. NEGOTIATIONS AND AWARD

The contract, Scope of Work and price may be negotiated with the selected consultant. However, SBCTA may elect to not negotiate with any of the firms, and/or not award the contract. Therefore, it is imperative that each firm submit their best price as part of their proposal.

Firms are advised that any recommendation for contract award is not binding on SBCTA until SBCTA's Awarding Authority approves the contract, and their contract is fully executed.

VI. PROTEST INFORMATION

SBCTA has on file written protest procedures (Policy 11007). Firms may download a copy from www.sanbag.ca.gov (See Doing Business/Contracting Opportunities).

VII. DEBRIEFING

Firms who submit a proposal in response to the RFP shall be notified in writing when: the firm was not selected to receive further consideration in the RFP process; the firm was selected for the interview process and after the RFP Evaluation Committee's recommendation to award has been determined. Firms who were not awarded the contract may obtain a debriefing by contacting SBCTA's Procurement Analyst at procurement@sanbag.ca.gov. Firms will have thirty (30) calendar days from the date identified in the written correspondence to request a debriefing.

VIII. PUBLIC RECORDS ACT

Proposals may be subject to public disclosure under the California Public Records Act and other public records laws, and by submitting a proposal, the proposer waives all rights to confidentiality of any information submitted in the proposal and agrees to any and all such disclosures required or permitted by law. Proposals become the property of SBCTA when submitted and by submitting a proposal, the proposer agrees that SBCTA may use any information, documentation or writing contained in the proposal for any SBCTA purpose.

ATTACHMENT A – “SCOPE OF WORK”

The San Bernardino County Transportation Authority (SBCTA) is soliciting proposals to update the San Bernardino Transportation Analysis Model (SBTAM). SBTAM is a subregional model of the Southern California Association of Governments' (SCAG) regional model. SBTAM was created through application of the Subregional Model Development Tool (SMDT) created by Caliper Corporation. The SMDT has been updated by Caliper to be consistent with the regional model that was applied in the development of the recently adopted 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). An update of SBTAM is necessary to maintain consistency with the regional transportation networks and socioeconomic data incorporated into the 2016-2040 RTP/SCS. At minimum, the updated version of SBTAM will include a base year of 2012 and a horizon year of 2040.

SBCTA is requesting consultant support to assist in several key components of the model update. Through the use of the new SMDT, SBTAM will be converted to be used with TransCAD Version 6. This may necessitate the update of appropriate scripts created for use in the current version of SBTAM that uses TransCAD Version 5.0. SBTAM must be consistent with the base year and future year highway and transit networks in the regional model. The current version of SBTAM is based on 2016-2040 RTP/SCS socioeconomic data and transportation network assumptions within San Bernardino County, with all data and networks external to San Bernardino County consistent with the 2012-2035 RTP/SCS. This model was validated to year 2012 highway conditions. After development of the revised version of SBTAM that includes updated data external to San Bernardino County, a cursory 2012 highway validation within San Bernardino County will be performed. In addition, a focus of this model update will be to ensure SBTAM can reasonably forecast future transit activity throughout the county, therefore, a transit validation process is necessary through the use of existing transit data available for transit activity throughout the region and San Bernardino County.

SCAG has revised their process to develop subregional models through application of the SMDT. Rather than providing the regional model files and the SMDT to subregions for use in development of subregional models, SCAG staff will apply the SMDT in close coordination with partners to develop a 'prototype' subregional model which will then be distributed to the subregion. SBCTA has initiated the process for SCAG to develop the prototype base year 2012 and horizon year 2040 revised subregional versions of SBTAM. SBCTA anticipates completion of the prototype models, along with updated highway networks, prior to the notice to proceed (NTP) for this effort. The following tasks are required to support the update of SBTAM.

Task 1 - Project Management and Administration

Consultant shall manage day-to-day project activities and coordinate closely with the SBCTA project manager.

Task 1.1 Project Kick-off Meeting

Consultant shall develop an agenda for a project kick-off meeting to commence within two weeks of the NTP. Kick-off meeting will be held at the SBCTA administrative offices with SBCTA modeling staff to discuss project scope, schedule, budget, and communication protocol.

Task 1.2 Bi-weekly Project Status Conferences

Consultant shall conduct a bi-weekly conference call with SBCTA modeling staff and provide written project status reports and schedule updates as appropriate. Brief status reports should be transmitted to the SBCTA project manager in advance of bi-weekly conference calls along with a brief conference call agenda. Status reports should include activities to date, current activities, upcoming efforts, and issues encountered or anticipated with respect to project activities.

Task 1.3 Project Management

Consultant shall manage day-to-day project activities and develop progress reports and invoices for monthly submittal to the SBCTA project manager.

Deliverables:

Meeting agendas and notes

Monthly progress reports and invoices

Task 2 - Data Collection

Task 2.1 Obtain model data

Consultant shall coordinate with SBCTA and SCAG to acquire necessary modeling files. These files may include the SMDT input files and output files generated by SCAG following application of the SMDT for San Bernardino County. As noted, SBCTA has initiated the development of the revised version of SBTAM by SCAG through application of the revised SMDT. However, the consultant should ensure that appropriate files have been applied by SCAG in the development of SBTAM, including zonal data and the transportation networks. It is anticipated that the SBTAM networks will be updated by SBCTA modeling staff to be consistent with SCAG regional network outside of San Bernardino County prior to the NTP for this effort. However, this is a complicated effort since the current version of SBTAM has developed detailed networks within San Bernardino County that differ from the SCAG regional modeling networks. Consultant shall obtain model networks for quality assurance reviews, focusing on consistency with the current version of SBTAM within San Bernardino County.

Consultant shall obtain SBTAM model scripts from SBCTA for any utilities that were created for the current version of SBTAM that may need to be recreated. Regional and subregional model data should be obtained that may assist in subregional highway and transit validation. Boarding and alighting data shall be obtained, where available, for transit providers within San Bernardino County and that interact with San Bernardino County.

It is not anticipated that traffic counts will be collected to facilitate highway model validation. Traffic counts were previously collected to validate the current 2012 base year version of SBTAM and those traffic count volumes shall be applied to validate base year 2012 highway conditions for the revised model.

Task 3 - Development of Subregion Prototype Model

SCAG has been in collaboration with Caliper Corporation to develop a revised Subregional Model Development Tool (SMDT) compatible with the 2012-2016 RTP/SCS model. This version will be run with TransCAD Version 6 and includes adjustments and refinements to the previous version of the SMDT. The current version of SBTAM is based on the original version

of the SMDT that uses TransCAD Version 5. SBTAM uses a densified zone structure within San Bernardino County, but aggregates zones outside of the county creating a travel demand model focused for San Bernardino County.

With the previous version of the SMDT, SCAG would share the SMDT with transportation agencies and consultants for their use in developing subregional models. However, due to data sharing constraints with the adoption of the 2016-2040 RTP/SCS, SCAG is restricted from sharing the tier 1, tier 2, and tier 3 traffic analysis zone (TAZ) level socioeconomic data (SED). Since SBCTA manages the growth forecasting process for all local jurisdictions within San Bernardino County, SBCTA has direct access to San Bernardino County zonal level data. Data for counties external to San Bernardino will be encrypted as read only within the model.

To initiate the development of a revised subregional model, SBCTA has provided SCAG with the current SBTAM zone structure and network. SBCTA has provided SCAG the current SBTAM zone structure for use in developing the revised version of SBTAM and expects to receive the updated base year and future year version of SBTAM prior to the NTP being issued for this project.

Task 3.1 Obtain Subregional Base Year Prototype Model

Coordinate with SCAG and SBCTA to obtain the subregion base year prototype model consistent with the 2016-2040 RTP/SCS. SCAG has recently updated the SMDT in cooperation with Caliper Corporation. Consultant shall coordinate with SBCTA, SCAG, and Caliper modeling staff as appropriate to ensure the prototype model developed by SCAG is consistent with the framework of the current version of SBTAM.

Task 3.2 Prototype Model Review

Consultant shall review the SBTAM base year highway network for errors and ensure proper coding of highway/roadway links. Particular attention shall be paid to HOT/HOV coding on freeways and express lanes. The coding of HOV/HOT lanes must be consistent with TransCAD Version 6. Consultant shall perform full model run with five feedback loops to ensure proper model performance, documenting model run time and model performance with standard highway and transit reports.

Task 3.3 Transit Network Review

Consultant shall review the base year transit network to ensure consistency with current transit providers, including proper schedules, headways, fares, etc. Consultant shall coordinate with SCAG and SBCTA as appropriate to verify accuracy of the transit network.

Task 3.4 Utility Development

In the initial version of SBTAM, SBCTA enhanced the functionality of SBTAM through the use of add-in scripts. These scripts included two utilities. One utility incorporated turn penalties and the second created an additional output network file containing a condensed number of fields with additional derived fields to simplify analysis. Consultant shall ensure functionality of these utilities in the updated version of SBTAM in TransCAD 6.

Deliverables:

Subregional Base Year Prototype Model with complete folder structure
TransCAD 6.0 base year 2012 highway network and transit route file
Updated UI files for SBTAM scripts

Task 4 – Base Year Model Validation

SBTAM is currently validated to 2012 conditions for vehicle trips. The validation procedure for the current version of SBTAM, which also has a base year of 2012, included the collection of new traffic counts at SBTAM screenline locations. As a result, new screenline traffic counts are not necessary for highway validation of the updated model for 2012 conditions. Highway validation shall consist of at minimum evaluation of screenline performance using standard evaluation metrics.

Transit validation has not been performed for the current version of SBTAM. The primary focus of this model update is to develop a model that can reasonably forecast future transit activity throughout San Bernardino County, particularly the San Bernardino Valley. At a minimum, transit validation should be performed at the mode and line level for key transit routes throughout the San Bernardino Valley. Data obtained in Task 2 will be the basis for transit validation. Consideration must be given for transit modes that exist today that did not exist in 2012, i.e. sbX, or that will exist in the near future, i.e. Redlands Passenger Rail, and how transit validation will impact the ability to forecast activity on these modes in future years.

Task 4.1 Base Year SBTAM Highway/Transit Validation

Consultant shall perform highway and transit validation. Consultant shall validate transit model at mode level and route level where possible.

Task 4.2 Documentation

Consultant shall prepare a model validation technical memorandum which includes any adjustments to the model, including changes in the network or in trip generation, that were the result of model validation activities. The memorandum should clearly document highway and transit validation results.

Deliverables:

Model validation technical memorandum

Task 5 – Development of Future Subregion Prototype Model

Similar to the base year model, SBCTA anticipates receiving the prototype future year model from SCAG prior to the NTP for this effort. SBCTA anticipates updating the future highway and transit networks as appropriate to be consistent with the 2016-2040 RTP/SCS regional model external to San Bernardino County and the current version of SBTAM within San Bernardino County. The focus of this task is to ensure consistency of the subregion model with the regional model and performing sensitivity tests to ensure future forecasts are reasonable.

Task 5.1 – Model Quality Assurance Review

Consultant shall perform a five-loop future year model run to ensure model runs successfully, documenting model run time. Consultant shall perform quality assurance checks on the future

year model to ensure that the model runs as intended. Baseline highway and transit summaries shall be prepared by the consultant to evaluate model performance, comparing to base year 2012 performance.

Task 5.2 – Sensitivity Runs

Consultant shall perform sensitivity tests to evaluate model sensitivity to demographic inputs, network changes, toll costs, transit modes and attributes, etc. Sensitivity tests to be conducted shall be determined in coordination with SBCTA modeling staff. Standard summaries comparing sensitivity runs shall be generated.

Deliverables:

Future Model/Sensitivity technical memorandum

Task 6 - Documentation/Model Set Up

Task 6.1 Model Documentation

Consultant shall prepare final model documentation based on a compendium of technical memorandum developed throughout the project. Documentation shall include assumptions incorporated into the model and any model modifications implemented outside of the framework developed by the SMDT.

Task 6.2 Model Delivery

Consultant shall deliver model to SBCTA with all necessary modeling files, ensuring successful application of the model on SBCTA's computing platform. Existing and future year model runs shall be performed on SBCTA's computing platform to generate output files consistent with those generated by consultant.

Deliverables:

SBTAM Model Development Report

Existing and Future versions of SBTAM including all input/output files

Task 7 - Modeling Support and Training

This support would ensure SBCTA can apply the updated model and to debug issues encountered with the new model after completion and delivery by the consultant.

Task 7.1 Model Support

SBCTA will be an active participant in the development of the refined version of SBTAM. As such, consultant support shall be provided throughout the contract to ensure SBCTA staff can successfully run the new model and perform standard refinements to ensure the model can be applied for sensitivity and project related activities. After successful implementation on SBCTA's modeling workstations, consultant shall provide support to SBCTA modeling staff to debug errors encountered when running the revised version of SBTAM.

Task 7.2 Model Training

Consultant shall provide training to SBCTA modeling staff. This training should have a focus on the proper editing of the transit network. Consultant shall estimate at minimum two 4-hour training sessions at SBCTA with SBCTA modeling staff.

Deliverables:

SBTAM Model Support and On-site Training

Schedule:

It is estimated that it will take 8 months to complete this project. The estimated cost to complete the project is \$150,000-\$200,000.

ATTACHMENT B – “APPROVED PRICE FORM”



Attachment B – Price List

RFP No. 17-1001622

Task Number	Task Description	Task Hours	Total Task Cost
1	Project Management and Administration		
2	Data Collection		
3	Development of Subregion Prototype Model		
4	Base Year Model Validation		
5	Development of Future Subregion Prototype Model		
6	Documentation/Model Set Up		
7	Modeling Support and Training		
TOTAL PROJECT AMOUNT:			

Proposer

Signature of Authorized Person

Date

ATTACHMENT C – “PROPOSED CONTRACT”

CONTRACT NO. 17-1001622

BY AND BETWEEN

SBCTA

AND

FOR

SAN BERNARDINO TRANSPORTATION ANALYSIS MODEL UPDATE

This contract (referred to as “Contract”), is made and entered into by and between the San Bernardino Transportation Authority (“SBCTA”), whose address is: 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715; and [REDACTED] (“CONSULTANT”) whose address is: [REDACTED]. SBCTA and CONSULTANT are each a “Party” and collectively the “Parties”.

RECITALS:

WHEREAS, SBCTA requires certain work services as described in Exhibit “A” of this Contract; and

WHEREAS, CONSULTANT has confirmed that CONSULTANT has the requisite professional qualifications, personnel and experience and is fully capable and qualified to perform the services identified herein; and

WHEREAS, CONSULTANT desires to perform all work identified herein and to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1. PROJECT DESCRIPTION/SCOPE OF WORK

- 1.1 CONSULTANT agrees to perform the work and services set forth in Exhibit A “Scope of Work” (“Work”), in accordance with all applicable professional standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined herein. The word “Work” includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT hereunder; and the Work performed hereunder shall be completed to the satisfaction of SBCTA, with SBCTA’s satisfaction being based on prevailing applicable professional standards.

- 1.2 The Project Manager for this Contract is Cameron Brown, or such other designee as shall be designated in written notice to CONSULTANT from time to time by the Executive Director of SBCTA or his or her designee. The Project Manager shall have authority to act on behalf of SBCTA in administering this Contract, including giving notices (including without limitation, notices of default and/or termination), technical directions and approvals; issuing; demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

ARTICLE 2. CONTRACT TERM

The Contract term shall commence upon issuance of a written Notice To Proceed (NTP) issued by SBCTA's Procurement Analyst, and shall continue in full force and effect through June 30, 2018, until otherwise terminated, or unless extended as hereinafter provided by written amendment. Except that all indemnity and defense obligations hereunder shall survive termination of this Contract. CONSULTANT shall not be compensated for any Work performed or costs incurred prior to issuance of the NTP.

ARTICLE 3. COMPENSATION

- 3.1 Total compensation to CONSULTANT for full and complete performance of the Scope of Work, identified herein and, in compliance with all the terms and conditions of this Contract, shall be on a Time & Materials basis for all obligations incurred in, or application to, CONSULTANT's performance of Work, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by SBCTA) shall not exceed the amount set forth in section 3.2 below.
- 3.2 The total Contract Not-To-Exceed Amount is **XXX Dollars (\$xxx,xxx)**. All Work provided under this Contract is to be performed as set forth in Exhibit A "Scope of Work", and shall be reimbursed pursuant to Exhibit B "Price Form". The hourly labor rates identified in Exhibit B shall remain fixed for the term of this Contract and include CONSULTANT's direct labor costs, indirect costs, and profit. All expenses shall be reimbursed for the amounts identified in Exhibit B. Any travel expenses must be pre-approved by SBCTA and shall be reimbursed for per diem expenses at a rate not to exceed the currently authorized rates for state employees under the State Department of Personnel Administration rules. SBCTA will not reimburse CONSULTANT for any expenses not shown in Exhibit B or agreed to and approved by SBCTA as required under this Contract.
- 3.3 For personnel subject to prevailing wage rates as described in the California Labor Code, all wage increases that are the direct result of changes in the prevailing wage rates, are reimbursable.
- 3.4 The Cost Principles and Procedures set forth in 48 CFR, Ch. 1, subch. E, Part 31, as constituted on the effective date of this Contract shall be utilized to determine allowability of costs under this Contract and may be modified from time to time by written amendment of the Contract.
 - 3.4.1 CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 49 CFR, Part 18, Uniform Administrative

Requirements for Grants and Cooperative Agreements to State and Local Governments.

- 3.4.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments shall be repaid by CONSULTANT to SBCTA.
- 3.5 Any Work provided by CONSULTANT not specifically covered by the Scope of Work shall not be compensated without prior written authorization from SBCTA. It shall be CONSULTANT's responsibility to recognize and notify SBCTA in writing when services not covered by the Scope of Work have been requested or are required. All changes and/or modifications to the Scope of Work shall be made in accordance with the "CHANGES" Article in this Contract. Any additional services agreed to in accordance with this Contract shall become part of the Work.
- 3.6 All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE 4. INVOICING

- 4.1 Payment to CONSULTANT as provided herein shall be payable in four (4) week billing period payments, forty-five (45) calendar days after receipt of an acceptable invoice by SBCTA of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Work.
- 4.2 CONSULTANT shall prepare invoices in a form satisfactory to and approved by SBCTA, and it shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a four-week billing period and will be marked with SBCTA's contract number, description and task order number, if applicable. Invoices shall be submitted within fifteen (15) calendar days for the period covered by the invoice. Invoices shall include request for payment for Work (including additional services authorized by SBCTA) completed by CONSULTANT during each billing period and shall include back-up information sufficient to establish the validity of the invoice. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT's sole expense. The final invoice shall be marked "FINAL" and will be submitted within 60 calendar days after SBCTA has received and approved all Work and deliverables. Invoices should be e-mailed to SBCTA at the following address:
- ap@sanbag.ca.gov
- 4.3 CONSULTANT shall include a statement and release with each invoice, satisfactory to SBCTA, that CONSULTANT has fully performed the Work invoiced, pursuant to the Contract for the period covered, that all information included with the invoice is true and correct and that all payments to and claims of CONSULTANT and its subconsultants for Work during the period will be satisfied upon making of such payment. SBCTA shall not

be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.

4.4 Intentionally Omitted

4.5 No payment will be made prior to approval of any Work, nor for any Work performed prior to the NTP or the issuance of an applicable CTO, nor for any Work under any amendment to the Contract until SBCTA's Awarding Authority takes action.

4.6 CONSULTANT agrees to promptly pay each subconsultant for the satisfactory completion of all Work performed under this Contract, no later than ten (10) calendar days from the receipt of payment from SBCTA. CONSULTANT also agrees to return any retainage payments to each subconsultant within ten (10) calendar days after the subconsultants work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval by SBCTA. SBCTA reserves the right to request documentation from CONSULTANT showing payment has been made to its subconsultants. SBCTA also reserves the right, at its own sole discretion, to issue joint checks to CONSULTANT and any subconsultant(s), which shall constitute payment to CONSULTANT in compliance with the terms of this Contract. This clause applies to both DBE and non-DBE subconsultants.

4.7 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31 are subject to repayment by CONSULTANT to SBCTA.

ARTICLE 5. TAXES, DUTIES AND FEES

Except to the extent expressly provided elsewhere in this Contract, CONSULTANT shall pay when due, and the compensation set forth herein, shall be inclusive of all: a) local, municipal, State, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONSULTANT; and d) other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

ARTICLE 6. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not appropriated and/or allocated and available to SBCTA for the continuance of Work performed by CONSULTANT, Work directly or indirectly involved may be suspended or terminated by SBCTA at the end of the period for which funds are available. When SBCTA becomes aware that any portion of Work, which will or may be affected by a shortage of funds, it will promptly notify CONSULTANT. Nothing herein shall relieve SBCTA from its obligation to compensate CONSULTANT for work already performed pursuant to this Contract. No penalty shall accrue to SBCTA in the event this provision is exercised.

ARTICLE 7. PERMITS AND LICENSES

CONSULTANT shall, without additional compensation, keep current all governmental permits, certificates and licenses (including professional licenses) and required registrations necessary for CONSULTANT to perform Work identified herein.

ARTICLE 8. DOCUMENTATION AND RIGHT TO AUDIT

- 8.1 CONSULTANT shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SBCTA, or until the conclusion of all litigation, appeals or claims related to this Contract, whichever is longer. CONSULTANT shall provide SBCTA, and the California State Auditor, or other authorized representatives of SBCTA, access to CONSULTANT's records which are directly related to this Contract for the purpose of inspection, auditing or copying during the entirety of the records maintenance period above. CONSULTANT further agrees to maintain separate records for costs of Work performed by amendment. CONSULTANT shall allow SBCTA, and its representatives or agents to reproduce any materials as reasonably necessary.
- 8.2 The cost proposal and/or invoices for this Contract are subject to audit by SBCTA and/or any state or federal agency funding this Project at any time. After CONSULTANT receives any audit recommendations, the cost or price proposal shall be adjusted by CONSULTANT and approved by SBCTA's Project Manager to conform to the audit recommendations. CONSULTANT agrees that individual items of cost identified in the audit report may be incorporated into the Contract at SBCTA's sole discretion. Refusal by CONSULTANT to incorporate the audit or post award recommendations will be considered a breach of the Contract and cause for termination of the Contract. Any dispute concerning the audit findings of this Contract shall be reviewed by SBCTA's Chief Financial Officer. CONSULTANT may request a review by submitting the request in writing to SBCTA within thirty (30) calendar days after issuance of the audit report
- 8.3 Subcontracts in excess of \$25,000 shall contain this provision.

ARTICLE 9. RESPONSIBILITY OF CONSULTANT

- 9.1 CONSULTANT shall be responsible for the professional quality, technical accuracy, and assurance of compliance with all applicable federal, State and local laws and regulations and other Work furnished by CONSULTANT under the Contract. The Contract includes reference to the appropriate standards for Work performance stipulated in the Contract.
- 9.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, CONSULTANT shall, as an integral part of its Work, employ quality control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality and safety of the Project and the Work performed by CONSULTANT within the areas of CONSULTANT's expertise. At any time during performance of the Scope of Work, should CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties, which could pose potential risk to SBCTA or the Project, CONSULTANT shall immediately document such matters and

notify SBCTA in writing. CONSULTANT shall also similarly notify SBCTA in regard to the possibility of any natural catastrophe, or potential failure, or any situation that exceeds assumptions and could precipitate a failure of any part of the Project. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable SBCTA to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.

ARTICLE 10. REPORTING AND DELIVERABLES

All reports and deliverables shall be submitted in accordance with Exhibit A “Scope of Work”. At a minimum, CONSULTANT shall submit monthly progress reports with their monthly invoices. The report shall be sufficiently detailed for SBCTA to determine if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or problems encountered, so remedies can be developed.

ARTICLE 11. TECHNICAL DIRECTION

11.1 Performance of Work under this Contract shall be subject to the technical direction of SBCTA’s Project Manager who will be identified in writing to the CONSULTANT, upon issuance of the NTP and/or subsequently by written notice during the Contract. The term “Technical Direction” is defined to include, without limitation:

11.1.1 Directions to CONSULTANT, which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the Scope of Work.

11.1.2 Provision of written information to CONSULTANT, which assists in the interpretation of reports, or technical portions of the Scope of Work described herein.

11.1.3 Review and, where required by the Contract, approval of technical reports, and technical information to be delivered by CONSULTANT to SBCTA under the Contract.

11.1.4 SBCTA’s Project Manager may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications are limited to: substitutions of personnel identified in the Contract, including Key Personnel and subconsultants; modifications to classifications, hourly rates and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All such modifications will be documented in writing between the Parties.

11.2 Technical Direction must be within the Scope of Work under this Contract. SBCTA’s Project Manager does not have the authority to, and may not, issue any Technical Direction which:

11.2.1 Increases or decreases the Scope of Work;

- 11.2.2 Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;
 - 11.2.3 Constitutes a change as defined in the “CHANGES” Article of the Contract;
 - 11.2.4 In any manner causes an increase or decrease in the Contract price as identified in the “COMPENSATION” Article or the time required for Contract performance;
 - 11.2.5 Changes any of the expressed terms, conditions or specifications of the Contract; unless identified herein;
 - 11.2.6 Interferes with CONSULTANT’s right to perform the terms and conditions of the Contract unless identified herein; or
 - 11.2.7 Approves any demand or claims for additional payment.
- 11.3 Failure of CONSULTANT and SBCTA’s Project Manager to agree that the Technical Direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken with respect thereto shall be subject to the provisions of “DISPUTES” Article herein.
- 11.4 All Technical Direction shall be issued in writing by SBCTA’s Project Manager.
- 11.5 CONSULTANT shall proceed promptly with the performance of Technical Direction issued by SBCTA’s Project Manager, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONSULTANT, any instruction or direction by SBCTA’s Project Manager, falls within one of the categories defined in sections 11.2.1 through 11.2.7 above, CONSULTANT shall not proceed but shall notify SBCTA in writing within five (5) working days after receipt of any such instruction or direction and shall request SBCTA to modify the Contract accordingly. Upon receiving the notification from CONSULTANT, SBCTA shall:
- 11.5.1 Advise CONSULTANT in writing within thirty (30) calendar days after receipt of CONSULTANT’s letter that the Technical Direction is or is not within the scope of this Contract.
 - 11.5.2. Advise CONSULTANT within a reasonable time whether SBCTA will or will not issue a written amendment.

ARTICLE 12. CHANGES

- 12.1 The Work shall be subject to changes by additions, deletions, or revisions made by SBCTA. CONSULTANT will be advised of any such changes by written notification from SBCTA describing the change. This notification will not be binding on SBCTA until SBCTA’s Awarding Authority has approved an amendment to this Contract.
- 12.2 Promptly after such written notification of change is given to CONSULTANT by SBCTA, the Parties will attempt to negotiate a mutually agreeable adjustment to compensation or time of performance, and amend the Contract accordingly.

ARTICLE 13. EQUAL EMPLOYMENT OPPORTUNITY

During the term of this Contract, CONSULTANT shall not willfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, gender, marital status, sexual orientation, age, political affiliation or disability. CONSULTANT agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

ARTICLE 14. CONFLICT OF INTEREST

CONSULTANT agrees that it presently has no interest, financial or otherwise and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or be contrary to the interests of SBCTA as to the Project. CONSULTANT further agrees that in the performance of this Contract no person having any such interest shall be employed. CONSULTANT is obligated to fully disclose to SBCTA, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT’s staff designated by SBCTA’s Executive Director as “Consultants” under the Political Reform Act shall timely file Statements of Economic Interest with the SBCTA Clerk of the Board.

ARTICLE 15. KEY PERSONNEL

The personnel specified below are considered to be essential to the Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects, or reallocation of any tasks or hours of Work that are the responsibility of key personnel to other personnel, CONSULTANT shall notify SBCTA in writing in advance and shall submit justifications (including proposed substitutions, resumes and payroll information to support any changes to the labor rates) in sufficient detail to permit evaluation of the impact on the Project. Diversion or reallocation of key personnel shall not be made without prior written consent of SBCTA’s Project Manager. CONSULTANT shall not substitute any key personnel without the prior written consent of SBCTA. In the event that the Parties cannot agree as to the substitution of key personnel, SBCTA may terminate this Contract. Key Personnel are:

Name	Job Classification/Function

ARTICLE 16. REPRESENTATIONS

All Work supplied by CONSULTANT under this Contract shall be supplied by personnel who are qualified, careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that they are supplying professional services, findings, and/or recommendations in the performance of this Contract and agrees with SBCTA that the same shall conform to professional standards that are generally accepted in the profession in the State of California.

ARTICLE 17. PROPRIETARY RIGHTS/CONFIDENTIALITY

- 17.1 If, as a part of this Contract, CONSULTANT is required to produce materials, documents data, or information (“Products”), then CONSULTANT, if requested by SBCTA, shall deliver to SBCTA the original of all such Products which shall become the sole property of SBCTA.
- 17.2 All materials, documents, data or information obtained from SBCTA's data files or any SBCTA-owned medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of SBCTA. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONSULTANT without the express written consent of SBCTA.
- 17.3 Except as reasonably necessary for the performance of the Work, CONSULTANT agrees that it, its employees, agents and subconsultants will hold in confidence and not divulge to third parties without prior written consent of SBCTA, any information obtained by CONSULTANT from or through SBCTA unless (a) the information was known to CONSULTANT prior to obtaining same from SBCTA pursuant to a prior contract; or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes, part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subconsultants, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from SBCTA and who had, to CONSULTANT's knowledge and belief, the right to disclose the same. Any materials and information referred to in this Article, which are produced by CONSULTANT, until released in writing by SBCTA, except to the extent such materials and information become subject to disclosure by SBCTA under the California Public Records Act, or other law, or otherwise become public information through no fault of CONSULTANT, or its employees or agents.
- 17.4 CONSULTANT shall not use SBCTA's name or photographs in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SBCTA.
- 17.5 All press releases, or press inquiries relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by SBCTA unless otherwise agreed to in writing by both Parties.

ARTICLE 18. TERMINATION

- 18.1 Termination for Convenience - SBCTA shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Work and shall preserve Work in progress and completed Work, pending SBCTA's instruction, and shall turn over such Work in accordance with SBCTA's instructions.
- 18.1.1 CONSULTANT shall deliver to SBCTA, all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA for payment in accordance with the terms herein.
- 18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from SBCTA as complete and full settlement for such termination a pro rata share of the Contract cost based upon the percentage of all contracted Work satisfactorily executed to the date of termination.
- 18.1.3 CONSULTANT shall be entitled to receive the actual costs incurred by CONSULTANT to return CONSULTANT's tools and equipment, if any, to it or its suppliers' premises, or to turn over Work in progress in accordance with SBCTA's instructions plus the actual cost necessarily incurred in effecting the termination.
- 18.2 Termination for Cause - In the event CONSULTANT shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONSULTANT or a receiver shall be appointed on account of its insolvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice, SBCTA may, without prejudice to any other rights or remedies SBCTA may have, and in compliance with applicable Bankruptcy Laws; (a) hold in abeyance further payments to CONSULTANT; (b) stop any Work of CONSULTANT or its subconsultants related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by SBCTA, SBCTA may take possession of the deliverables and finished Work by whatever method SBCTA may deem expedient. A waiver by SBCTA of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, of the same or any other provision, nor be deemed to waive, amend, or modify any term of this Contract.

18.2.1 CONSULTANT shall deliver to SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA within ten (10) working days of said notice.

18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to SBCTA, satisfactory in form and content to SBCTA and verified by SBCTA. In no event shall CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

ARTICLE 19. STOP WORK ORDER

Upon failure of CONSULTANT or its subconsultants to comply with any of the requirements of this Contract, SBCTA shall have the right to stop any or all Work affected by such failure until such failure is remedied or to terminate this Contract in accordance with section "Termination For Cause" above.

ARTICLE 20. CLAIMS

SBCTA shall not be bound to any adjustments in the Contract amount or schedule unless expressly agreed to by SBCTA in writing. SBCTA shall not be liable to CONSULTANT for any claim asserted by CONSULTANT after final payment has been made under this Contract.

ARTICLE 21. INSURANCE

21.1 Prior to commencing the Work, at all times during the performance of the Work and for such additional periods as required herein, CONSULTANT shall, at CONSULTANT's sole expense, procure and maintain insurance coverage with the following minimum requirements, and shall require all subcontractors of every tier performing any of the Work to procure and maintain such insurance specified below:

21.1.1 Professional Liability – The policies must include the following:

- \$1,000,000 per claim limits
- \$3,000,000 in the aggregate for all claims.
- If Coverage is on a claims made basis:
 - Policy shall contain a retroactive date for coverage of prior acts, this date will be prior to the date the CONSULTANT begins to perform Work under this Contract.
 - CONSULTANT shall secure and maintain "tail" coverage for a minimum of (3) years after Contract completion.

21.1.2 Worker's Compensation/Employer's Liability Insurance – The policies must include the following:

- Coverage A. Statutory Benefits
- Coverage B. Employer's Liability
- Bodily Injury by accident - \$1,000,000 per accident

- Bodily Injury by disease - \$1,000,000 policy limit/\$1,000,000 each employee

Such policies shall contain a waiver of subrogation in favor of the parties named as Indemnitees below. Such insurance shall be in strict accordance with the applicable workers' compensation laws in effect during performance of the Work by CONSULTANT or any subconsultant of any tier. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONSULTANT and all parties named as Indemnitees below. SBCTA and CONSULTANT must be certificate holders and must be provided at least 30 days advance notice of cancellation, unless the cancellation is for non-payment, then at least 10 days advance notice of cancellation shall be provided. Where coverage is provided through the California State Compensation Insurance Fund, the requirement for a minimum A.M. Best rating does not apply.

21.1.3 Commercial General Liability Insurance – The policy must include the following:

- \$2,000,000 per occurrence limit for Property Damage or Bodily Injury;
- \$1,000,000 per occurrence limit for Personal Injury and Advertising injury;
- \$6,000,000 of General Aggregate for property damage or bodily injury, and personal injury and advertising injury;
- \$2,000,000 of aggregate limit for Products/Completed Operations Coverage. CONSULTANT shall maintain products and completed operations coverage for 10 years following the acceptance of Work or until all applicable statutes of limitations expire, whichever length of time is longer. Coverage is to be on an “occurrence” form. “Claims made” and “modified occurrence” forms are not acceptable.
- An endorsement stating that any aggregate limits apply on a “per project” and on a “per location” basis, the project name must be indicated under “Description of Operations and Locations.”
- The policy shall be endorsed to provide: “This insurance will be primary and noncontributory with any other insurance of the additional insureds.”

All commercial general liability insurance policies shall also include premises-operations (including explosion, collapse and underground coverage) and products-completed operations coverage; severability of interests (full separation of insureds); contractual liability coverage (including coverage to the maximum extent possible for the indemnifications contained in this Contract); broad form property damage coverage (including completed operations); and a duty to defend in addition to (without reducing) the limits of the policy(ies). All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the commercial general liability insurance coverage with limits not less than:

- Each occurrence limit: \$1,000,000
- General aggregate limit: \$2,000,000

- Personal injury and advertising limit \$1,000,000
- Products-completed operations aggregate limit \$2,000,000

All subconsultants' and sub-subconsultants' deductibles or self-insured retentions must be acceptable to SBCTA's Risk Manager.

21.1.4 Umbrella/Excess CGL Insurance – The policy must include the following:

- \$5,000,000 umbrella or excess liability for any project with a Contract value of \$25,000,000 or less.
- Combined total for Commercial General Liability and Excess Liability limits of \$25,000,000 will be required for projects with a Contract value in excess of \$25,000,000.
- The umbrella or excess policy shall follow form over the CONSULTANT's primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
- The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
- The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

21.1.5 Commercial Auto Insurance The policy must include the following:

- Auto Liability limits of not less than \$5,000,000 each accident
- Combined Bodily Injury and Property Damage Liability insurance
- Coverage must include owned autos, hired or non-owned autos

The commercial automobile liability insurance shall be written on the most recent edition of ISO form CA 00 01 or equivalent acceptable to SBCTA and shall include, without limitation, contractual liability coverage and additional insured status for the Additional Insureds named below. CONSULTANT waives all rights of subrogation against the Additional Insureds named below, for recovery of loss, injury and/or damages to the extent such loss, injury and/or damages are covered by the commercial automobile liability insurance required herein. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with the same waiver of subrogation in favor of all parties named as Additional Insureds below, and CONSULTANT.

21.2 General Provisions

21.2.1 Qualifications of Insurance Carriers. All policies written by insurance carriers shall be authorized and admitted to do business in the state of California with a current A.M. Best rating of A-VIII or better. Professional Liability policy may be from non-admitted carriers provided they are authorized and licensed in the state of California and meet the current A.M. Best rating of A: VIII or better.

21.2.2 Additional Insurance Coverage. All policies, except those for Workers' Compensation and Professional Liability insurance, shall name San Bernardino

County Transportation Authority, and its officers, directors, members, employees, agents and volunteers, as additional insureds (“Additional Insureds”). With respect to general liability arising out of or connected with work or operations performed by or on behalf of the CONSULTANT under this Contract, coverage for such Additional Insureds shall not extend to liability to the extent prohibited by section 11580.04 of the Insurance Code. The additional insured endorsements shall not limit the scope of coverage for SBCTA to vicarious liability but shall allow coverage for SBCTA to the full extent provided by the policy.

- 21.2.3 Proof of Coverage. Evidence of insurance in a form acceptable to SBCTA’s Risk Manager, including certificates of insurance and the required additional insured endorsements, shall be provided to SBCTA’s Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as SBCTA specifies. Certificate(s) of insurance, as evidence of the required insurance shall: be executed by a duly authorized representative of each insurer; show compliance with the insurance requirements set forth in this Article; set forth deductible amounts applicable to each policy; list all exclusions which are added by endorsement to each policy; and also include the Contract Number and the SBCTA Project Manager’s name on the face of the certificate. If requested in writing by SBCTA, CONSULTANT shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SBCTA.
- 21.2.4 Deductibles. Regardless of the allowance of exclusions or deductibles by SBCTA, CONSULTANT shall be responsible for any deductible amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its subconsultants to pay, all deductibles, self-insured retentions, co-pay obligations, premiums and any other sums due under the insurance required in this Article. All deductibles and self-insured retentions will be in amounts acceptable to SBCTA’s Risk Manager. CONSULTANT will advise SBCTA in writing as to the amounts of any deductible or self-insured retention, or as to any increase in any insurance deductible or self-insured retention under any insurance required above. There will be no deductibles in excess of \$250,000 per occurrence, loss or claim under the insurance required of CONSULTANT or any subconsultants. There shall be no Self-insured retention. SBCTA will have the right, but not the obligation, to pay any deductible or self-insured retention due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due CONSULTANT. The policies shall not provide that any deductible, self-insured retention or other payment required under the policy can be paid only by the named insured, and not by an additional insured.
- 21.2.5 CONSULTANT’s and Subconsultants’ Insurance will be Primary. All policies required to be maintained by the CONSULTANT or any subconsultant with the exception of Professional Liability and Worker’s Compensation shall be endorsed to be primary coverage, and any coverage carried by any of the Additional Insureds named herein shall be excess and non-contributory. Further, none of

CONSULTANT's or subconsultants' pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.

- 21.2.6 Waiver of Subrogation Rights. To the fullest extent permitted by law, CONSULTANT hereby waives all rights of recovery under subrogation against the Additional Insureds named herein, and any other consultant, subconsultant or sub-subconsultant performing work or rendering services on behalf of SBCTA, in connection with the planning, development and construction of the Project. To the fullest extent permitted by law, CONSULTANT shall require similar written express waivers and insurance clauses from each of its subconsultants of every tier. CONSULTANT shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds. Such insurance and coverages provided shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss or claim.
- 21.2.7 Cancellation. If any insurance company elects to cancel or non-renew coverage for any reason, CONSULTANT will provide SBCTA thirty (30) days prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SBCTA ten (10) days prior written notice. In any event, CONSULTANT will provide SBCTA with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONSULTANT receives within one business day after CONSULTANT receives it by submitting it to SBCTA at procurement@sanbag.ca.gov to the attention of SBCTA's Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.
- 21.2.8 Enforcement. SBCTA may take any steps as are necessary to assure CONSULTANT's compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONSULTANT fails to obtain or maintain any insurance coverage required, SBCTA may, but is not required to, maintain this coverage and charge the expense to the CONSULTANT or withhold such expense from amounts owed CONSULTANT, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONSULTANT of its duties and responsibility under the Contract, including but not limited to obligation to indemnify, defend and hold harmless the Indemnitees named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude SBCTA from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONSULTANT, or any subconsultant of any tier of their obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.

21.2.9 No Waiver. Failure of SBCTA to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.

21.2.10 Subconsultant Insurance. Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all sub-consultants to cover their services performed under this Contract. CONSULTANT may reduce the amounts of insurance limits provided by sub-consultants to be proportionate to the amount of the sub-consultant's contract and the level of liability exposure for the specific type of work performed by the sub-consultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.

21.2.11 Higher limits. If CONSULTANT maintains higher limits than the minimums shown above, SBCTA shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SBCTA.

21.2.12 Special Risks or Circumstances. SBCTA reserves the right to modify any or all of the above insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 22. INDEMNITY

22.1 To the extent, but only to the extent, that CONSULTANT's Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:

CONSULTANT shall indemnify and defend (with legal counsel reasonably approved by SBCTA) SBCTA, and its authorized officers, employees, agents and volunteers (collectively "Indemnitees"), from any and all losses, damages, liability, actions, and/or costs for claims that arise out of, pertain to, or are related to the negligence, recklessness, or willful misconduct of the professional.

22.2 For all other Work, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA) and hold harmless SBCTA, SBCTA's authorized officers, employees, agents and volunteers ("Indemnitees"), from any and all claims, actions, losses, damages and/or liability (Claims) arising out of this Contract from any cause whatsoever, including acts, errors, or omissions of any person and for any costs or expenses incurred by SBCTA on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. CONSULTANT's indemnification obligation applies to SBCTA's "active" as well as "passive" negligence but does not apply to SBCTA's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

ARTICLE 23. ERRORS AND OMISSIONS

CONSULTANT shall be responsible for the professional quality, technical accuracy, and coordination of all Work required under this Contract. CONSULTANT shall be liable for

SBCTA costs resulting from errors or deficiencies, in Work furnished under this Contract, including, but not limited to any fines, penalties, damages, and costs required because of an error or deficiency in the Work provided by CONSULTANT under this Contract.

ARTICLE 24. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONSULTANT under this Contract shall become the sole property of SBCTA when prepared, whether delivered to SBCTA or not.

ARTICLE 25. SUBCONTRACTS

- 25.1 CONSULTANT shall not subcontract performance of all or any portion of Work under this Contract, except to those subconsultants listed in CONSULTANT's proposal, without first notifying SBCTA in writing of the intended subcontracting and obtaining SBCTA's written approval of the subcontracting and the subconsultant. The definition of subconsultant and the requirements for subconsultants hereunder shall include all subcontracts at any tier.
- 25.2 CONSULTANT agrees that any and all subconsultants of CONSULTANT performing Work under this Contract will comply with the terms and conditions of this Contract applicable to the portion of Work performed by them. CONSULTANT shall incorporate all applicable provisions of this Contract into their subcontracts regardless of the tier. If requested by SBCTA, CONSULTANT shall furnish SBCTA a copy of the proposed subcontract for SBCTA's approval of the terms and conditions thereof and shall not execute such subcontract until SBCTA has approved such terms and conditions. SBCTA approval shall not be unreasonably withheld.
- 25.3 Approval by SBCTA of any Work to be subcontracted and the subconsultant to perform said Work will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Work. Any substitution of subconsultants must be approved in writing by SBCTA. CONSULTANT shall have sole responsibility for managing all of their subconsultants, including resolution of any disputes between CONSULTANT and its subconsultants.

ARTICLE 26. RECORD INSPECTION AND AUDITING

SBCTA, or any of its designees, representatives or agents shall at all times have access during normal business hours to CONSULTANT's operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by SBCTA shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Work or products.

ARTICLE 27. INDEPENDENT CONTRACTOR

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Work provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. SBCTA shall rely on CONSULTANT for

results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Work or as to the manner, means and methods by which Work is performed. All personnel furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subconsultant(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SBCTA.

ARTICLE 28. ATTORNEY'S FEES

If any legal action is instituted to enforce or declare any Party's rights under the Contract, each Party, including the prevailing Party, must bear its own costs and attorneys' fees. This Article shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under the "Indemnity" provision of the Contract.

ARTICLE 29. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any Party to this Contract will be the Superior Court of California, San Bernardino County. Each Party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County.

ARTICLE 30. FEDERAL, STATE AND LOCAL LAWS

CONSULTANT warrants that in the performance of this Contract, it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.

ARTICLE 31. PRECEDENCE

- 31.1 The Contract consists of these Contract Articles, Exhibit A "Scope of Work", Exhibit B "Price Form", SBCTA's Request for Proposal, and CONSULTANT's proposal, all of which are incorporated into this Contract by this reference.
- 31.2 The following order of precedence shall apply: first, the Contract Articles; second Exhibits A and B; third, SBCTA's Request for Proposal; and last, CONSULTANT's proposal. In the event of a conflict between the Contract Articles and the Scope of Work, the Contract Articles will prevail.
- 31.3 In the event of an express conflict between the documents listed in this Article, or between any other documents, which are a part of the Contract, CONSULTANT shall notify SBCTA in writing within three (3) business days of its discovery of the conflict and shall comply with SBCTA's resolution of the conflict.

ARTICLE 32. COMMUNICATIONS AND NOTICES

Notices sent by mail shall be by United States Mail, postage paid, certified mail (return receipt requested). Any and all notices permitted or required to be given hereunder shall be deemed duly

given and received: (a) upon actual delivery, if delivery is personally made or if made by fax during regular business hours; (b) the first business day following delivery by fax when not made during regular business hours; or (c) on the fourth business day after deposit of such notice into the United States Mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time by a notice given in accordance with this Article. CONSULTANT shall notify SBCTA of any contact information changes within ten (10) business days of the change.

To CONSULTANT	To SBCTA
	1170 W. 3rd Street, 2nd Floor
	San Bernardino, CA 92410-1715
Attn:	Attn: Cameron Brown
	cc: Procurement Manager
Phone:	Phone: (909) 884-8276

ARTICLE 33. DISPUTES

33.1 In the event any dispute, other than an audit, arises between the Parties in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Work to be performed, Scope of Work and/or time of performance), the dispute shall be decided by SBCTA’s Procurement Manager within thirty (30) calendar days after notice thereof in writing which shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have ten (10) calendar days after receipt of the decision in which to file a written appeal thereto with SBCTA’s Executive Director. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such dispute is appealable to a court of competent jurisdiction.

33.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

ARTICLE 34. GRATUITIES

CONSULTANT, its employees, agents, or representatives shall not offer or give to any officer, official, agent or employee of SBCTA, any gift, entertainment, payment, loan, or other gratuity.

ARTICLE 35. REVIEW AND ACCEPTANCE

All Work performed by CONSULTANT shall be subject to periodic review and approval by SBCTA at any and all places where such performance may be carried on. Failure of SBCTA to make such review, or to discover defective work, shall not prejudice the rights of SBCTA at the time of final acceptance. All Work performed by CONSULTANT shall be subject to periodic and final review and acceptance by SBCTA upon completion of all Work.

ARTICLE 36. CONFIDENTIALITY

Any SBCTA communications or materials to which CONSULTANT or its subconsultants or agents have access, or materials prepared by CONSULTANT under the terms of this Contract, shall be held in confidence by CONSULTANT, who shall exercise reasonable precautions to

prevent the disclosure of confidential information to anyone except as expressly authorized by SBCTA. Any communications with or work product of SBCTA's legal counsel to which CONSULTANT or its subconsultants or agents have access in performing work under this Contract shall be subject to the attorney-client privilege and attorney work product doctrine, and shall be confidential. CONSULTANT shall not release any reports, information or promotional material or allow for the use of any photos related to this Contract for any purpose without prior written approval of SBCTA.

ARTICLE 37. EVALUATION OF CONSULTANT

CONSULTANT's performance may be evaluated by SBCTA periodically throughout the Contract performance period, such as at the completion of certain milestones as identified in Scope of Work and/or at the completion of the Contract. A copy of the evaluation will be given to CONSULTANT for their information. The evaluation information shall be retained as part of the Contract file and may be used to evaluate CONSULTANT if they submit a proposal on a future RFP issued by SBCTA.

ARTICLE 38. SAFETY

CONSULTANT shall strictly comply with OSHA regulations and local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Work under this Contract. CONSULTANT shall comply with all safety instructions issued by SBCTA or their representatives.

ARTICLE 39. DRUG FREE WORKPLACE

CONSULTANT agrees to comply with the Drug Free Workplace Act of 1990 per Government Code section 8350 et seq.

ARTICLE 40. ASSIGNMENT

CONSULTANT shall not assign this Contract in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SBCTA. SBCTA's exercise of consent shall be within its sole discretion. Any purported assignment without SBCTA's prior written consent shall be void and of no effect, and shall constitute a material breach of this Contract. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE 41. AMENDMENTS

The Contract may only be changed by a written amendment duly executed by the Parties. Work authorized under an amendment shall not commence until the amendment has been duly executed.

ARTICLE 42. PREVAILING WAGES

42.1 The State of California's General Prevailing Wage Rates are not applicable to this Contract.

ARTICLE 43. CONTINGENT FEE

CONSULTANT warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an 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 CONSULTANT for the purpose of securing business. For breach or violation of this warranty, SBCTA has the right to terminate this Contract without liability, pay only for the value of the Work actually performed, or in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 44. FORCE MAJEURE

CONSULTANT shall not be in default under this Contract in the event that the Work performed by CONSULTANT is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, or other catastrophic events which are beyond the reasonable control of CONSULTANT and which CONSULTANT could not reasonably be expected to have prevented or controlled. "Other catastrophic events" does not include the financial inability of CONSULTANT to perform or failure of CONSULTANT to obtain either any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of CONSULTANT.

ARTICLE 45. WARRANTY

CONSULTANT warrants that all Work performed shall be in accordance with the Contract and all applicable professional standards. In the event of a breach of this provision, CONSULTANT shall take the necessary actions to correct the breach at CONSULTANT's sole expense. If CONSULTANT does not take the necessary action to correct the breach, SBCTA, without waiving any other rights or remedies it may have, may take the necessary steps to correct the breach, and the CONSULTANT shall promptly reimburse SBCTA for all expenses and costs incurred.

ARTICLE 46. ENTIRE DOCUMENT

46.1 This Contract constitutes the sole and only agreement governing the Work and supersedes any prior understandings, written or oral, between the Parties respecting the Project. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been expressly incorporated into this Contract.

46.2 No agent, official, employee or representative of SBCTA has any authority to bind SBCTA to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.

46.3 Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

ARTICLE 47. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

CONSULTANT shall comply with all applicable provisions of the Americans with Disabilities Act in performing Work under this Contract.

ARTICLE 48. EFFECTIVE DATE

The date that this Contract is executed by SBCTA shall be the Effective Date of the Contract.

-----SIGNATURES ARE ON THE FOLLOWING PAGE-----

IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

CONSULTANT

SBCTA

By: _____
Name
Title

By: _____
Robert Lovingood
President, Board of Directors

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Eileen Monaghan Teichert
General Counsel

CONCURRENCE

By: _____
Jeffery Hill
Procurement Manager

EXHIBIT A “SCOPE OF WORK”

EXHIBIT B “PRICE FORM”

ATTACHMENT D RFP FORMS

EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

PART I

The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2-1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code of Federal Regulations. This listing is required in addition to listing DBE Subcontractors elsewhere in the proposal. **Photocopy this form for additional firms.**

Firm Name/ Address/ City, State, ZIP		Phone/ Fax	Annual Gross Receipts	Description of Portion of Work to be Performed	Local Agency Use Only (Certified DBE?)
<i>Name</i>		<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES list DBE #:</i>
<i>Address</i>		<i>Fax</i>			
<i>City State ZIP</i>					<i>Age of Firm (Yrs.)</i>
<i>Name</i>		<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES list DBE #:</i>
<i>Address</i>		<i>Fax</i>			
<i>City State ZIP</i>					<i>Age of Firm (Yrs.)</i>
<i>Name</i>		<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES list DBE #:</i>
<i>Address</i>		<i>Fax</i>			
<i>City State ZIP</i>					<i>Age of Firm (Yrs.)</i>
<i>Name</i>		<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES list DBE #:</i>
<i>Address</i>		<i>Fax</i>			
<i>City State ZIP</i>					<i>Age of Firm (Yrs.)</i>

EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

PART II

The bidder shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project. This is required for compliance with Title 49, Section 26 of the Code of Federal Regulations. Photocopy this form for additional firms.

Firm Name/ Address/ City, State, ZIP	Phone/ Fax	Annual Gross Receipts	Description of Portion of Work to be Performed	Local Agency Use Only (Certified DBE?)
<i>Name</i>	<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>FYES list DBE #:</i>
<i>Address</i>	<i>Fax</i>			<i>Age of Firm (Yrs.)</i>
<i>City State ZIP</i>				
<i>Name</i>	<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>FYES list DBE #:</i>
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<i>City State ZIP</i>				
<i>Name</i>	<i>Phone</i>	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million <input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>FYES list DBE #:</i>
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<i>City State ZIP</i>				
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<i>Address</i>	<i>Fax</i>			<i>Age of Firm (Yrs.)</i>
<i>City State ZIP</i>				