



**VICTOR VALLEY TRANSIT AUTHORITY**

*Representing the communities of Adelanto, Apple Valley, Barstow, Hesperia,  
Victorville and San Bernardino County*

**REQUEST FOR PROPOSAL (RFP) 2018-17**

**BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE**

**July 23, 2018**

## NOTICE REQUESTING PROPOSALS 2018-17

### 1. Purpose of the Procurement and Period of Performance

Victor Valley Transit Authority (VVTA) seeks a Provider to design and install a Battery Energy Storage and Demand Response System (BESDRS) to lower demand charges on 1 current and 1 future utility meter at its primary CNG fueling facility located at 9585 E. AVE., Hesperia, CA. The resulting contract will not exceed 270 days.

### 2. Obtaining the RFP Document

RFP documents may be obtained from VVTA, in person at 17150 Smoke Tree Street, Hesperia, CA 92345-8305 or electronically at [www.vvta.org/Bids](http://www.vvta.org/Bids). Documents are also available via email request to [cplasting@vvta.org](mailto:cplasting@vvta.org). Proposals requested by courier or via USPS mail shall be packaged and sent only at the Proposers' expense.

### 3. Proposal Due Date and Submittal Requirements

Sealed Proposals must be received by **3:00 PM Pacific Daylight Time (PDT) on Thursday, September 6, 2018.**

3.1. Sealed Proposal packages shall be delivered to the following address:

Victor Valley Transit Authority  
Attn: Christine Plasting, Procurement Manager  
17150 Smoke Tree Street  
Hesperia, CA 92345-8305  
(760) 995-3583  
(760) 948-1380 fax

3.2. Envelopes or boxes containing proposals shall be sealed and clearly labeled with VVTA's RFP number and the solicitation title: "VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE." **The pricing form shall be in a separate sealed envelope clearly marked "Pricing Form."**

3.3. Proposers are requested to submit to VVTA one (1) hard copy of the proposal and one (1) electronic copy via DVD/CD or thumb/flash drive. A Proposal is deemed to be late if it is received by VVTA after the deadline stated above. Proposals received after the submission deadline shall be returned, unopened to the Proposer. It is the Proposer's sole responsibility to ensure that the Proposals are received by the date and time stated above.

### 4. Bonds

4.1 Bid Bond- Each Proposal must be accompanied by a certified or cashier's check, or by a corporate surety bond. Check or Bid bond shall be in an amount not less than 10% (ten percent) of the amount of the total Proposal.

### 5. Prevailing Wage

Solicitations for construction services will be bound by the Davis-Bacon Act (DBA). The DBA requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on all federally funded construction projects in excess of \$2,000. A Davis-Bacon Wage Determination will be associated with it. All employees of the contractor, as well as any sub-contractors, shall be paid according to the Wage Determinations. If the State of California Wage Rates are higher than Davis Bacon Wage Determinations, Proposer is instructed to pay the higher wage. For the State Prevailing wage rates, the California Department of Industrial Relations' Internet web site is <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Future effective general prevailing wage rates, which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed. Copies of the Davis Bacon Wage Determinations and the State of California prevailing wage rates are on file with VVTA and available upon request.

**6. Vendor Registration with the California Department of Industrial Relations**

California SB 854 Compliance -VVTA will not accept a Proposal from or enter the Contract with a Proposer, without proof that the Proposer and its Subcontractors are registered with the California Department of Industrial Relations (DIR) to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions. The Proposal shall enter DIR Registration Number on the Proposal.

**7. Validity of Proposals.** Proposals and subsequent offers shall be valid for a period of ninety (90) days. An award may be made without further discussion. VVTA reserves the right to withdraw or cancel this RFP at any time without prior notice and VVTA makes no representation that any contract will be awarded to a Proposal responding to this RFP.

**8i. Pre-Proposal Meeting**

There will be a Pre-Proposal meeting on Thursday, August 16, 2018, at 3:00PM located at its Hesperia Facility – 17150 Smoke Tree Street, Hesperia, CA 92345. The deadline for question is at 5:00 PM (PDT), Friday, August 24, 2018. Prospective bidders are requested to submit questions, in writing, to the Procurement Manager at [cplasting@vvta.org](mailto:cplasting@vvta.org). Responses shall be shared with all known prospective proposers by written addenda only.

The successful Proposer will be required to comply with all applicable Equal Opportunity Laws and Regulations.

# TABLE OF CONTENTS

INSTRUCTIONS TO PROPOSERS .....	5
A. TIMELINE .....	5
B. PURPOSE.....	5
C. BACKGROUND .....	5
D. PERIOD OF PERFORMANCE.....	6
E. EXAMINATION OF DOCUMENTS.....	6
F. REQUEST FOR CLARIFICATION / APPROVED EQUALS.....	6
G. VENDOR CONTACT.....	6
H. ADDENDA TO RFP.....	7
I. EXCEPTIONS / DEVAITIONS .....	7
J. SUBMISSION OF PROPOSALS .....	7
K. FORMAT OF PROPOSALS .....	8
L. PROPOSAL PACKAGING REQUIRMENTS.....	10
M. PRE-CONTRACTUAL EXPENSES.....	10
N. JOINT PROPOSALS .....	10
O. TAXES .....	10
P. MODIFICATION OR WITHDRAWAL OF PROPOSALS .....	11
Q. SUBCONTRACTORS AND ASSIGNMENTS .....	11
R. PROPOSER’S LICENSING REQUIREMENTS .....	12
S. PREVAILING WAGES .....	12
T. CONFIDENTIALITY AND PUBLIC RECORDS ACT .....	14
U. ACCEPTANCE / REJECTION OF PROPOSALS .....	16
V. SINGLE RESPONSE .....	16
W. CANCELLATION OF PROCUREMENT .....	17
X. AVAILABILITY OF FUNDS .....	17
Y. VVTA’S RIGHTS .....	17
Z. CONFLICT OF INTEREST AND CODE OF CONDUCT .....	18
AA. EVALUATION, NEGOTIATION AND SELECTION.....	18

- ATTACHMENT A – SCOPE OF WORK
- ATTACHMENT B – FEDERAL REGULATIONS
- ATTACHMENT C – SAMPLE CONTRACT
- ATTACHMENT D – PROTEST POLICY
- ATTACHMENT E – FORM FOR PROPOSAL DEVIATION/REQUEST FOR PRE-OFFER  
CHANGE OR APPROVED EQUALS
- ATTACHMENT F – SUBMISSION OF FORMS/PRICE PROPOSAL FORM
- ATTACHMENT G – ACKNOWLEDGEMENT OF ADDENDA
- ATTACHMENT H - LIST OF SUBCONTRACTORS
- ATTACHMENT I – PUBLIC WORKS REQUIREMENTS

## **INSTRUCTIONS TO PROPOSERS**

### **A. TIMELINE**

Date of Request For Proposal (RFP):	July 23, 2018
Agency:	VICTOR VALLEY TRANSIT AUTHORITY
Address of Agency:	17150 SMOKETREE ST., HESPERIA, CA 92345-8305
Contracting Officer:	Christine Plasting, CPPB, Procurement Manager
Telephone No:	(760) 995-3583
FAX No:	(760) 948-1380
Email Address:	cplasting@vvta.org
Pre-Proposal Conference (Non –Mandatory)	2:00 p.m. PDT, Thursday, August 16, 2018
Last Day for Questions	5:00 p.m. PDT, Friday, August 24, 2018
Addenda and Answers to questions	2:00 p.m. PDT, Thursday, August 30, 2018
Proposals Due Date	3:00 p.m. PDT. Thursday, September 6, 2018
Anticipated Award Date	October 15, 2018

### **B. PURPOSE**

Victor Valley Transit Authority (VVTA) seeks a Provider to design and install a Battery Energy Storage and Demand Response System (BESDRS) to lower demand charges on 1 current and 1 future utility meter at its primary CNG fueling facility located at 9585 E. AVE., Hesperia, CA. Annual energy demand costs are a significant expenditure for the agency. Energy bills are based on two major costs: energy charges (kWh), and demand charges (kW). VVTA's demand charges from SCE are a significant portion of our monthly fees.

### **C. BACKGROUND**

1. VVTA is a Joint Powers Authority (JPA) created in 1992 to provide comprehensive public transit services to five incorporated towns and a number of unincorporated communities (represented by the San Bernardino County Board of Supervisors) – all member jurisdictions are located in Southwestern San Bernardino County.
2. VVTA serves the Victor Valley, a sub region of Southern California north of the San Bernardino Mountains in the Mojave Desert. Victor Valley is situated east of the Antelope Valley and north of the San Bernardino Valley and is part of the Inland Empire,

a sub region of the Greater Los Angeles Area.

3. VVTA operates its BV Link – Services between Barstow and Victorville; NTC – Services between the Victor Valley and the Ft. Irwin National Training Center; Commuter Bus services between the Victor Valley and the San Bernardino Valley. VVTA also includes services to meet the needs of the senior, disabled, and veteran patrons in our jurisdiction, to meet our legal and programmatic responsibilities.

#### **D. PERIOD OF PERFORMANCE**

VVTA intends to award a Lump Sum contract for a period not to exceed 270 days. VVTA reserves the right to award the contract at a time other than stated in the proposed schedule.

#### **E. EXAMINATION OF DOCUMENTS**

By submitting a Proposal, the Proposer represents that it has thoroughly examined and become familiar with the work required and documents included under the RFP.

#### **F. REQUEST FOR CLARIFICATION / APPROVED EQUALS**

1. Whenever any material, product or service is specified or indicated in the contract documents by brand name, trade, patent, or proprietary name or by the name of the manufacturer, the item so specified or indicated shall be deemed to be followed by the words, "Or Equal."
2. At any time during this procurement up to the time specified in the "Proposal Schedule" (Section A), Proposals may request, in writing, a clarification or interpretation of any aspect, or a change to any requirement of the RFP or any addendum to the RFP. Requests may include suggested substitutes for specified items and for any brand names. Whenever a brand name is used in this solicitation it shall mean the brand name or "approved equal." Such written requests shall be made to the Contracting Officer and may be transmitted by facsimile or via email. The Proposal making the request shall be responsible for its proper delivery to VVTA per "Contracting Officer" (Section A) on the form provided in "Request for Pre-Offer Change or Approved Equal." VVTA will not respond to oral requests. Any request for a change to any requirement of the Contract Documents must be fully supported with technical data, test results, or other pertinent information evidencing that the exception will result in a condition equal to or better than that required by the RFP, without substantial increase in cost or time requirements. Any responses to such written request shall be provided by VVTA in the form of addendum only. Only written responses provided as addendum shall be official and all other forms of communication with any officer, employee or agent of VVTA shall not be binding on VVTA.
3. VVTA, at its sole discretion, shall determine whether the substantiating data demonstrates that an "approved equal" item(s) is equivalent in all respects to the item specified in the contract documents.

#### **G. VENDOR CONTACT**

1. All correspondence, communication and/or contact with regard to any aspect of this solicitation is authorized only with the designated Contracting Officer identified in “A. Proposal Schedule” above, or their designated representative. Proposers and their representatives shall not make any contact with or communicate with any employees of VVTA, or its directors and consultants, other than the Contracting Officer regarding any aspect of this solicitation or offers. Ex parte’ communications with members of VVTA’s Board of Directors or any person responsible for awarding a contract, including the Contracting Officer is prohibited under California Public Contract Code Section 20216. All communications shall be in writing and will be made public.
2. If it should appear to a prospective Proposer that the performance of the Work under the contract, or any of the matters relating thereto, is not sufficiently described or explained in the **RFP** or Contract Documents, or that any conflict or discrepancy exists between different parts thereof or with any federal, state, local or Agency law, ordinance, rule, regulation, or other standard or requirement, then the Proposer shall submit a written request for clarification to VVTA within the time period specified above.

#### **H. ADDENDA TO RFP**

VVTA reserves the right to amend the RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addendum. VVTA shall provide copies of Addendum to all prospective Proposers officially known to have received the RFP. Prospective Proposers, or their agents, shall be responsible to collect the addendum at the address provided in “Contracting Officer” (Section A. above) or receive the same otherwise. Notification of the addendum will also be mailed or delivered to all such prospective Proposers officially known to have received the RFP and to the address provided by each prospective Proposer. Failure of any prospective Proposer to receive the notification or addendum shall not relieve the Proposer from any obligation under its Proposal as submitted or under the RFP, as clarified, interpreted or modified. All addendum issued shall become part of the RFP. Prospective Proposers shall acknowledge the receipt of each individual addendum and all prior addenda in their Proposals. Failure to acknowledge in their Proposals receipt of addendum may, at VVTA’s sole option, disqualify the Proposal.

If VVTA determines that the addendum may require significant changes in the preparation of Proposals, the deadline for submitting the Proposals may be postponed by the number of days that VVTA determines will allow Proposer sufficient time to revise their Proposals. Any new Due Date shall be included in the addendum.

#### **I. EXCEPTIONS / DEVIATIONS**

Using the Form for Proposal Deviation – Attachment E – State any exceptions to or deviations from the requirements of this RFP, segregating “technical exceptions from “contractual” exceptions. Where Proposer wishes to propose alternative approaches to meet VVTA’s technical or contractual requirements, these should be thoroughly explained. If no contractual exceptions are noted, Proposer will be deemed to have accepted the contract requirements as set form in the Scope of Work.

#### **J. SUBMISSION OF PROPOSALS**

1. Please note that **all addenda** must be acknowledged. Proposer is instructed to use Attachment G – Acknowledgement of Addenda – to acknowledge all addenda released during this solicitation.
2. **Sealed original proposal plus one (1) electronic copy**, must be received at the address shown in “Proposal Schedule” (Section A) not later than **3:00 PM (PDT) on Thursday, September 6, 2018**. All labor, equipment, materials, and training shall be furnished in strict accordance with the delivery schedule and the Contract terms and conditions. All Proposals shall be valid for a period of ninety (90) days.
3. Proposals received after the time and date due will be rejected without consideration or evaluation and returned, unopened, to the return address on the package received. Under no circumstances will any proposal be accepted after the due date and time in accordance with PCC 10168.

## **K. FORMAT OF PROPOSALS**

1. Proposals must be submitted and organized in the order listed below. The proposal shall include, at a minimum, the following:
  - a. Cover letter – Proposer must include a letter of Introduction.
  - b. Title Page
  - c. Table of Contents
  - d. Profile of Firm (History, Experience, Changes) – This section should include details regarding the proposer’s ability and experience to operate the project as specified in the RFP. The following information should be included:
    - I. Corporate hierarchy – i.e. President, Vice President, Corporate Officers, etc.
    - II. Corporate overview of services or activities performed.
      - History of firm – Include a brief history of the firm
      - Founding Date (month and year)
      - Firm size – staff and client base
      - Firm’s vision and mission statement
    - III. Employment practices – policies and procedures, training, including safety training and affiliation/accreditation.
    - IV. Location of the office from which the work will be provided and the staff allocation at that office.
  - e. Identify Project team including, but not limited to:
    - I. Size of Project Team
    - II. Education, qualifications, and specific experiences in performing the work that is being solicited in this RFP.



### III. Project Organization Chart.

- f. Resumes of Key Personnel
- g. Commitment that key personnel will be available throughout contract and will not be removed without prior approval of VVTA
- h. Proposer's approach to accomplish the Scope of Work Requirements.
  - I. Description of proposer's approach to performing services. Proposals must include a description of the services to be rendered per the scope of work including a detailed proposal.
  - II. Provide a work plan or description of how the work will be performed by the contractor. (e.g. – outline a proposed work plan and methodologies that will be employed to accomplish the work)
  - III. The name of the Project Manager / Liaison and a list of personnel to be assigned to the project and the roles and qualifications.
  - IV. Indicate whether your firm will be subcontracting portion(s) of the work. If so, indicate the name of the subcontractor, the portion of the work to be subcontracted, and their State of CA Contractor's License Number (if applicable).
  - V. Describe your firm's approach to resolving problems that may be encountered in the field.
- i. Summary of Contracted Services
  - I. Proposer must identify all areas that will be subcontracted and name of the firms performing such work. List their key personnel and their qualifications.
  - II. Proposer must list all services, equipment and facilities that the proposer has provided and/or operated under contract during the past five (5) years. Include company name, address, phone number, and contact.
  - III. VVTA reserves the right to interview any organization and visit any of the facilities as listed as subcontractors.
- j. Required Forms (See Attachment F)
- k. Any other information required by this RFP or its addenda which may not be listed above.
- l. Cost/Price Proposal – Proposers shall submit proposed pricing to provide the products/services for the work described in Attachment A – Scope of Work.

2. Firms may include additional information, however, do NOT attach terms and conditions that conflict with the RFP, as your firms' proposal may be deemed non-responsive.

#### **L. PROPOSAL PACKAGING REQUIREMENTS**

1. Proposer shall submit the Cost/Price Proposal (Attachment F). Other forms submitted with pricing and not on the specific form for be deemed "non-responsive." Prices are to exclude California State and Local Sales Tax.
2. Proposer shall pay all taxes which are legally enacted at the time Proposal is submitted, and shall secure and pay for all permits and government fees, licenses and inspections necessary for the proper execution and completion of the Contract. All invoices submitted by awarded contractor, shall itemize applicable California State and Local Sales tax, or state "sales tax included".
3. Proposals including all submittal documents and including price elements shall be submitted by the due date specified, in two sealed packages identified as "**VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESONSE**" and "**VVTA RFP 2018-17 – COST/PRICE PROPOSAL**"
4. **NO COST, PRICE OR FINANCIAL INFORMATION OF ANY KIND SHALL BE INCLUDED IN PACKAGE NO. 1, NOR IN ANY OF THE PROPOSAL DOCUMENTS THAT WILL BE INLUCEDED IN THIS PACKAGE.**

#### **M. PRE-CONTRACTUAL EXPENSES**

1. VVTA will not be liable for any pre-contractual expenses incurred by any Proposer in preparation of its Proposal. Proposer shall not include any such expenses as part of their Proposal.
2. Pre-contractual expenses are defined as expenses incurred by the Proposer in:
  - a. Preparing a Proposal in response to this RFP;
  - b. Submitting that Proposal to VVTA;
  - c. Negotiating with VVTA any matter related to this Proposal; and
  - d. Any other expenses incurred by Proposer prior to date of award, if any, of the Agreement.

#### **N. JOINT PROPOSALS**

Where two or more firms desire to submit a single Proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture.

#### **O. TAXES**

Proposals are subject to State and Local sales taxes. However, VVTA is exempt from the payment of Federal Excise and Transportation Taxes. Firm is responsible for payment of all taxes for any goods, services, processes, and operations incidental to or involved in the contract.

## **P. MODIFICATION OR WITHDRAWAL OF PROPOSALS**

1. A modification of a Proposal already received will be accepted by VVTA only if the modification is received prior to the Proposal Due Date, or is specifically requested by VVTA. All modifications shall be made in writing and executed and submitted in the same form and manner as the original Proposal.
2. A Proposer may withdraw a Proposal already received prior to the Proposal Due Date by submitting, in the same manner as the original Proposal, to VVTA a written request for withdrawal executed by the Proposer's authorized representative. After the Proposal Due Date, a Proposal may be withdrawn only if VVTA fails to award the contract within the Proposal validity period prescribed in "Due Date" or any agreed upon extension thereof. The withdrawal of a Proposal does not prejudice the right of a Proposer to submit another Proposal within the time set for receipt of Proposals.
3. This provision for modification and withdrawal of Proposals may not be used by a Proposer to submit a late Proposal and, as such, will not alter VVTA's right to reject a Proposal.

## **Q. SUBCONTRACTORS AND ASSIGNMENTS**

1. Pursuant to the provisions of the California Public Contract Code Section 4104 every Proposer shall in the Proposal set forth:
  - a. The name and location of the place of business (address) of each subcontractor who will perform work or labor or render service to the Proposer in or about the work in an amount more than one-half of one percent of the Proposer's total Proposal; and
  - b. The portion of the work that will be done by each subcontractor. The Proposer shall list only one subcontractor for each portion of work as defined by the Proposer in its Proposal.
  - c. The dollar amount of the work which will be done by each such subcontractor
2. Proposer shall complete form entitled "List of Subcontractors (Attachment H)" with the above requested information.
3. If the Proposer fails to specify a subcontractor for any portion of the work to be performed under the contract in excess of one-half of one percent of the Proposer's total Proposal, or if the Proposer specified more than one subcontractor for the same portion of the work to be performed under the contract in excess of one-half of one percent of the Proposer's total Proposal, the Proposer agrees to perform that portion.
4. The successful Proposer shall not, without the express written consent of VVTA, either:
  - a. Substitute any person, firm, or corporation as subcontractor in place of the subcontractor designated in the original Proposal; or

- b. Permit any subcontract to be assigned or transferred; or
- c. Allow it to be performed by anyone other than the original subcontractor listed in the Proposal.
- d. Each Proposer shall set forth in its Proposal the name and location of the place of business (address) of each subcontractor certified as a disadvantaged business enterprise who will perform work or labor or render service to the prime contractor about the performance of the contract.
- e. Proposer shall not assign any interest it may have in any Agreement/Contract with VVTA, nor shall Proposer assign any portion of the work under any such Agreement with a value in excess of one-half of one percent of Agreement price to be subcontracted to anyone other than these subcontractors listed in the "List of Subcontracts," except by prior written consent of VVTA. VVTA's consent to any assignment shall not be deemed to relieve Proposer of its obligations to fully comply with its obligations under its Agreement with VVTA. Proposer with its own forces shall perform a minimum of ten percent (10%) (calculated as a percentage of the total cost of the project) of the work under this Agreement. Proposer shall also include in its subcontract agreements the provisions of its Agreement with VVTA including the stipulation that each subcontractor shall maintain adequate insurance coverage compatible to the insurance coverage required of the Proposer.

#### **R. PROPOSER'S LICENSING REQUIREMENTS**

1. In conformance with the current statutory requirements of Section 7028.15 of the Business and Professions Code of the State of California, regarding submission of a Proposal without a license, the Proposer shall provide as part of the Proposal the license number, class (or type), and date of expiration of license.
2. Furthermore, the Proposer shall ensure that all subcontractors fully comply with the appropriate licensing requirements. The Proposer shall also certify that all information provided and representations made in the Proposal are true and correct, and made under penalty of perjury. Proposers shall also certify that all information provided and representations made in the Proposal are true and correct, and made under penalty of perjury. Proposers shall provide this information on form entitled "List of Subcontractors (Attachment H)." Failure to provide the information on the certification form or elsewhere as part of the Proposal shall render the Proposal nonresponsive to this solicitation and will result in the rejection of the Proposal.

#### **S. PREVAILING WAGES**

**Payment of State Prevailing Wages Required When Higher.** Payment of State Prevailing wage rates, when higher than Federal rates, are required whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort. VVTA is considered a California Awarding Body. Therefore, the higher of State Prevailing Wage or Federal Davis Bacon Wage Determinations shall apply to and be pay by all Contractors and Subcontractors performing work on this Project.

- a. Federal – The general Federal Prevailing rate of wages are included with Attachment I

of the RFP (General Federal Wage Decision.); provided, that if there is any difference between the State or Federal wage rate for any given craft or mechanic needed to execute the work, is shall be mandatory upon the Contractor or any Subcontractor to pay the higher of the two rates.

The General Federal Wage Decision that is in effect on the date the proposals are due, as long as the Contract is awarded within ninety (90) days of said date, locks in that Federal Wage Decision for the entire duration of the Project. If the contract is not awarded within such ninety (90) day period, the date of the execution of the Contract would be the date used in determining the applicable federal Wage Decision.

Revision to the General Federal Wage Decision, up to fourteen (14) calendar days before the proposals are due, shall be identified by the issuance of addenda, and the final Contract between VVTA and the Contractor will physically include the applicable General Federal Wage Decision as revised by addenda, if any such addenda have been issued. Both the Prime Contractor and all Subcontractors are required to pay their laborers and mechanics employed under the resulting contract wage not less than the highest wage applicable for their work classification.

- b. State: In accordance with provisions of Sections 1720, 1770-1776, 1810, 1813, and 1815, as amended, of the California Labor Code, copies of the prevailing rate of per diem wages as determined by the State Director of Industrial Relations and are available at the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Future effective general prevailing wage rates, which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed. Copies of the prevailing wage rates are on file with VVTA and available upon request. Contractor to whom the work is awarded and upon any Subcontractor under the Contractor to pay not less than said specified rates to all workers employed by them in the execution of the Work and shall post a copy of said wage rates at the project site.
- c. **AB219 (as applicable):** adds Section 1720.9 to the Labor Code the hauling and delivery of ready-mixed concrete to carry out a public works contract, with respect to contracts involving state agency and subdivision of the state Section 1720.9 defines the term "ready-mixed" concrete and specifies that the rate of pay shall be the current prevailing wage "for the geographical area in which the factory or batching plant is located" as determined by the DIR. The statute also requires a written agreement between the party hauling or delivering the ready-mixed concrete and the party that engaged its services.

The delivery company shall provide certified payroll records under Labor Code section 1776(1) to the party that engaged its services and to the general contractor. The time record must be certified by each driver for the performance of job duties.

The contractor and all subcontractors shall comply with **all** Federal and State laws, regulations, and guidelines required in the performance of the contract. Copies of the updated Wage Determination rates are available to any interested party, by visiting (Federal) [www.dol.gov](http://www.dol.gov) and (State) [www.dir.ca.gov](http://www.dir.ca.gov).

**Contractor shall be solely responsible for using the correct wage decision or determination and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the responsibility for payment of the correct**

**prevailing wage and compliance with the maintenance and inspection of payroll records, posting of prevailing wage rate at work site, employment of apprentices, and other requirements of California labor Code (1720, et seq; 1770-1776, 1810, 1813, and 1815), California Code of Regulations, Title 8, Section 16000 et seq; and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor will require the same of all its Subcontractors.**

NOTE: A CERTIFIED PAYROLL from the Contractor and Subcontractors must be submitted weekly to VVTA. Payment of invoice(s) may be delayed when certified payrolls are not current.

**Vendor Registration with the California Department of Industrial Relations:** California SB 854 Compliance -VVTA will not accept a Proposal from or enter the Contract with a Proposer, without proof that the Proposer and its Subcontractors are registered with the California Department of Industrial Relations (DIR) to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions. The Proposal shall enter DIR Registration Number on the Proposal.

**Electronic Certified Payroll Reporting (eCPR):** Contractors and Subcontractors on all public works projects awarded on or after April 1, 2015, must use this system to furnish certified payroll records (CPRs) to the Labor Commissioner. Contractors and Subcontractors who have been submitting PDF copies to their CPRs for earlier projects must also be using the new system. For more information, please go to [www.dir.gov](http://www.dir.gov) under Labor Law Public Works. A CERTIFIED PAYROLL is required with each invoice to VVTA.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

## **T. CONFIDENTIALITY AND PUBLIC RECORDS ACT**

Access to government records is governed by the State of California Public Records Act. (Government Code Section 6250 et. seq.) Except as otherwise required by state law, VVTA will exempt from disclosure proprietary information, trade secrets and confidential commercial and financial information submitted in the proposal. Any such proprietary information, trade secrets or confidential commercial and financial information, which a Proposer believes should be exempted from disclosure, shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial and financial information will not assure confidentiality. The specific proprietary information, trade secrets or confidential commercial and financial information must be clearly identified as such.

Proposer fully understands the scope of work/specifications and has checked carefully all words and figures inserted in said RFP and further understands that VVTA will no way be responsible for any errors or submissions in the preparation of this proposal.

### **1. Exclusive Property**

- a. Responses to this Proposal become the exclusive property of VVTA and are subject to the California Public Records Act.
- b. Those elements of each Proposal that are *trade secrets*, as the term is defined in California Civil Code section 3426.1 (d) or otherwise exempt by law from disclosure and which are not prominently marked as TRADE SECRET, CONFIDENTIAL or PROPRIETARY may be subject to disclosure.

## 2. Disclosure of Records

- a. Upon a request for records from a third party regarding this proposal VVTA will notify in writing the party involved. The party involved must respond within twenty (20) calendar days with the identification of any and all “proprietary, trade secret, or confidential commercial or financial” information and the party involved shall agree to indemnify VVTA for its defense costs, (Including reasonable attorney fees) associated with its refusal to produce such identified information; otherwise, the requested information may be released and VVTA shall not be held liable for complying with the records request.
- b. If disclosure is deemed to be required by law or by an order of the court, VVTA shall not, in any way, be liable or responsible for the disclosure of any such records including without limitation those so marked.
- c. Any documents that are not marked “TRADE SECRET” or “CONFIDENTIAL” or “PROPRIETARY,” will be made available.

## 3. Exemption from Disclosure May be Deemed Unresponsive

- a. VVTA will take into consideration documents that the Proposer deems exempt from disclosure which must be marked “TRADE SECRET” or “CONFIDENTIAL” or “PROPRIETARY.”
- b. Proposers who indiscriminately identify all or most of their proposals as exempt from disclosure without justification may be deemed non-responsive.

## 4. Indemnification of VVTA by Proposer

- a. The Proposer agrees to indemnify, hold harmless and defend VVTA and each of its board members, officers, officials, employees and agents from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of a Public Records Act request for any of the contents of a Proposal labeled as protected information and identified as, among other things, “TRADE SECRET” or “CONFIDENTIAL” or “PROPRIETARY.” This obligation shall survive the RFP process, including the awarding of the Contract
- b. Proposer agrees to absorb all costs and expenses, including attorneys’ fees, in any action or liability arising under the California Public Records Act pertaining to protected information contained and labeled as such in the proposer’s proposal.

## 5. Public Interest

- a. The public interest exemption of the California Public Records Act provides that an agency may withhold the disclosure of a record by showing that the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.
- b. To protect the integrity of the proposal process, in most instances, price proposals and information regarding the contents of a Proposal, will not be released or made available to other Proposers or the public until contract award is made by VVTA's Board of Directors and after the conclusion of any protest.
- c. VVTA shall employ sound business practices no less diligent than those used for VVTA's own confidential information to protect the confidence of all licensed technology, software, documentation, drawings, schematics, manuals, data and other information and material provided by Proposers and the Contractor pursuant to the Contract which contain confidential commercial or financial information, trade secrets or proprietary information as defined in or pursuant to the state law against disclosure of such information and material to third parties except as permitted by the Contract. The Contractor shall be responsible for ensuring that confidential commercial or financial information, trade secrets or proprietary information, with such determinations to be made by VVTA in its sole discretion, bears appropriate notices relating to its confidential character.

## U. ACCEPTANCE/REJECTION OF PROPOSALS

1. VVTA reserves the right to reject any or all Proposals for sound business reasons, to undertake contract negotiations with one or more Proposers, and to accept that Proposal, which in its judgment, will be most advantageous to VVTA, price and other evaluation criteria considered. VVTA reserves the right to consider any specific Proposal, which is conditional or not prepared in accordance with the instructions and requirements of this RFP to be non-responsive. VVTA reserves the right to waive any defects, or minor informalities or irregularities in any Proposal which do not materially affect the Proposal or prejudice other Proposals.
2. If there is any evidence indicating that two or more Proposers are in collusion to restrict competition or otherwise engaged in anti-competitive practices, the Proposals of all such Proposers shall be rejected and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by VVTA.
3. VVTA reserves the right to reject a Proposal that includes unacceptable conditions, exceptions and deviations.

## V. SINGLE PROPOSAL RESPONSE

If only one Proposal is received in response to this RFP and it is found by VVTA to be acceptable, a detailed price/cost Proposal may be requested of the single Proposer. A price or cost analysis, or both, possibly including an audit, may be performed by or for VVTA of the detailed price/cost Proposal to determine if the price is fair and reasonable. The Proposer has agreed to such analysis by submitting a Proposal in response to this



RFP. A price analysis is an evaluation of a proposed price that does not involve an in-depth evaluation of all the separate cost elements and the profit factors that comprise a Proposer's price Proposal. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity, involving similar specifications and in a similar time frame. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary to conduct a cost analysis of the proposed price. A cost analysis is a more detailed evaluation of the cost elements in the Proposer's Offer to perform. It is conducted to form an opinion as to the degree to which the proposed costs represent what the Proposer's performance should cost. A cost analysis is generally conducted to determine whether the Proposer is applying sound management in proposing the application of resources to the contracted effort and whether costs are allowable, allocable and reasonable. Any such analyses and the results therefrom shall not obligate VVTA to accept such a single Proposal; and VVTA may reject such Proposal at its sole discretion.

#### **W. CANCELLATION OF PROCUREMENT**

VVTA reserves the right to cancel the procurement, for any reason, at any time before the Contract is fully executed and approved on behalf of VVTA.

#### **X. AVAILABILITY OF FUNDS**

This procurement is subject to the availability of funding. VVTA's obligation hereunder is contingent upon the availability of appropriated funds from which payment for the contract purposes can be made. No legal liability on the part of VVTA for any payment shall arise until funds are made available to the Contracting Officer for this contract and until the Contracting Officer receives notice of such availability, by issuance of a written Notice to Proceed by the Contracting Officer. Any award of Contract hereunder is conditioned upon said availability of funds for the Contract.

#### **Y. VVTA'S RIGHTS**

1. Each Proposal will be received with the understand that acceptance by VVTA of the Proposal to provide services described herein shall constitute a contract between the Proposer and VVTA which shall bind the Proposer on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted Proposal and specifications.
2. VVTA reserves the right, in its sole discretion to:
  - a. Accept or reject any and all Proposals, or any item or part thereof, or to waive any informalities or irregularities in Proposals.
  - b. Withdraw or cancel this RFP at any time without prior notice. VVTA makes no representations that any contract will be awarded to any Proposer responding to this RFP.
  - c. Issue a new RFP for the project.

- d. To postpone the Proposal opening for its own convenience.
- e. Investigate the qualifications of any Proposal, and/or require additional evidence or qualifications to perform the work.

## **Z. CONFLICT OF INTEREST AND CODE OF CONDUCT**

### **1. POLICY OVERVIEW**

Federal regulations require VVTA to prevent conflicts of interest in contract awards. VVTA also seeks to avoid any appearance of conflicts of interest. VVTA personnel and Contractors are expected to avoid conflicts of interest or appearances thereof and actions which could result in favoritism or appearances thereof.

### **2. GUIDELINES FOR CONTRACTOR RELATIONSHIPS**

To avoid conflict whether real or apparent, the following shall apply to employees of any Contractor providing services to VVTA.

No Contract Management personnel or support staff shall:

- (a) Make recommendations or be involved in preparation of specifications for any contracts for which that Contract personnel may bid or propose.
- (b) Be involved in any aspect of evaluation, selection, or award of a contract for which that Contract personnel may bid.
- (c) Be involved in any aspect of contract administration of a contract or subcontract which has been awarded to Contract personnel.

## **AA. EVALUATION, NEGOTIATION AND SELECTION**

### **1. OPENING OF PROPOSALS**

Proposal will be reviewed and evaluated in accordance with the criteria and procedures described in this document. Proposers determined to be within a competitive range and that have a reasonable chance of receiving a contract may be contacted to schedule a meeting with VVTA to carry out further negotiations and discussions. VVTA reserves the right to award to a proposer without further discussions, negotiations, or it may determine that no proposer meets the needs of VVTA.

### **2. EVALUATION TEAM**

An evaluation team will be assembled by the VVTA Executive Director or designee. The team may be made up of staff of VVTA and may include representatives of other nearby government agencies affected by or have specific knowledge of this type of procurement.

### **3. PROPOSAL SELECTION PROCESS**

- a. The following describes the process by which proposals will be evaluated and a selection made for a potential award. Upon receipt of the proposals, copies will be distributed to the evaluation team members, together with scoring sheets, which include the evaluation criteria, and the points assigned to each category.
- b. Each team member will review the Proposers' submittals and in conjunction with the criteria contained in Section AA.5., below. All Proposals shall be evaluated and ranked for determining the competitive range and to select a proposal determined to be the most advantageous to VVTA.
- c. Proposals that do not comply with the instructions contained in these RFP documents and do not include the required information shall be rejected as non-responsive and shall not be considered for the competitive range. VVTA reserves the right to waive technical defects, discrepancies and minor irregularities in an RFP and/or submitted proposal(s). VVTA reserves the right to award any alternatives set forth in the solicitation documents in its sole discretion. Submitted proposals may be rejected if there is any alteration of the RFP forms, additions not called for, conditional proposals, incomplete proposals, or irregularities of any kind. VVTA reserves the right to reject any proposal not in compliance with the solicitation documents or prescribed public contracting procedures and requirements. Written notice of rejection of all submitted proposals shall be sent to all Proposers. **ALL UNSIGNED PROPOSALS SHALL BE REJECTED.**
- d. Submittal of a proposal shall mean that the Proposer has accepted the VVTA Contract Documents in their entirety without exception.
- e. When the individual members of the evaluation teams have completed their evaluations, the entire team will meet to discuss and review the proposals. Once the discussions have been completed, members will have an opportunity to revise their scores independently. A final consensus meeting shall be held to confirm the most technically qualified and best value proposal submitted for award. The VVTA Contracting Officer, or designee, shall serve as Facilitator of the Evaluation Committee.
- f. Proposals that have been determined not to be in the competitive range and cannot be reasonably made to be within the competitive range, will be notified in writing, that they are no longer under consideration.

#### 4. **QUALIFICATION REQUIREMENTS**

- a. The Proposers, whose proposals have been determined by the evaluation process to be in the competitive range, will be notified and scheduled to meet with VVTA for further discussions, clarifications and negotiations. Any Proposal deviations submitted by the Proposer will be discussed as part of the negotiations process. However, VVTA at its discretion may in its best interest, reject all such conditions, exceptions and deviations. Any proposal which fails to comply with the VVTA instructions and requirements listed in the solicitation documents shall be deemed non-responsive and their proposal shall be rejected.

- b. As part of the negotiation process, VVTA reserves the right to conduct factory visits to inspect the Proposer's facilities. VVTA shall also have the right to contact other party with whom the Proposer has experience with this type of request, and other relevant references which the Proposer has listed.
- c. After the discussion and negotiation processes, each of the Proposers still determined by VVTA to be within the competitive range will be afforded the opportunity to submit a revised proposal with a clear understanding that VVTA will then choose that proposal, which it finds to be most advantageous based upon the evaluation criteria and final scoring. The results of the evaluations and the selection of a proposal for any award will be documented in a report to the final approval authority within VVTA.

**5. PROPOSAL EVALUATION CRITERIA AND SCORING**

- a. Listed below is the point scale system by which proposals from responsible Proposers will be evaluated and ranked for determining any competitive range and to make any selection of a proposal for a potential award.

<b><u>EVALUATION CRITERIA</u></b>	<b><u>MAXIMUM POINTS</u></b>
<b><u>1. EXPERIENCE AND TECHNICAL COMPETENCE:</u></b> Demonstrated experience in similar projects, understanding of RFP requirements and ability to meet performance goals, compliance with all technical and administrative requirements, financial viability, accounting and reporting.	25
<b><u>2. STAFFING AND PERSONNEL/PROGRAM OPERATIONS:</u></b> Qualifications and experience of management and staff and other personnel, comprehensiveness of plan and team's familiarity with the provision of Security Services.	25
<b><u>3. APPROACH:</u></b> The proposal shall contain a detailed explanation of the project and not a reiteration of the RFP itself. The information offered should be a compendium of the Proposer's knowledge of the standards outlined in the Scope of Work.	35
<b><u>5. PRICE PROPOSAL</u></b>	15

**TOTAL POSSIBLE POINTS**

**100**

- b. The cost factor will be made up of two components, Technical scores up to eighty-five (85) base Technical points; and Price fifteen (15) Base Price points. The maximum 100 base points available will be awarded to the Proposer with the highest Technical score and the lowest Price. Price points will be calculated by dividing the lowest price offered by the proposal price being scored and multiplying the quotient of the calculation by (15); (Low offer divided by next highest offer) times 15 points. The Price Proposals will be evaluated by the RFP Facilitator.
- c. The balance of the evaluation criteria will be scored on the evaluator's assessment in the areas described in the Table above, based on the following system:

**Exceptional:** Fully compliant with the solicitation requirements and with desirable strengths or betterments; no errors, omissions, discrepancies, weakness or potential risks. Proposals judged to fall within these parameters will receive 90 to 100% of the points available for the category.

**Good to Superior:** Compliant with requirements of the solicitation; some minor errors, omissions, discrepancies, weakness or risks. Proposals in this range will receive 80 to 89% of the points available for the category.

**Adequate:** Minimally compliant with solicitation requirement; with errors, omissions, discrepancies, weakness or risks; which may be possible to correct and make acceptable. Proposals in this range will receive 70 to 79% of the points available for the category.

**Poor to Deficient:** Non-compliant with solicitation requirements; contains errors, omissions, discrepancies, weaknesses or risks which would be difficult to correct or make acceptable. Proposals in this range will receive 60 to 69% of the points available for the category.

**Unacceptable:** Totally deficient and non-compliant with requirements; contains major non-correctable errors, omissions, discrepancies, weaknesses or risks. Proposals in this range will receive 0 to 59% of the points available for the category.

**There is the possibility of an extra 20 points for those proposers whose scores are within the competitive range and are asked to present an oral presentation. Each proposer's final score will be an average score based on the scores given by the evaluation committee.**

## **6. EVALUATION PROCEDURES**

- a. All aspects of the evaluations of the proposals and any discussions and/or negotiations, including documentation, correspondence and meetings, will be kept confidential during the evaluation and negotiation process.
- b. Proposals will be analyzed for conformance with the instructions and requirements of the RFP and Contract documents. Any proposal which fails to comply with the

VVTA instructions and requirements listed in the solicitation documents shall be deemed non-responsive and their proposal shall be rejected. Proposers are advised that the detailed evaluation forms and procedures will follow the same proposal format and organization specified in Section L. Therefore, Proposer shall pay close attention to and strictly follow all instructions and requirements. Submittal of a proposal means that the Proposer has accepted all the Contract documents, except such conditions, exceptions, reservations or understandings explicitly, fully and separately stated on the forms and according to the instructions of "Form for Proposal Deviation" (Attachment E). Any such conditions, exceptions, reservations or understanding which do not result in the rejection of the proposal are subject to evaluation under the criteria of "Proposal Evaluation Criteria" (Section AA.5.)

- c. Evaluations will be made in strict accordance with all the evaluation criteria and procedures specified in "Proposal Selection Process" (Section AA.3.) above. VVTA shall select for any award the highest ranked proposal from a responsible Proposer, qualified under "Qualification Requirements" (Section AA.4.), which does not render this procurement financially infeasible and is judged to be most advantageous to VVTA based on consideration of the evaluation "Proposal Evaluation Criteria" (AA.5.).

## **7. QUALIFICATION OF RESPONSIBLE PROPOSERS**

Proposals will be evaluated in accordance with requirements of "Qualification Requirements" (Section AA.4.) to determine the responsibility of Proposers. Any proposals from Proposers whom VVTA finds not to be responsible and finds cannot be made to be responsible may **not** be considered for the competitive range. Final determination of a Proposer's responsibility will be made upon the basis of initial information submitted in the proposal, any information submitted upon request by VVTA, and information resulting from Agency inquiry of Proposer's references, and its own knowledge of the Proposer.

## **8. DETAILED EVALUATION OF PROPOSALS AND DETERMINATION OF COMPETITIVE RANGE**

- a. Each proposal will be evaluated in accordance with the requirements and criteria specified in "Proposal Selection Process" (Section AA.3.)
- b. The following are the minimum requirements that must be met for a proposal to be considered responsive for inclusion in the competitive range. All these requirements must be met; therefore, they are not listed in any order of importance. Any proposal that VVTA finds not to meet these requirements and that cannot be remedied as part of the negotiation process will be determined to be non-responsive and will not be included in the competitive range. The minimum requirements are as follows:
  - i. Proposer is initially evaluated as responsible in accordance with the requirements of "Qualification Requirements" (Section AA.4.) Final determination of responsibility will be made through the evaluation process.
  - ii. Proposer has demonstrated its responsiveness by following the instructions of the RFP and included sufficient detail information, such that the proposal can

be evaluated. Any informalities in regard shall be determined by VVTA to be either a defect and non-responsive or an informality that VVTA will waive in accordance with "Acceptance/Rejection of Proposals" (Section U)

- iii. Proposal price would not render this procurement financially infeasible, or it is reasonable that such proposal price might be reduced to render the procurement financially feasible.
- c. VVTA will document its evaluations in accordance with the criteria and procedures of "Proposal Selection Process" (AA.3.). Any proposal deficiencies which may render a proposal non-responsive and non-responsive will be documented. VVTA will make specific note of questions, issues, concerns and areas requiring clarification by Proposers and to be discussed through any contact with Proposers, which VVTA finds to be within the competitive range. Rankings and spreads of the proposals against the evaluation criteria will then be made by VVTA as a means of judging the overall relative spread between proposals and of determining which proposals are within the competitive range or may be reasonably made to be within the competitive range.

#### 9. PROPOSALS NOT WITHIN THE COMPETITIVE RANGE

Proposers of any proposals that have been determined by VVTA as not in the competitive range will be notified in writing, including the shortcomings of their proposals.

#### 10. DISCUSSIONS WITH PROPOSERS IN THE COMPETITIVE RANGE

- a. The Proposers, whose proposals are found by VVTA to be within the competitive range, will be notified and any questions and/or requests for clarifications provided to them in writing. Each such Proposer may be contacted with VVTA to discuss answers to written or oral questions, clarifications, and any facet of its proposal.
- b. If a proposal, which has been included in the competitive range, contains conditions, exceptions, reservations or understandings to any Contract requirements as provided in "Form for Proposal Deviation" (Attachment E), said conditions, exceptions, reservations or understandings may be negotiated during contract negotiations. However, VVTA shall have the right to reject all such conditions and/or exceptions, which fail to comply with the VVTA instructions and requirements listed in the solicitation documents may be deemed non-responsive and their proposal to be outside the competitive range and rejected.
- c. No information, financial or otherwise, will be provided to any Proposer about any of the proposals from other Proposers. Proposers will not be given a specific price or specific financial requirements they must meet to gain further consideration, except that proposed prices may be too high with respect to the marketplace or unacceptable. Proposers will not be told of their rankings among the other Proposers.
- d. **Best Offers.** VVTA expects that all responsible and responsive Proposers shall submit their Best Offer upon initial submission in response to this solicitation.

**VVTA reserves the right to make an award to a Proposer whose proposal it judges to be most advantageous to VVTA based upon the evaluation criteria, without conducting any written or oral discussions with any Proposers or solicitation of any BAFO.**

\*\*\*\* End of Instructions to Proposers \*\*\*\*



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT A – SCOPE OF WORK

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**A. Purpose:**

Victor Valley Transit Authority (VVTA) seeks a Provider to design and install a Battery Energy Storage and Demand Response System (BESDRS) to lower demand charges on 1 current and 1 future utility meter at its primary CNG fueling facility located at 9585 E. AVE., Hesperia, CA. Annual energy demand costs are a significant expenditure for the agency. Energy bills are based on two major costs: energy charges (kWh), and demand charges (kW). Our demand charges from SCE are a significant portion of our monthly fees.

**B. Background and Project Goal:**

The agencies goal is to generate maximum energy cost savings, by selecting a battery energy storage and demand response energy management system that can help reduce the agencies peak demand charges and thereby leveling and managing the agencies cost for demand charges over the long term. The system will use software-driven technology to reduce peak demand charges. VVTA currently has a 1-megawatt solar generating system that is divided between 2 of its current utility meters that serve the fueling station and the administration and vehicle maintenance buildings. Our CNG station consists of three, 300 hp compressors that operate mostly at night. VVTA is also working on a future Battery Electric Bus (BEB) charging circuit that is anticipated to be up to sixty-five (65) 125kW chargers being installed in stages over the next ten to fifteen years. The first stage will be seven 125kW charges and is anticipated to be completed within the coming year. VVTA is issuing this Request for Proposals (RFP) to select a provider who can supply the most efficient system that can reduce the demand charges the maximum amount for the most savings to VVTA. The RFP calls for a turn-key battery energy storage and demand response system that includes planning, design, and installation that will lower demand charges on our CNG fueling station as well as our future BEB charging system. The Provider will give access to VVTA on a real-time load profile activity (24/7) per site, via the Internet or cloud-based solution.

**C. Conditions:**

1. Safety Data Sheet: Contractor shall provide Authority with the appropriate safety data sheets for all applicable materials related to the BESDRS.
  
2. Contractor's Personnel: Contractor shall provide, at all times, personnel who possess the knowledge and skills to provide services on the BESDRS. In the event the Authority is dissatisfied with Contractor's personnel's work performance, as determined by Authority in its sole discretion, upon receiving written or verbal notification from Authority, Contractor shall replace the personnel prior to the next scheduled day, or as otherwise agreed to by the Authority, to perform Services.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT A – SCOPE OF WORK

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3. Contractor's Duty to Keep Authority Informed: Contractor shall take action to ensure the Authority is fully informed at all times of the status of Services being provided. Such actions include immediately informing the Authority of:
  - a. Any personnel injury or damage to the system, Authority equipment, and/or VVTA's facilities.
  - b. Any actual or perceived hazard to personnel, the system being installed, authority equipment, and/or VVTA's facilities.
  - c. Any change to the time schedule for provision of Services in the approved work plan, the reasons for the change and a proposed revised time schedule.
4. Point of Contact: Contractor shall designate an employee of Contractor as program manager, who shall be fully cognizant of the requirements and progress of the work at all times and shall be the primary point of contact.
5. Progress Meetings: Contractor's personnel shall meet with VVTA's project manager, and/or project team, as determined by the Authority. The purpose of the meetings is for informing the Authority of, including but not limited to, project schedule, project milestones; assessment of approach, methodology, design, and communication strategies.
6. Damage: The Contractor shall be liable for any damages cause by the installation and/or manufacturer defects of the BESDRS, including, without any limitations, any damage to the storage and management equipment site, damage to the Authority's property, or injury to persons, or from any operations and/or maintenance activity of the Contractor resulting in such damage. The Contractor shall, within two (2) weeks from receiving notice of any such damage, make all repairs. In the event repairs are needed sooner or the Contractor does not make repairs, the Contractor shall reimburse the Authority for all costs related thereto incurred by VVTA within two (2) weeks after presentation by the Authority to the Contractor of supporting documentation describing the work performed and the cost thereof.

**D. Services:**

1. Battery Energy Storage and demand response System: Contractor shall fully design, engineer, procure, install, interconnect, and commission. The system must have the ability to operate on multiple circuits and be upgradable for VVTA's future electricity demands. Contractor shall connect the system to the Authority's CNG fueling station circuitry and the future BEB charging circuit when it is installed.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT A – SCOPE OF WORK

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2. Self-Generation Incentive Program: (SGIP): Contractor must apply for the SGIP program and include any incentives to VVTA in their price proposals.
3. Metering System Accuracy Rate: Contractor shall provide VVTA with a minimum accuracy rate (percentage) of the Battery Energy Storage and demand response System.
4. Minimum Savings Guaranteed Percentage: Contractor shall provide VVTA with a return on investment time frame and a minimum guaranteed percentage of savings on peak demand charges, on a monthly and annual basis.
5. Methodology for Calculating Changes in Utility Conditions: In the event that Contractor receives notification of a new circumstance such as an applicable utility tariff change, and corresponding rate change or any other item that causes a rate change, within one month of receiving said notification, Contractor shall notify VVTA and give a recommended update and/or re-configure recommendation for a software system update for controlling the management system of said event.
6. Energy Storage and Demand Response Management System: Contractor shall ensure the design of the System maximizes the energy resources at the CNG station as well as the future BEB charging circuit. Contractor shall ensure the Battery Energy Storage and Demand Response System can monitor instantaneous base load (demand) via a dedicated control system, as well as weather, solar production, and other data relevant to the control system. Installing weather tracking, solar production, and other measurement devices, as needed, will provide the Battery Energy Storage and Demand Response System with relevant control system data. The Battery Energy Storage and Demand Response System design may include, but is not limited to, the following specifications:
  - a. A structure that will protect the Battery Energy Storage and Demand Response System and its components from weather, theft, vandalism, and other external hazards
  - b. A concrete foundation with an adjacent housekeeping slab; (note: VVTA's bus parking concrete is 8" thick and would probably support the energy storage system without additional concrete. Vendor is responsible to ensure this is sufficient or propose the necessary pad to meet building codes.)
  - c. Under-slab, or above at a height not to interfere with bus traffic and conform to existing regulations low voltage conduits and cabling, connecting storage to 480-volt, 3 phase electrical system;
  - d. Vault-mounted, medium voltage switchgear;
  - e. HVAC cooling, if applicable;
  - f. Fire suppression system;
  - g. Bollards if necessary;
  - h. Real time remote monitoring, and access to metering records; and

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT A – SCOPE OF WORK

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- i. Alert system to notify VVTA of any errors, problems with the system, and other pertinent data via email and/or text message.

In addition to the BESDRS design requirements above, the BESDRS shall:

- a. Be designed in accordance all local, state, and federal laws and regulations;
  - b. Be constructed in such a way that the structure complies with all applicable federal, state and local building standards, codes and wind uplift requirements.
  - c. Be constructed with materials, coatings, and corrosion protections suitable to last the Term of the Useful life of the system in this hot, dry, windy, and dusty environment with little or no maintenance;
  - d. Built in compliance with Occupational Safety and Health Administration regulations (“OSHA”); and
  - e. Provide the Authority with submittals of the engineering plans and specifications in adequate detail for review.
7. BESDRS Design Documents: Within ninety (90) business days of the Agreement execution date, Contractor shall provide the Authority, in a format acceptable to the Authority, with Battery Energy Storage and Demand Response System design documents for review and approval. The BESDRS design documents shall include, but not limited to, the following:
- a. System description;
  - b. System performance evaluation (BESDRS system report);
  - c. Equipment details and description;
  - d. Layout of installation;
  - e. Layout of equipment;
  - f. Selection of key equipment;
  - g. Short circuit analysis and arc flash study;
  - h. Specifications for equipment procurement and installation;
  - i. All engineering associated with structural and mounting details including wind calculations;
  - j. All engineering associated with electrical and structural design and interconnection to the four hundred eighty (480) volt distribution system;
  - k. Performance of equipment components, subsystems;
  - l. HVAC cooling, if applicable;
  - m. Fire suppression system;
  - n. Electrical grid interconnection requirements. Contractor is responsible for trenching and duct bank design, details, and interconnection requirements to switchgear room and 480-volt distribution system, including verifying no conflicts with current equipment and transformer loads;
  - o. Verification of metering accuracy: and
  - p. Web-based performance monitoring and interconnection with the Computerized Maintenance Management System and Automated Infrastructure Monitoring and Management System.

Prior to any work being performed, said work requires a work plan submitted to and approved by the Authority twenty-one (21) days in advance; Contractor shall submit

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT A – SCOPE OF WORK

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monthly construction schedule by the fifth (5th) day of each month. Contractor shall submit drafts of each document for Authority review and approval at the thirty percent (30%), sixty percent (60%), and ninety percent (90%) level of completion. Contractor shall incorporate the Authority's comments into and shall obtain the Authority's approval of the final version of each document. Within five (5) working days of receipt of Authority's corrections to the 100% design documents, Contractor shall incorporate Authority review, and shall provide Authority with the hundred percent (100%) final contract documents. Contractor shall submit the BESDRS design documents in an electronic format using the latest version of AutoCAD (.DWG) and .PDF. Specifications shall be submitted in MS Word and PDF format.

8. BESDRS Permits: Upon receiving written approval from the Authority on the design documents, Contractor shall secure from applicable governing agencies and the utility company all required rights, permits, approvals, inspections, and interconnection agreements including regulatory applications, if any, at no additional cost to the Authority. Contractor shall submit all permits, and agreements, including regulatory applications to the Authority for review. Contractor is responsible for verifying existing conditions and proposing an optimal configuration for connecting to the Authorities CNG and future BEB charging circuits and meeting all city, state, and federal, municipal and permitting requirements.
  
9. BESDRS Installation: BESDRS activation date shall be completed within two hundred forty (240) calendar days of the Agreement execution date. If the Contractor cannot complete and activate the system by the activation date specified above, Contractor will be subject to Liquidated Damages (LD) of \$550 per day until completion and activation. Contractor shall supply all equipment, materials, labor, fencing, and other site improvements, as agreed to by both Parties, necessary to install and integrate the BESDRS with Authority power sources and to protect the BESDRS from vandalism or accidental damage. Upon receiving written approval from the Authority to proceed with the installation of the BESDRS, Contractor shall install the BESDRS as directed and approved by the Authority.
  
10. Attachments: See "Attachment A – VVTA Site" for a satellite image of Victor Valley Transit Authority. See "Attachment B – 2017 SCE Energy Usage" for the CNG site kW and kWh during the calendar year of 2017. See "Attachment C – 2017 Solar CNG Yearly Production" for the CNG site solar production for the calendar year of 2017. See "Attachment D – 2017 SCE CNG Bills" for the calendar year of 2017.
  - a. Commissioning and Acceptance Test. The Contractor shall:
    - i. Consult and assist the Project Manager to identify and recommend best practices and/or approach during the commissioning and testing of the BESDRS; and
    - ii. Develop, document and deliver to the Project Manager a safety program for the BESDRS.
  
11. Monitoring and Data Acquisition System: Contractor shall provide a turnkey data acquisition and display system that allows the Authority to monitor, analyze and

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT A – SCOPE OF WORK

---

display historical and live BESDRS energy performance and savings to include but not limited to, a list of the monthly electricity saved, the time of use rate period during electricity savings, and other pertinent economic data. A data acquisition system (“DAS”) shall be provided as part of each system.

12. BESDRS Manuals: Upon completion and before acceptance of the installation of the BESDRS by the Authority, Contractor shall provide the Authority, in a searchable PDF, with all material schedules and installation details of the components installed, as well as operation & maintenance manuals, installation manuals, and all other relevant manufacturer’s information on the BESDRS.
  
13. BESDRS Preventive Maintenance Service and Training:
  - a. Preventive Maintenance Schedule: Within thirty (30) business days after the BESDRS activation date, Contractor shall provide, for the Authority’s review and approval, in a format acceptable to the Authority, a complete, comprehensive Preventive Maintenance Service schedule (“Preventive Maintenance Schedule”) for the BESDRS, each subsystem, and all associated equipment. Said schedule shall be based on manufacturer maintenance recommendations and applicable industry standards.
  
  - b. On-site Training: At no additional cost to the Authority, The Contractor shall provide BESDRS training to Authority personnel on the proper operation, software end user skills, navigation, and reporting, emergency shut-down/disconnect of the BESDRS, and standard maintenance and repair procedures. Training shall be provided within 14 days of project completion and when and as requested by VVTA; VVTA shall also determine the time and duration of each training session. In providing such training, Contractor shall use lesson plans that conform to industry standards and manufacturer specifications. All Authority personnel who complete BESDRS training shall fully understand, have working knowledge of, and the ability to successfully utilize the BESDRS (including, but not limited to, shut-down of the system in emergency cases). Within thirty (30) days of receiving written notification by VVTA, Contractor shall facilitate on-site training to Authority personnel.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**Table of Contents:**

ADMINISTRATIVE CODE.....	2
DISCRIMINATION.....	2
WHISTLEBLOWER REQUIREMENTS.....	3
PUBLIC RECORDS ACT.....	3
ACCESS TO RECORDS.....	3
FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES.....	4
ENERGY CONSERVATION REQUIREMENTS.....	5
CIVIL RIGHTS REQUIREMENTS.....	5
NO FEDERAL OBLIGATION TO THIRD PARTIES.....	6
PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS .....	7
SUSPENSION AND DEBARMENT.....	7
RECYCLED PRODUCTS.....	8
CLEAN WATER AND CLEAN AIR REQUIREMENTS.....	8
COMPLIANCE WITH FEDERAL LOBBYING POLICY.....	9
BUY AMERICA.....	9
CARGO PREFERENCE.....	10
FLY AMERICA.....	10
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.....	11
DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26.....	12
ADA ACCESS.....	15
ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM.....	17
TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS.....	18
BONDING REQUIREMENTS.....	19
DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS.....	19
PRIVACY ACT - 5 U.S.C. 552.....	27
TERMINATION 49 U.S.C. Part 18 FTA Circular 4220.1F.....	28
SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41.....	29
BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1F.....	30
VETERANS PREFERENCE.....	31

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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**REGULATORY REQUIREMENTS**

- \* **Marks Required Subcontract Provision that must flow down to all subcontractors as defined in the Article entitled SUBCONTRACTORS AND SUPPLIERS herein**

**RR-01 ADMINISTRATIVE CODE \***

**A. Applicability**

This Article applies to all contracts.

**B. Compliance with §§1090 et. seq. and §§87100 et. seq. of the California Government Code**

Contractor shall comply with all applicable provisions of §§1090 et. seq. and §§87100 et. seq. of the California Government Code. Without reducing or affecting its obligation to comply with any and all of said provisions, Contractor specifically covenants:

1. Contractor shall not cause or permit any member, officer, or employee of Victor Valley Transit Authority (VVTA) to have any financial interest in the Contract;
2. Contractor shall not enter into any Subcontract involving services or property with a person or business prohibited from transacting such business with VVTA;
3. Contractor warrants and represents that to its knowledge no Board member, officer, or employee of VVTA has any interest, whether contractual, non-contractual, financial or otherwise, in this Contract, or in the business or any other contract or transaction of the Contractor or any Subcontractor and that if any such interest comes to Contractor's knowledge at any time, Contractor shall make a full and complete disclosure of all such information in writing to VVTA.

**C. Campaign Contributions**

Neither Contractor nor its Agents shall give or offer to give any campaign contribution to any member of VVTA Board of Directors in violation of the California Government Code §§84300 et seq., or of the Administrative Code. Contractor shall submit a Certification of Campaign Contributions with all COs of two hundred thousand dollars (\$200,000) or more.

**RR-02 DISCRIMINATION \***

**A. Applicability**

This Article applies to all contracts

- B.** In connection with the performance of Work provided for under this Contract, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, or age,



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State or local laws.

**RR-03 WHISTLEBLOWER REQUIREMENTS \***

**A. Applicability**

This Article applies to all contracts.

- B.** Contractor shall not adopt any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee believes the information discloses violation or noncompliance with a state or Federal regulation; nor shall Contractor retaliate against an employee for taking such actions as set forth in the t. seq.

**RR-04 PUBLIC RECORDS ACT \***

**A. Applicability**

This Article applies to all contracts.

- B.** Except as otherwise provided herein, all records, documents, drawings, plans, specifications, and all other information relating to the conduct of VVTA business, including all information and documents submitted by Contractor (“Records”), shall become the exclusive property of VVTA and shall be deemed public records. Said Records are subject to the provisions of the California Public Records Act (Government Code §6250 et. seq.). VVTA use and disclosure of its records are governed by this Act. VVTA will use its best efforts to inform the Contractor of any request for any financial records or documents marked “Trade Secret”, “Confidential” or “Proprietary” provided by Contractor to VVTA. VVTA will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.
- C.** In the event of litigation concerning the disclosure of any Records, VVTA sole involvement will be as a stakeholder, retaining the Records until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the Records and shall indemnify and hold VVTA harmless from all costs and expenses including attorney’s fees in connection with any such action.

**RR-05 ACCESS TO RECORDS \***

**A. Applicability**

This Article applies to all federally funded contracts.

- B.** Contractor agrees to provide VVTA, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also

**VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS**

---

agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or the FTA's authorized representatives, including any FTA Project Management Oversight Contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

- C.** If this Contract is for a capital project or improvement (defined at 49 U.S.C. 5302(a) 1) and was entered in to through other than competitive bidding, the Contractor shall make records related to this Contract available to VVTA, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection until the expiration of five (5) years after final payment under this contract.
- D.** Contractor shall permit any of the foregoing parties to reproduce without any cost by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- E.** Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until VVTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- F.** The Consultant further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that VVTA, the Department of Transportation and Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, paper and records of such subcontractor, involving transaction related to the subcontractor.

**RR-06 FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES\***

**A. Applicability**

This Article applies to all federally funded contracts.

- B.** This Contract includes, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008 and revised March 18, 2013 (including any changes), and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any VVTA requests which would cause VVTA to be in violation of the FTA terms and conditions. This Contract is subject to a financial assistance agreement between VVTA and the Federal Transit Administration of the US Department of Transportation and all laws, regulations, guidelines, and provisions of the financial assistance agreement apply to this Contract and are incorporated by reference as if fully set forth herein.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

- C.** Contractor shall at all times comply with all applicable federal laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between VVTA and FTA, as they may be amended or promulgated from time to time during the term of this Contract collectively “Federal Requirements”. These Federal Requirements may change and the changed Federal Requirements will apply to this Contract as required unless the Federal Government determines otherwise. Contractor's failure to so comply with the Federal Requirements shall constitute a material breach of this Contract.

**RR-07 ENERGY CONSERVATION REQUIREMENTS**

**A. Applicability**

This Article applies to all federally funded contracts.

- B.** Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 USC §6321 et seq.

**RR-08 CIVIL RIGHTS REQUIREMENTS \***

**A. Applicability**

This Article applies to all federally funded contracts.

**B. Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. § 5332, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**C. Equal Employment Opportunity**

- (1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. §5332, Contractor shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Contract. Contractor shall take affirmative action to ensure that applicants are employed, and that

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT B – REGULATORY REQUIREMENTS

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employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor shall comply with any implementing requirements FTA may issue.

- (2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (4) Contractor shall include these requirements in each subcontract, modified only if necessary to identify parties, as required by Federal regulations.
- (5) VVTA operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act of 1964. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with VVTA. For more information, visit VVTA.org. A complainant may file a complaint directly with the Federal Transit Administration by filing through the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Avenue, SE, Washington, DC 20590.

### **RR-09 NO FEDERAL OBLIGATION TO THIRD PARTIES \***

#### **A. Applicability**

This Article applies to all federally funded contracts.

- B.** Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to VVTA, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from this Contract. Contractor shall include this Article in each Subcontract and shall not modify the Article, except to identify the Subcontractor who will be subject to its provisions.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**RR-10 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS \***

**A. Applicability**

This Article applies to all federally funded contracts.

- B.** The provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, shall apply to actions pertaining to this Contract. Upon execution of this Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining this Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- C.** Contractor also acknowledges that this Contract is connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307 and if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.
- D.** Contractor shall include this Article in each subcontract financed in whole or in part with Federal assistance provided by FTA. Contractor shall not modify the Article, except to identify the Subcontractor who will be subject to the provisions.

**RR-11 SUSPENSION AND DEBARMENT\***

**A. Applicability**

This article applies to federally funded contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services.

- B.** This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor shall verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. Contractor shall comply with 49 CFR 29, Subpart C and shall include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.
- C.** By entering into this Contract, Contractor certifies that it shall comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Contract. This certification is a material representation of fact relied upon by VVTA. If it is later

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to VVTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

**RR-12 RECYCLED PRODUCTS**

**A. Applicability**

This Article applies to federally funded operations/management, construction, or materials & supplies contracts for items designated by the Environmental Protection Agency, when procuring \$10,000 or more per year.

**B.** To the extent practicable and economically feasible, a competitive preference shall be given for products and services that conserve natural resources and protect the environment and are energy efficient.

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

**RR-13 CLEAN WATER AND CLEAN AIR REQUIREMENTS\***

**A. Applicability**

This Article applies to all federally funded contracts over \$150,000.

**B. CLEAN WATER REQUIREMENTS**

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and all applicable clean water standards of the State of California and any state or local agency having jurisdiction. Contractor shall report each violation to VVTA. VVTA will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office, and all other agencies having jurisdiction.

**C. CLEAN AIR**

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and all applicable Clean Air Standards of the State of California or any state or local agency having jurisdiction. Contractor shall report each violation to VVTA. VVTA will, in turn, report each violation as required to FTA, the appropriate EPA Regional Office and all other agencies having jurisdiction. C. Contractor shall include this Article in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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**RR -14 COMPLIANCE WITH FEDERAL LOBBYING POLICY \***

**A. Applicability**

The following Article applies to federally funded contracts over \$100,000

- B.** The Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, requires that Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying," attached hereto as the certification entitled, "Certification of Compliance with Federal Lobbying Requirements." As set forth in the certifications, each tier of subcontractors shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded from tier to tier up to VVTA.

**RR-15 BUY AMERICA \***

**A. Applicability**

The following Article applies to federally funded rolling stock purchase and construction contracts over \$150,000 and to contracts over \$150,000 for materials & supplies for steel, iron, or manufactured products.

- B.** Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R.661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. VVTA may investigate Contractor's, any Subcontractor's, and any Supplier's compliance with this Article. If an investigation is initiated, Contractor, Subcontractor, or Supplier shall document its compliance, in accordance with 49 CFR 661.15, and cooperate with the investigation. Contractor shall incorporate the Buy America conditions set forth in this Article in every subcontract or purchase order and shall enforce such conditions.
- C.** FTA requires a Buy America certification to be submitted with the proposal, or the proposal shall be considered non-responsive.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**RR-16 CARGO PREFERENCE\***

**A. Applicability**

The following Article applies to federally funded contracts involving equipment, materials, or commodities which may be transported by ocean vessels

**B. USE OF UNITED STATES FLAG VESSELS**

Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels. Contractor shall furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the VVTA (through Contractor in the case of a subcontractor's bill-of-lading.) Contractor shall include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**RR-17 FLY AMERICA**

**A. Applicability**

This Article applies to federally funded contracts if the contract or subcontracts may involve the international transportation of goods, equipment, or personnel by air.

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



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**RR-18 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT \***

**A. Applicability**

This Article applies to federally funded construction contracts over \$2,000 (including ferry vessels), rolling stock purchases over \$2,500 and to operations/management contracts over \$2,500 (except transportation services)

**B.** Pursuant to the Labor Standards Provisions Applicable to Nonconstruction Contracts subject to the Federal Contract Work Hours and Safety Standards Act, 40 U.S.C.A. § 327 through 332 as implemented by U.S. Department of Labor regulations, 29 CFR 5.5 (b) and (c) Contractor and Subcontractor's contracting for any part of the Contract work shall comply with the following:

**1. Overtime requirements** – Neither Contractor nor any Subcontractor contracting for any part of the Contract work that requires or involves the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages** – In the event of any violation of the Article set forth in paragraph (1) of this Article Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this Article, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this Article.

**3. Withholding for unpaid wages and liquidated damages** – VVTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or Subcontractor under the Contract or any other Federal contract with Contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this Article.

**4. Subcontracts** – Contractor or Subcontractor shall insert this Article in any Subcontracts and also an Article requiring the Subcontractors to include this Article in any lower tier Subcontracts. Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with this Article.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**5. Payrolls and basic records** – The records to be maintained hereinabove shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by VVTA and U.S. Dept. of Labor. Contractor and Subcontractor shall maintain payrolls and basic records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

**RR-19 DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26**

**Disadvantaged Business Enterprises**

- a. This Contract is subject to the requirements of Title 49, Code of Federal Regulation Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 1%.
- b. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as VVTA deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. Bidders are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following concurrent with and accompanying sealed bid concurrent with and accompanying an initial proposal prior to award:
  1. The names and addresses of DBE firms that will participate in this contract;
  2. A description of the work each DBE will perform;
  3. The dollar amount of the participation of each DBE firm participating;
  4. Written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
  5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
  6. If the contract goal is not met, evidence of good faith efforts to do so.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

Bidders must present the information required above as a matter of responsiveness with initial proposals prior to contract award] (see 49 CFR 26.53(3)). The successful bidder will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

- d. Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 7 days after the contractor's receipt of payment for that work from the VVTA. In addition, Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to his contract is satisfactorily completed.
- e. Contractor must promptly notify VVTA whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of VVTA.
- f. 49 CFR § 26.29- Prompt Payment Mechanisms
- VVTA requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.
  - In accordance with 49 CFR § 26.29, VVTA established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from VVTA.
  - VVTA ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to § 26.29, VVTA has selected the following method to comply with this requirement:
    - **(1)** You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from sub-contractors. \
  - VVTA implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in VVTA's DBE program. Monitoring Payments to DBEs and Non-DBEs
  - VVTA undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

- Other affirmative steps to monitor prompt payment and retainage requirements – verification of payments in VVTA Financial Accounting system.
- VVTA requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for VVTA's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of VVTA or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.
- VVTA proactively reviews contract payments to subcontractors including DBEs monthly to ensure compliance. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to VVTA by the prime contractor.
- g. Prompt Payment Dispute Resolution
  - VVTA will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of § 26.29. (meetings between prime and sub, with resident project representative and/or project manager presence as appropriate.) It is recommended that any meeting for the purpose of dispute resolution include individuals authorized to bind each interested party, including recipient representative(s) with authority to take enforcement action.
  - VVTA has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:
    - (1) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed. [VVTA Contract Clause 11. Subcontracting
  - Prompt Payment Complaints
    - Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure:
      1. If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
      2. If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by VVTA to resolve prompt payment disputes, affected subcontractor may contact the responsible SBCTA contact.
  - Enforcement Actions for Noncompliance of Participants

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

- VVTA will provide appropriate means to enforce the requirements of § 26.29. These means include:
  - Per § 26.13 include, but are not limited to:
    - In accordance with the contract, assessing liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor
    - Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
    - Pay subcontractors directly and deduct this amount from the retainage owed to the prime
    - Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met
    - Other penalties for failure to comply, up to and including contract termination. [
  - VVTA will actively implement the enforcement actions detailed above.

**RR-20 ADA ACCESS**

**A. Applicability**

This Article applies to federally funded Architect & Engineer, Operations/Management, Rolling Stock Purchase, and Construction contracts

**B. Access Requirements for Persons with Disabilities**

Contractor shall comply with:

1. The requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy;
2. All applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps;

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT B – REGULATORY REQUIREMENTS

---

3. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act;
4. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act; and
5. All applicable requirements of the following regulations and any subsequent amendments thereto:
  - (s) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
  - (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
  - (c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. A.TBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
  - (d) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
  - (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
  - (f) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
  - (g) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
  - (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
  - (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and
  - (k) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;
  - (l) Any implementing requirements FTA may issue.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**RR-21 ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM \***

**A. Applicability**

This Article applies to federally funded contracts for transit operations.

**B. FTA Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations Regulations**

Contractor and its Subcontractors shall comply with the FTA antidrug and alcohol misuse regulations (49 CFR Part 655) and the U.S. Department of Transportation (DOT) Procedures for Transportation Workplace Drug and Alcohol Testing Programs (49 CFR Part 40) to the full extent that they are, by their terms, applicable to Contractor and its Subcontractors. The regulations apply to all “contractors” that have “covered employees” that perform “safety sensitive functions” as those terms are defined in the regulations.

**C. Certificate of Compliance**

**The CERTIFICATE OF COMPLIANCE WITH 49 CFR PARTS 655, PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT**, submitted by Contractor prior to award, is incorporated as part of the Contract Documents.

**D. Drug and Alcohol Testing Program**

In the event that any part of the Work under this Contract falls within the scope of 49 CFR Part 655, Contractor, and its Subcontractors (as applicable), shall establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or VVTA, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. Contractor shall annually certify its compliance with Parts 653 and 65. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**E. Alcohol and Drug Free Workplace Program**

In addition to the above, for Work performed on VVTA property, Contractor shall provide an Alcohol and Drug-free Workplace Program in accordance with FTA requirements found at <http://transit-safety.fta.dot.gov/DrugAndAlcohol/default.asp>

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**RR-22 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS \***

**A. Applicability**

Subject to the limitations in Sections B, C, and D, this Article applies if this Contract involves transit operations to be performed by employees of a Contractor recognized by FTA to be a transit operator, and if FTA has determined that it is financed in whole or in part with Federal assistance.

**B. General Transit Employee Protective Requirements**

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance (other than Federal assistance authorized by 49 U.S.C. §5310(a)(2) or 49 U.S.C. § 5311), and if the U.S. Secretary of Transportation has determined that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for VVTA under this Contract, then Contractor shall perform the transit operations work under the Contract in compliance with terms and conditions,

(a) determined by the U.S. Secretary of Labor to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. Department of Labor (“U. S. DOL”) guidelines at 29 C.F.R. Part 215, and any amendments thereto, and

(b) stated in a U. S. DOL letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with VVTA, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.

**C. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a) (2) for Elderly Individuals and Individuals with Disabilities**

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for VVTA under the Contract, Contractor shall perform the Work in compliance with the terms and conditions determined,

(a) by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto, and

(b) stated in the U.S. DOL's letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with VVTA, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

**D. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas**

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

**E. Indemnity**

Contractor shall defend, indemnify and hold harmless VVTA, and its Board Members, employees and agents from and against all liability, claims, demands actions, costs, judgments, penalties, damages, losses and expenses arising out of or in connection with Contractor's failure to comply with or failure to carry out its responsibilities under all applicable provisions of Sections B, C and D of this Article.

**RR-23 BONDING REQUIREMENTS**

Applicability to Contracts For those construction or facility improvement contracts or subcontracts exceeding \$150,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

- a. A bid guarantee from each bidder equivalent to ten (10) percent of the bid price. The "bid guarantees" shall consist of a firm commitment and may be in any of the following forms:
  - (1) cash;
  - (2) cashier's check payment to VVTA;
  - (3) a certified check payable to the VVTA; or
  - (4) a bidder's bond executed by an admitted surety insurer. Such as a bid bond, certifies check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract.

**RR-24 DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

Applicability to contract for those construction or facility improvement contracts or subcontracts exceeding \$2000.00

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i) (5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

**Background and Application**

The clause language is drawn directly from 29 CFR 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts’ requirements are satisfied.

**Davis-Bacon and Copeland Anti-Kickback Acts Clause Language**

(1) **Minimum wages –**

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT B – REGULATORY REQUIREMENTS

---

- (ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
  - (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
  
- (v) (A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits only when the following criteria have been met:
  - (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
  
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
  
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (1) (v) (B) or (C) of this section, shall be paid to all workers performing work in the Classification under this contract from the first day on which work is performed in the classification.
- (2) **Withholding** - VVTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, VVTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (3) **Payrolls and basic records –**
- (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the VVTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
    - (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
    - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
    - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
  - (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
  - (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**(4) Apprentices and trainees –**

- (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT B – REGULATORY REQUIREMENTS

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pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT B – REGULATORY REQUIREMENTS

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Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity

(5) **Compliance with Copeland Act requirements –**

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract. - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(6) **Subcontracts –**

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment –**

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements –**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards –**

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

---

contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility –**

- (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**RR-25 PRIVACY ACT - 5 U.S.C. 552**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

**Applicability to Contracts**

The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

**Flow Down**

The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

**Model Clause/Language**

**Contracts Involving Federal Privacy Act Requirements –**

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**RR- 26 TERMINATION 49 U.S.C. Part 18 FTA Circular 4220.1F**

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

**Applicability to Contracts**

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

**Flow Down**

**a. Termination for Convenience (General Provision)**

VVTA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to VVTA to be paid the Contractor. If the Contractor has any property in its possession belonging to the VVTA, the Contractor will account for the same, and dispose of it in the manner the VVTA directs.

**b. Opportunity to Cure (General Provision)**

VVTA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to VVTA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from VVTA setting forth the nature of said breach or default, VVTA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude VVTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**c. Waiver of Remedies for any Breach**

In the event that VVTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by VVTA shall not limit VVTA remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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**d. Termination for Default (Construction)**

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, VVTA may terminate this contract for default. VVTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, VVTA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to VVTA resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the VVTA in completing the work. The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The contractor, within [10] days from the beginning of any delay, notifies VVTA in writing of the causes of delay. If in the judgment of VVTA, the delay is excusable, the time for completing the work shall be extended. The judgment of VVTA shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of VVTA.

**RR – 27 SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41**

The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

**Applicability to Contracts**

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

**Flow Down**

The regulations do not provide suggested language for third-party contract clauses. The following language has been developed by FTA.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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**Model Clauses/Language**

**Seismic Safety –**

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

**RR-28 BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1F**

All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

**Applicability to Contracts**

The Breaches and Dispute Resolutions requirements flow down to all tiers.

**Flow Down**

**Disputes –**

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the VVTA Construction Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to VVTA Construction Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of VVTA Project Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute –**

Unless otherwise directed by VVTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages –**

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT B – REGULATORY REQUIREMENTS

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**Remedies –**

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between VVTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which VVTA is located.

**Rights and Remedies –**

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by VVTA, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**RR-29 VETERANS PREFERENCE**

Veterans Employment

- . Contractors working on a capital project funded using FTA assistance shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

**END OF REGULATORY REQUIREMENTS**

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

THIS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_, 20\_\_, by and between the **VICTOR VALLEY TRANSIT AUTHORITY**, a Joint Powers authority, created pursuant to the laws of the State of California (“VVTA” OR “Agency”) and

\_\_\_\_\_ (“CONTRACTOR”).

**RECITALS**

**WHEREAS**, VVTA circulated and distributed a request for proposals (“RFP”) from qualified firms who can provide the products and services needed to for Computer Network Support, a copy which is attached herein as Exhibit 1 and Exhibit 2 (Scope of Work); and

**WHEREAS**, CONTRACTOR submitted a proposal to provide unarmed security guard services per the Scope of Work described in the RFP, a copy which is attached herein as Exhibit 3: and

**WHEREAS**, CONTRACTOR has represented and warrants to VVTA that it has the necessary training, experience, expertise, physical manufacturing capacity and staff competency to provide the services, goods and materials that are described in this Agreement, at a cost to VVTA as herein specified and that it will be able to perform the herein described services for VVTA by virtue of its current resources and specialized knowledge of relevant data, issues, and conditions: and

**WHEREAS**, CONTRACTOR represents and warrants that neither CONTRACTOR, nor any of its officers, agents, employees, contractors, subcontractors, volunteers, or five percent owners, is excluded or debarred from participating in or being paid for participation in any Federal or State program; and

**WHEREAS**, CONTRACTOR further represents and warrants that no conditions or events now exist which give rise to CONTRACTOR, or any of its officers, agents, employees, contractors, subcontractors, volunteers or five percent owners being excluded or debarred from any Federal or State program; and

**WHEREAS**, CONTRACTOR understands that VVTA is relying upon these representations in entering into this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and conditions herein contained, VVTA and CONTRACTOR hereby agree as follows:

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

## 1. SCOPE OF WORK

- A. CONTRACTOR will perform the Work and related tasks as described in Attachment A, Scope of Work (within Exhibit 1) hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby VVTA may, at its sole discretion, augment or supplant the Work with its own forces or forces of another contractor or entity. CONTRACTOR will cooperate fully with VVTA's staff or other contractor or entity that may be providing similar or the same Work for VVTA.

## 2. CONTRACT DOCUMENTS

The complete Contract between the parties shall consist of the following component parts:

This Agreement;

- A. Exhibit 1 – RFP NUMBER 2017-07 COMPENSATION, including Addenda and all Attachments, including Attachment A – Scope of Work.
- B. Exhibit 2 – CONTRACTOR's Offer and Bid Submission dated \_\_\_\_\_
- C. Exhibit 3 – CONTRACTOR's Price Proposal Sheets dated \_\_\_\_\_
- D. Exhibit 4 - CONTRACTOR's Proof of Insurance dated \_\_\_\_\_
- E. Exhibit 5 – Completed, signed and notarized (if applicable) forms as required by the Solicitation.

All the Exhibits mentioned in this Agreement are attached and are herein incorporated. This Agreement and the other Exhibits mentioned constitute the entire Contractual Agreement between the parties. In the event of any conflict between any of the provisions of this Agreement and Exhibits, the provision that requires the highest level of performance from CONTRACTOR for VVTA's benefit shall prevail. Proposer shall execute and submit Certifications as required in the RFP shall be submitted separately in each Proposer's Price Proposal.

In the event of any conflict between the final contract and the provisions included in the attachments, the negotiated terms of the final contract shall prevail.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

3. PERIOD OF PERFORMANCE

This Agreement shall commence on \_\_\_\_\_, and shall continue in full force and effect through \_\_\_\_\_, unless earlier terminated or extended as provided in this Agreement.

4. TOTAL CONSIDERATION

- A. In accordance with the terms and conditions of this Contract, VVTA shall pay CONTRACTOR for its obligations under this Agreement. VVTA shall pay CONTRACTOR on a FIXED PRICE basis at the fully burdened fixed rates stated herein in accordance with the provisions, of this Section, and subject to the maximum cumulative payment obligation

RATES

- B. VVTA's maximum cumulative payment obligation under this Agreement shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

- A. CONTRACTOR shall invoice VVTA upon completion of the project. CONTRACTOR shall furnish information as may be requested by VVTA to substantiate the validity of an invoice.

CONTRACTOR shall submit invoices in duplicate to:

VICTOR VALLEY TRANSIT AUTHORITY  
ATTN: ACCOUNTS PAYABLE  
17150 SMOKE TREE STREET  
HESPERIA, CA 92345-8305

A separate invoice shall be used for each shipment. Each invoice shall include, at a minimum, the following information:

- Contract number
- Purchase Order number
- Invoice number
- Description of delivery
- Delivery date
- Total quantity delivered
- Unit Price, extended price and applicable taxes
- Information as requested by VVTA



# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

- B. VVTA shall remit payment within forty-five (45) calendar days of approval of the invoices by VVTA Senior Staff. VVTA does encourage the CONTRACTOR to accept discount terms of 2% 10, net 45, in the event the CONTRACTOR is in need of expedited terms.

In the event VVTA should overpay CONTRACTOR, such overpayment shall not be construed as a waiver of VVTA's right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice from VVTA, CONTRACTOR shall immediately reimburse VVTA the entire overpayment or, at its sole discretion, VVTA may deduct such overpayment amount from monies due to CONTRACTOR under this Agreement or any other Agreement between VVTA and CONTRACTOR.

## 6. AUDIT AND INSPECTION OF RECORDS

In accordance with 49 C.F.R. § 18.36(i), 49 C.F.R. § 19.48(d), and 49 U.S.C. § 5325(a), provided VVTA is the FTA Recipient or a sub-grantee of the FTA Recipient, the Contractor agrees to provide VVTA, FTA, the Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, or any of their duly authorized representatives access to any books documents, papers, and records of the Contractor which are directly pertinent to or relate to this Contract (1) for the purpose of making audits, examinations, excerpts, and transcriptions and (2) when conducting an audit and inspection.

- A. In the event of a **sole source Contract, or single Offer, single responsive Offer, or competitive negotiated procurement**, the Contractor shall maintain and VVTA, the U.S. Department of Transportation (*if applicable*), or the representatives thereof, shall have the right to examine all books, records, documents, and other cost and pricing data related to the Contract price, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, or combinations thereof. Data related to the negotiation or performance of Contract shall be made available for the purpose of evaluating the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data, along with the computations and projections used therein, including review of accounting principles and practices that reflect properly all direct and indirect costs anticipated for the performance of the Contract.
- B. **For Contract Amendments**, the VVTA, the U.S. Department of Transportation (*if applicable*), or their representatives shall have the right to examine all books, records, documents, and other cost and pricing data related to a Contract Amendment, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, or combinations thereof. Data related to the negotiation or performance of the Contract Amendment shall be made available for the purpose of evaluating the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data,

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

along with the computations and projections used therein, either before or after execution of the Contract Amendment for the purpose of conducting a cost analysis. If an examination made after execution of the Contract Amendment reveals inaccurate, incomplete, or out-of-date data, the VVTA may renegotiate the Contract Amendment and VVTA shall be entitled to any reductions in the price that would result from the application of accurate, complete or up-to-date data.

## 7. NOTIFICATION

All notices hereunder concerning this Agreement and the Work to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To VVTA:  
Attn: Christine Plasting, CPPB  
Victor Valley Transit Authority  
17150 Smoke Tree Street  
Hesperia, CA 92345-8305

To CONTRACTOR

## 8. VVTA AND CONTRACTOR'S REPRESENTATIVES

### **A. VVTA**

VVTA's Executive Director has authority to execute contracts on behalf of VVTA. Except as expressly specified in this Agreement, the Executive Director may exercise any powers, rights and /or privileges that have been lawfully delegated by VVTA. Nothing in this Agreement should be construed to bind VVTA

for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein. The Executive Director or his/her designee is empowered to:

1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
2. Reserve the right to remove any portion of the Work from CONTRACTOR which have not been performed to VVTA's satisfaction.
3. Subject to the review and acceptance by VVTA, negotiate with CONTRACTOR all adjustments pertaining to this Agreement for revision.
4. In addition to the foregoing, the Executive Director shall have those rights and powers expressly set forth in other sections of this Agreement.

### **B. Contractor's Key Personnel**

The following are CONTRACTOR's key personnel and their associated roles in the Work to

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

be provided:

<u>Name</u>	<u>Role</u>
_____	_____
_____	_____
_____	_____
_____	_____

Any propose/substitution or replacement by Contractor of Contractor's key personnel shall ensure that such person possesses the same or better expertise and experience than the key personnel being substituted or replaced. VVTA reserves the right to interview such person to ascertain and verify if such proposed substitution or replacement does in deed possess such expertise and experience.

VVTA awarded this Agreement to CONTRACTOR based on VVTA's confidence and reliance on the expertise of CONTRACTOR's key personnel described above. CONTRACTOR shall no reassign key personnel or assign other personnel to key personnel roles until CONTRACTOR obtains prior written approval from VVTA.

9. TERMINATION OF CONTRACT

**A. TERMINATION FOR CONVENIENCE**

1. The performance of Work under this Contract may be terminated in whole, or from time to time in part, by VVTA for the convenience of VVTA whenever VVTA determines that such termination is in the best interest of VVTA and the other procuring agencies. Any such termination shall be executed by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of Work under the Contract is terminated, and the date upon which such termination becomes effective. After receipt of a Notice of Termination, and except as otherwise directed by VVTA, the Contractor must:
  - (a) Stop the Work under the Contract on the date and to the extent specified in the Notice of Termination;
  - (b) Place no further orders or subcontracts for materials, services, or facilities,

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;

- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated as set out in the Notice of Termination;
  - (d) Assign to VVTA in the manner, at the times, and to the extent directed by VVTA, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case VVTA shall have the right, in its discretion, to settle or pay and or all claims arising out of the termination of such orders and subcontracts;
  - (e) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of VVTA, to the extent he/she may require, which approval or ratification shall be final for all the purposes of this Section;
  - (f) Transfer title to VVTA and deliver in the manner, at the times, and to the extent, if any, directed by VVTA the fabricated or un-fabricated parts, work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the Work terminated, and the completed or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to VVTA;
  - (g) Complete performance of such part of the Work as shall not have been terminated by the Notice of Termination; and
  - (h) Take such action as may be necessary, or as VVTA may direct, for the protection or preservation of the property related to this Contract which is in the possession of the Contractor and in which VVTA has or may acquire an interest.
2. After receipt of a Notice of Termination, the Contractor shall submit to VVTA its termination claim, in the form and with certification prescribed by VVTA. Such claim shall be submitted promptly but in no event later than six months from the effective date of termination, unless one or more extensions in writing are granted by VVTA, upon request of the Contractor made in writing within such six months period or authorized extension thereof. However, if VVTA determines that the facts justify such action, it may receive and act upon any such termination claim at any time after such six months period or any extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, VVTA may determine, on the basis of information available, the amount, if any, due the Contractor by reason of the termination and will thereupon pay the Contractor the amount so determined.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

3. Subject to the provisions of subsection 2 above, the Contractor and VVTA may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination or work pursuant to this Section, which amount or amounts may include an allowance for profit on work done; provided that such agreed amount or amounts exclusive of settlement costs, shall not exceed the total Contract Consideration as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract will be amended accordingly, and the Contractor will be paid the agreed amount.
4. In the event of failure of the Contractor and VVTA to agree, as provided in subsection 3, upon the amount to be paid the Contractor by reason of the termination of Work pursuant to this Section, VVTA will pay the Contractor the amounts determined by VVTA as follows, but without duplication of any amounts agreed in accordance with subsection:

With respect to Contract Work performed prior to the effective date of the Notice Termination, the total (without duplication of any items) of:

- (a) The costs of such Work;
  - (b) The cost of settling and paying claims arising out of the termination of Work under subcontracts or orders as provided in subsection 1 (e) above, exclusive of the amounts paid or payable on account of supplies or material delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of Work under this Contract, which amounts shall be included in the costs on account of which payment is made under 2 above;
  - (c) A sum, as profit on 4(a) above, determined by VVTA to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subsection 4(c) and an appropriate adjustment shall be made by reducing the amount of the settlement to reflect the indicated rate of loss; and
  - (d) The reasonable cost of preservation and protection of property incurred pursuant to subsection A (9) and any other reasonable cost incidental to termination of work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of Work under this Contract.
5. The total sum to be paid to the Contractor under subsection 4 will not exceed the total

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

Contract Consideration as reduced by the amount of payments otherwise made and as further reduced by the Contract price of Work not terminated. Except for normal spoilage, and except to the extent that VVTA will have otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to the Contractor under subsection 4 the fair value, as determined by the VVTA, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to VVTA, or to a purchaser pursuant to subsection 1 (g) of this Section.

6. In arriving at the amount due the Contractor under this Section, there will be deducted:
  - (a) The amount of any claim which VVTA has against the Contractor in connection with the Contract; and
  - (b) The agreed price for, or the proceeds of sale of materials, supplies, or other items acquired by the Contractor or sold, pursuant to the provision of this Section, and not otherwise recovered by or credited to VVTA.
7. If the termination hereunder is partial, prior to the settlement of the terminated portion of the Contract, the Contractor may file with VVTA a written request for an adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such adjustment as may be agreed will be made in the price or prices.
8. VVTA may from time to time, at its sole discretion and under terms and conditions it may prescribe, make partial payments and payments on account against cost incurred by the Contractor in connection with the terminated portion of the Contract whenever, in the opinion of VVTA, the aggregate of payments does not exceed the amount to which the Contractor will be entitled hereunder. If the total of the payments is in excess of the amount finally agreed or determined to be due under this Section, the excess shall be paid by the Contractor to VVTA upon demand, together with interest at the rate of 10 percent per annum or the maximum rate permitted by applicable law, whichever is less, for the period from the date the excess payment is received by the Contractor to the date on which the excess payment is repaid to VVTA.
9. Unless otherwise provided for in this Contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under this Contract, shall preserve and make available to VVTA at all reasonable times at the office of the Contractor but without direct charge to VVTA, all its books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the Work terminated hereunder, or to the extent approved by VVTA, photographs, microphotographs,

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

or other authentic reproductions thereof.

10. The Contractor shall insert in all subcontracts that the Subcontractor or Supplier shall stop work on the date of and to the extent specified in a Notice of Termination from VVTA and shall require that any tier subcontractor to insert the same provision in any tier subcontract.
11. The Contractor shall communicate immediately upon receipt thereof, any Notice of Termination issued by VVTA to the affected Subcontractors and Suppliers of any tier.
12. Under no circumstances is the Contractor entitled to anticipatory, unearned profits or consequential damages as a result of a termination or partial termination under this Section. The payment to the Contractor determined in accordance with this Section constitutes exclusive remedy for a termination hereunder.
13. Anything contained in the Contract to the contrary notwithstanding, a termination under this Section shall not waive any right or claim to damages which VVTA may have and VVTA may pursue any course of action it may have under the Contract.

**B. TERMINATION FOR CAUSE**

- (1) By written Notice of Termination to the Contractor, VVTA and the other procuring agencies may cancel the whole or any part of the Contract in any one of the following circumstances:
  - (a) If the Contractor fails to perform the Work within the time specified or any extension thereof;
  - (b) If the Contractor fails to perform any of the provisions of the Contract, or so fails to make progress so as to endanger performance of the Contract in accordance with its terms, and in either of these two later circumstances, does not cure such failure within a period of the 10) calendar days (or such additional time as may be specified in the notice) after VVTA gives notice to Contractor of the failure;
  - (c) The Contractor or Subcontractor or Supplier has violated an authorized order or requirement of VVTA;
  - (d) Abandonment of the Contract;
  - (e) Assignment of subcontracting of the Contract or any Work under the Contract without approval by VVTA;
  - (f) Bankruptcy or appointment of a receiver for the Contractor's property;

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

- (g) Performance by the Contractor in bad faith;
  - (h) Contractor allowing any final judgment to stand (unsatisfied) for a period of 48 hours (excluding weekends and legal holiday(s));
  - (i) Material failure to comply with the law, ordinance, rule, regulation or order of a legal authority applicable to the Contract, the Work, the Contractor or the goods; or
  - (j) Failure to indemnify any party which the Contractor is obligated to indemnify under the Section 2.7.5, Indemnification, or elsewhere under the Contract.
- (2) The Contractor shall be provided a period of ten (10) days to cure such failure (or such longer period as VVTA may authorize in writing) after receipt of notice from VVTA specifying such failure.
- (3) In the event the Contractor does not cure the breach to the satisfaction of VVTA within the time period specified by VVTA, VVTA will send the Contractor a written notice of failure to cure the breach. Upon receipt of such written notice from VVTA, Contractor shall:
- (a) Stop Work on the date of, and to the extent specified in, the Notice of Termination;
  - (b) Place no further orders or subcontracts for materials, equipment, services, or facilities, except that which is necessary to complete the portion of the Work which is expressly not cancelled under the Notice of Termination;
  - (c) Cancel all orders or subcontracts to the extent that they relate to the performance of Work cancelled under the Notice of Termination; and
  - (d) Comply with all other requirements of VVTA specified in the Notice of Termination.
- (4) If the Contract is cancelled as provided in this Section, VVTA may require Contractor to transfer title and deliver to VVTA, as directed by VVTA, the following:
- (a) Any completed supplies or equipment furnished by VVTA; and
  - (b) Such partially completed supplies and materials, installations, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called “manufacturing materials”) that the Contractor has specifically produced or acquired for the cancelled portion of this Contract. The Contractor shall also protect and preserve property in its possession in



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

which VVTA has an interest at the Contractor's sole expense.

- (5) Upon VVTA's Termination of the Contractor's right to proceed with the Work because of the Contractor's default under the Contract, VVTA will have the right to complete the Work by whatever means and method it deems advisable. VVTA will not be required to obtain the lowest prices for completing the Work but shall make such expenditures as, in VVTA's sole judgment, best accomplish such completion.
- (6) The expense of completing the Work, together with a reasonable charge for engineering, managerial and administrative services, as certified by the Lead Procuring Agency, will be charged and will be deducted by VVTA out of such monies as may be due or may at any time thereafter become due to the Contractor. In case such expense is in excess of the sum which otherwise would have been payable to the Contractor under the Contract, then the Contractor or its surety shall promptly pay the amount of such excess to VVTA upon notice of the excess so due. VVTA may, in its sole discretion, withhold all or any part of any progress payments otherwise due the Contractor until completion and final settlement of the Work covered by the Notice of Termination of Contractor's right to proceed.
- (7) Contractor shall insert in all subcontracts that the Subcontractor or Supplier will stop work on the date of or to the extent specified in a Notice of Termination from VVTA and shall require the Subcontractors and Suppliers to insert the same provision in any of their subcontracts.
- (8) The Contractor shall immediately upon receipt communicate any Notice of Termination issued by VVTA to the affected Subcontractors and Suppliers at any tier.
- (9) The Surety on the Contractor's Performance Bond provided for in this Contract shall not be entitled to take over the Contractor's performance of Work in case of termination under this Section, except with the prior written consent of VVTA.
- (10) The Contractor shall not be liable for any costs in excess of the total Contract Consideration if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor and/or Supplier and such default arises out of causes beyond the control of and without the fault or negligence of either the Contractor or the Subcontractor and/or Supplier, and if the Supplies or Services to be furnished by the Subcontractor or Supplier were not obtainable from other sources in sufficient time to permit the Contractor to meet the required Delivery Schedule, the Contractor shall not be liable for any costs in excess of the total Contract Consideration to complete the Work.
- (11.) If, after issuance of the Notice of Termination of this Contract, it is determined for any

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

reason that the Contractor was not in breach, or that the breach was excusable, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to the Termination for Convenience Section, and the Contractor shall be reimbursed for costs incurred under the terms of that Section.

10. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR – without prior written consent of VVTA. Consent by VVTA shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

11. SUBCONTRACTING

VVTA hereby consents to CONTRACTOR's subcontracting of portions of the Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in each subcontract agreement the stipulation that CONTRACTOR, not VVTA, is solely responsible for payment to the subcontractor for all amounts owing and that the subcontractor shall have no claim, and shall take no action against VVTA, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.

**Subcontractors' Names and Addresses**

**Work to be Performed**

_____	_____
_____	_____
_____	_____

12. SUCCESSORS AND ASSIGNS

Subject to any provision under this Contract restricting assignment or subcontracting by CONTRACTOR, the provisions of this Contract shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the parties to this Contract.

13. STATUS OF CONTRACTOR

- A. It is understood and agreed by all the parties hereto that Contractor is an independent contractor and that no relationship of employer-employee exists between VVTA and CONTRACTOR. Neither CONTRACTOR nor CONTRACTOR'S assigned personnel shall be entitled to any benefits payable to employees of VVTA. CONTRACTOR hereby indemnifies and holds VVTA harmless from any and all claims that may be made against

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

- VVTA, based upon any contention by any third party that an employer-employee relationship exists by reason of this Contract or any services provided pursuant to this Contract.
- B. It is further understood and agreed by all the parties hereto that neither CONTRACTOR nor CONTRACTOR'S assigned personnel shall have any right to act on behalf of VVTA in any capacity whatsoever as an agent or to bind VVTA to any obligation whatsoever.
  - C. It is further understood and agreed by all the parties hereto that CONTRACTOR must issue any and all forms required by Federal and State laws for income and employment tax purposes, including, but not limited to W-2 and 941 forms, for all of CONTRACTOR'S assigned personnel.

## 14. CONTRACTOR'S RESPONSIBILITY

- A. The CONTRACTOR shall be responsible for the Work performed under the terms of this Contract to the extent provided by law. The CONTRACTOR agrees not to disclose information identified by VVTA as proprietary to third parties, unless approved in advance by VVTA or required by law.
- B. VVTA shall not be held liable or responsible for the maintenance and/or safety of the CONTRACTOR's equipment or supplies placed upon VVTA's property in accordance with this Contract. The CONTRACTOR acknowledges that it assumes full responsibility for any loss or damage to its equipment and supplies.
- C. Any materials, equipment or work found to be damaged or defective during the period CONTRACTOR is performing the maintenance for the facility pursuant to this Agreement shall be repaired, replaced or corrected by the CONTRACTOR hereunder without additional cost to VVTA, unless such damage is the result of VVTA's gross negligence or willful misconduct.
- D. CONTRACTOR shall pay for all taxes, except for sales, use, transaction and excise taxes that were legally enacted at the time CONTRACTOR's offer submitted. CONTRACTOR shall secure and pay for all permits and governmental fees, licenses and inspections necessary for the proper execution and completion of this Contract.

## 15. GOVERNING LAW

This Contract shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. Any action or proceeding arising out of this Contract shall be filed and resolved in the Superior Court of the County San Bernardino.

## 16. TIME OF THE ESSENCE

Time is of the essence in the performance of every term, covenant, condition, and provision of this Contract.

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

## 17. PUBLIC RECORDS ACT

Upon its execution, this Contract (including all Exhibits) shall be subject to disclosure pursuant to the California Public Records Act.

## 18. INDEMNIFICATION

- A. To the furthest extent allowed by law, Contractor shall indemnify, hold harmless and defend VVTA and its members, board members, officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by VVTA, Contractor or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Contractor's obligations under the preceding sentence shall apply regardless of whether VVTA or any of its members, board members, officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of VVTA or any of its members, board members, officers, officials, employees, agents or volunteers.

If Contractor should subcontract all or any portion of the work to be performed under this Agreement, Contractor shall require each subcontractor to indemnify, hold harmless and defend VVTA and its members, board members, officers, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

- B. If CONTRACTOR has retained legal counsel reasonably acceptable to Agency, CONTRACTOR shall have the sole charge and direction of the defense of the suit, action or proceeding while it is assigned to such counsel. VVTA shall at the request of the CONTRACTOR furnish to the CONTRACTOR all reasonable assistance that may be necessary for the purpose of defending such suit, action or proceeding, and shall be repaid all reasonable costs incurred in doing so. VVTA shall have the right to be represented therein by advisory council of its own selection at its own expense.

## 19. REVISIONS

By written notice or order, VVTA may, from time to time, order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, CONTRACTOR shall perform the Work, as amended.

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

## Price Adjustments:

- A. Any change in the contract that causes an increase or decrease in cost to VVTA, or the time required for the performance of the contract, must be approved as prescribed herein. In the event that the change is a request for price escalation by the Contractor, any price escalation or de-escalation must be justified by the contractor using acceptable measures such as the Consumer Price Index (CPI) or other universally accepted measure.
- B. An equitable adjustment in the compensation and schedule will be made upon an approved Change Order.
- C. CONTRACTOR shall be liable for all costs resulting from, or for satisfactorily correcting, any and all unauthorized specification changes not properly ordered by written modification to the contract.
- D. Except as otherwise expressly provided in the Contract, when costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the applicable cost principles of Subpart 31.2 of the Federal Acquisition Regulations (FAR) in effect at the onset of the Contract.

## Modifications:

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signature of representative authorized to enter into and modify the Agreement. In order to be effective, amendments may require approval by VVTA's Board of Director, and in all instances require prior signature of an authorized representative of VVTA.

## 20. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by VVTA.
- B. The originals of all letter, documents, reports and other products and data produced under this Agreement shall become the property of VVTA without restriction or limitation on their use and shall be made available upon request to VVTA at any time. Original copies of such shall be delivered to VVTA upon completion of the Work or termination of the Work. CONTRACTOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of VVTA. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

## 21. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the sole and exclusive property of VVTA. Copies may be made for CONTRACTOR's records, but shall not be furnished to others without prior written authorization from VVTA. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by VVTA.

## 22. OWNERSHIP RIGHTS

- A. In the event VVTA rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or develop by CONTRACTOR, it's Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by and on behalf of VVTA by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of VVTA (collectively "VVTA Intellectual Property"), and VVTA may use, disclose and exercise dominion and full rights of ownership, in any manner in VVTA Intellectual Property in connection with the use, operation a maintenance of a transportation system administered by VVTA. No use of VVTA Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and VVTA shall not sell, lease, rent, give away or otherwise disclose any VVTA Intellectual property to any outside third party other than Permitted programmers. To the extent there may be any question of rights of ownership or use in any VVTA Intellectual Property, CONTRACTOR shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to VVTA, all worldwide right, title and interest in and to all VVTA Intellectual Property in a manner consistent with the foregoing terms of this paragraph. CONTRACTOR shall execute any documents as VVTA may from time to time reasonable request to effectuate the terms of this paragraph.
- B. All documentation and Software which predates this Contract and which otherwise owned by Contractor or its Third Party Software Contractors, and all Documentation and Software which is created by CONTRACTOR or its Third Party Software Contractors shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed Documentation shall be governed by License Agreement by and between the parties of event date herewith.

## 23. WORK FOR HIRE

Any Work created or produced as a part of this Agreement that may be defined under Section 101, Title 17, USC will be considered "work for hire" as it pertains to ownership rights. CONTRACTOR, by his/her endorsement heron agrees that all rights to any work(s) created or produced are waived, and that ownership rests with VVTA. CONTRACTOR further agrees to ensure transfer of all rights to such work(s),

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

as defined under federal copyright law that may be created or produced under this Agreement by its suppliers, contractors or subcontractors.

## 24. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with VVTA in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable VVTA to ascertain the claim's basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by CONTRACTOR.

Even though a claim may be filed and/or in review by VVTA, CONTRACTOR shall continue to perform in accordance to this Agreement.

## 25. EQUAL OPPORTUNITY

CONTRACTOR shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other status protected by law. CONTRACTOR shall take action to ensure that applicants and employees are treated without regard to the above.

## 26. STANDARD OF PERFORMANCE

- A. CONTRACTOR shall perform and exercise, and require its subcontractors to perform and exercise due professional care and competence in this performance of the Work in accordance with the requirements of this Agreement. CONTRACTOR shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that VVTA will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.
- B. All workers shall have sufficient skill and experience to perform the Work assigned to them. VVTA shall have the right, at its sole discretion to require the immediate removal of CONTRACTOR's personnel at any level assigned to the performance of the Work at no additional fee or cost to VVTA, if VVTA considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under the Agreement under this Article shall not be reassigned to perform Work in any other capacity under this Agreement without VVTA's prior written approval.

## 27. NOTIFICATION OF EMPLOYMENT OF VVTA BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with VVTA's Ethics Policy, CONTRACTOR shall provide written notice to VVTA disclosing the identity of any individual who CONTRACTOR desires to employ or retain under a contract,

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

and who (1) presently serves as a Board Member/Alternate or an employee of VVTA, or (2) SERVED AS A Board Member/Alternate or an employee of VVTA within the previous 12 months of the date of the proposed employment or retention by CONTRACTOR. CONTRACTOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

## 28. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, CONTRACTOR shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONTRACTOR or its subcontractor(s) to VVTA Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

## 29. COMPLIANCE WITH LAW

CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of VVTA, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.

## 30. COMPLIANCE WITH LOBBYING POLICIES

- A. CONTRACTOR agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by VVTA in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with VVTA's Ethics Policy.
- B. If CONTRACTOR (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with VVTA's Ethics Policy, such failure shall be considered a material breach of this Agreement and VVTA shall have the right to immediately terminate or suspend this Agreement.

## 31. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision

The invalidity in whole or in part of any provision of this Agreement shall no void or affect the validity of any other provision.



# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

## 32. FORCE MAJEURE

Performance of each and all CONTRACTOR's and VVTA's covenants herein shall be subject to such delays as may occur without CONTRACTOR's or VVTA's fault from acts of God, strikes, riots, or from other similar causes beyond CONTRACTOR's or VVTA's control.

## 33. CONFIDENTIALITY

CONTRACTOR agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by CONTRACTOR in the performance of this Agreement, shall be considered and kept as the private and privileged records of VVTA and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of VVTA. Further, upon expiration or termination of this Agreement for any reason, CONTRACTOR agrees

that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of VVTA.

## 34. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC

- A. VVTA shall review and approve in writing all VVTA related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication.

CONTRACTOR shall not allow VVTA related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and that it does not in any way imply that VVTA endorses CONTRACTOR's firm, service, and/or product.

- B. CONTRACTOR shall refer all inquiries from the news media to VVTA, and shall comply with the procedures VVTA's Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform VVTA as soon as possible and inform VVTA of any action taken to alleviate the situation.
- D. The provision of this Article shall survive the termination or expiration of this Agreement.

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

## 35. CONFLICT OF INTEREST

### A. Prohibited Interests

1. During the term of this Contract, Contractor, its officers, employees and their immediate families shall not acquire any interest, direct or indirect, that would conflict with the performance of services required to be performed under this Contract.
2. Violation of subparagraph A. (1), is a material breach of this Contract, and Agency shall have the right to debar Contractor from participating at any tier in any Agency contract for a period of up to five (5) years.
3. Contractor shall include a copy of subparagraphs A. (1), and A. (2), of this provision in any agreement it makes with its subcontractors.

### B. Covenant

1. Contractor covenants that prior to award of this Contract, Contractor has disclosed any present interest and any interest existing within twelve (12) months prior to award of this Contract including, without limitation, any business or personal relationship that creates an appearance of a conflict of interest. Disclosable interests and relationships are those that may reasonably be viewed as creating a potential or actual conflict of interest. Disclosable interests and relationships are those that may reasonably be viewed as creating a potential or actual conflict of interest. Any existing or prospective interest acquired or occurring after submission of the initial Certification shall be provided in an amended Certification with the executed Contract and shall be incorporated into the Contract by this reference. Violation of this covenant is a material breach of this Contract.
2. In addition, Contractor shall immediately disclose in writing to VVTA and or to the other procuring agencies General Manager and Chief Legal Counsel any interest or relationship described in subparagraph B(1) acquired or occurring during the term of this Contract.
3. Violation of the above disclosure obligations is a material breach of this Contract.

## 36. COVENANT AGAINST GRATUITIES

### A. Prohibited Conduct

1. During the term of this Contract, Contractor, its officers and employees and their immediate families are prohibited from offering or giving a gratuity in any form including, without limitation, entertainment, favors, loans, gifts or anything of greater than nominal value for any reason including personal, non-business related reasons to any Lead Procuring Agency officer or employee or their immediate families. For

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT C – SAMPLE CONTRACT

the purpose of this section, nominal value means anything: (1) having an aggregate value of \$35.00 (thirty-five dollars) or less per year; or (2) any perishable item (flowers or food) of any value except that prepared meals are subject to the \$35.00 limit. A campaign contribution is not a gratuity and is not prohibited by this Section.

2. Violation of subparagraph A(1) of this provision is a material breach of this Contract, and Agency shall have the right to debar Contractor from participating at any tier in any Agency contract for a period of up to five (5) years.
3. Contractor shall include a copy of subparagraphs A (1) and A (2) of this provision in any agreement it makes with its subcontractors.

## B. Covenant

Contractor covenants that prior to award of this Contract, Contractor has disclosed, any gratuity, as described above, that it, its officers, employees or their immediate families have offered or given to any Agency officer, employee or their immediate families for any reason including personal non-Business related reasons within the twelve (12) months prior to award of this Contract. Any gratuity offered or given after submission of the initial Certification shall be provided in an amended Certification with the executed Contract and shall be incorporated into the Contract by this reference. Violation of this covenant is a material breach of this Contract.

## 37. WARRANTY OF AUTHORITY

The person executing this Contract on behalf of Contractor affirmatively represents that she/he has the requisite legal authority to enter into this Contract on behalf of Contractor and to bind Contractor to the terms, covenants and conditions of this Contract. Both the person executing this Contract on behalf of Contractor and CONTRACTOR understand that VVTA is relying on this representation in entering into this Contract.

## 38. ENTIRE AGREEMENT

This Contract, including any and all Exhibits, constitutes the entire agreement between VVTA and CONTRACTOR and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the parties as to the language of this Contract or the construction or meaning of any term hereof, this Contract shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Contract.

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT C – SAMPLE CONTRACT

**IN WITNESS WHEREOF**, the parties have executed this Contract on the day and year set forth above.

**VICTOR VALLEY TRANSIT AUTHORITY**

By: \_\_\_\_\_

Kevin Kane, VVTA Executive Director

APPROVED AS TO FORM

VVTA Legal Counsel \_\_\_\_\_

**CONTRACTOR**

By: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

SAMPLE

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT D – PROTEST PROCEDURES

**1. PURPOSE**

- A. This policy provides guidelines for the submittal and evaluation of protests relating to all procurements. VVTA shall ensure, to the extent reasonably possible, uniform, timely and equitable consideration of all protests received by VVTA pursuant to this policy.
- B. In order to be considered, a protest must be filed in a timely manner, as described herein, must satisfy all the applicable requirements described in this policy and must be brought by an interested party as defined below.

**2. DEFINITIONS**

The following definitions apply to this policy.

**A. Interested Party** – An actual proposer/bidder whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. Interested parties do not include subcontractors or suppliers of an actual or prospective proposer/bidder, or joint venturers acting independently of a joint venture.

**B. Procurement Manager** - The person designated by VVTA who is responsible for managing the contracting and procurement function.

**C. File or Submit** – Shall mean the date of receipt of a written protest by VVTA.

**D. Receipt of Protest** – The date of receipt of the Protest will be the date in which VVTA receives the protest package.

**3. REFERENCES**

United States Department of Transportation, Federal Transit Administration, FTA Circulars, FTA Circular 4420.1 Third Party Contracting Guidelines. Note: Refer to the revision in effect at the time of protest.

**4. BASIS OF PROTEST**

**A. Requests for Proposal**

After the receipt of proposals by VVTA and after an action relating to the selection of a consultant/contractor by the VVTA Evaluation Committee, but prior to the award of a contract by the VVTA Board of Directors, a protest may be submitted on the basis of one or more of the following:

- i. VVTA Failed to adhere to the evaluation process set forth in the solicitation package.
- ii. VVTA failed to follow its own procurement policies and procedures.

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT D – PROTEST PROCEDURES

iii. VVTA violated a specific law, rule, or regulation in the procurement process.

### **B. Invitations for Bid**

After the receipt of bids by VVTA, but prior to award of a contract by the VVTA Board of Directors, a protest may be submitted on the basis of one or more of the following:

- i. VVTA failed to follow its own procurement policies and procedures.
- ii. VVTA violated a specific law, rule or regulation in the procurement process.

## **5. FILING OF PROTEST**

### **A. Filing Written Protest with the VVTA Procurement Manager**

An Interested Party wishing to protest a matter involving a procurement or proposed contract award shall file with the Procurement Manager, a written protest covering, at a minimum, the following:

- i. Name and address of the Interested Party;
- ii. Identification of the proposed procurement or contract;
- iii. Description of the nature of the protest;
- iv. A detailed statement of the legal and/or factual grounds for the issue(s) identified in the protest, including reference to the provision(s) of the solicitation, regulations, and/or laws upon which the protest is based; and any technical data, documentary evidence, names of witnesses or other pertinent information supporting the basis for the protest;
- v. A statement of the desired resolution to the protest by the Interested Party;
- vi. Signature of a properly authorized representative of the Interested Party.

### **B. Failure to Comply**

Failure to comply with any of the requirements of this section may be grounds for dismissal of the protest.

### **C. Withdrawal of Protest**

The Interested Party may withdraw its protest at any time before VVTA renders a decision by submitting a written request to the VVTA Procurement Manager.

## **6. SUMITTAL OF PROTEST**

All protests must be submitted in writing to

**Victor Valley Transit Authority**

# VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE

## ATTACHMENT D – PROTEST PROCEDURES

**Attn: Procurement Manager**  
**17150 Smoke Tree Street**  
**Hesperia, CA 92345**  
**RE: Solicitation Protest – Solicitation/Contract Number**

### 7. PROTEST SUBMITTAL DEADLINE

#### A. Requests for Proposal

After opening proposals, VVTA will evaluate the proposals and determine which proposer shall be recommended to the VVTA Board of Directors for award of a contract. Once VVTA staff has determined which proposer will be recommended to the Board for award, a Notice of Intent to Award will be sent to all proposers.

- i. Protests must be filed within five (5) business days from the issue date on the Notice of Intent to Award.
- ii. The date of filing shall be the date VVTA receives the protest.

#### B. Invitations for Bid

- i. Protests must be filed within three (3) business days from bid opening.
- ii. The date of filing shall be the date VVTA receive the protest.

### 8. PROTEST REVIEW PROCESS

If the protest is determined to be timely and meets the criteria identified in the preceding sections 4, 5, and 7, this process will be followed:

- A. No additional material will be allowed to be submitted unless specifically requested by the Procurement Manager.
- B. The Procurement Manger will review all material submitted and will render a decision within thirty (30) days after the receipt of the protest.
- C. The Procurement Manager will consider only those specific issues addressed in the written protest.
- D. The decision of the Procurement Manager will then be given to the Executive Director, or designee, for approval. The decision of the Executive Director is final.

### 9. PROTEST RELATING TO FEDERALLY FUNDED PROCUREMENT

If procurement is funded in whole or in part by the Federal Transit Administration (FTA), the protester may pursue the FTA Protest Policy as defined in FTA Circular 4220.1, Third party Contracting Guidelines. Refer to the revision in effect at the time of protest.

- A. Review of protest by FTA may be limited to;

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE

ATTACHMENT D – PROTEST PROCEDURES

- i. VVTA's failure to have or follow its protest procedures;
  - ii. VVTA's failure to review the complaint or protest;
  - iii. Violations of federal law or regulation.
- B. Protesters should consult FTA Circular 4220.1 for a complete description of the FTA procedures and the grounds for protest appeal.

An appeal to FTA must be received by the FTA regional or headquarters office within five (5) business days of the date the protestor learned or should have learned of an adverse decision by VVTA or other basis of appeal to FTA.



# VVTA RFP 2018-16 CONSTRUCTION PROJECT MANAGER ATTACHMENT G – PROPOSAL DEVIATION, PRE-OFFER CHANGE OR APPROVED EQUALS

This form shall be completed for each condition, exception, reservation or understanding (i.e., deviation) in the proposal according to “Condition, Exceptions Reservations and Understanding.” This form must also be used for requested clarifications, changes, substitutes or approval of items equal to items specified with a brand name, and must be submitted as far in advance of the Due Date as specified in “Proposal Timeline”

Deviation Number: \_\_\_\_\_

Proposer: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Page Number: \_\_\_\_\_

Section: \_\_\_\_\_

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**Detailed Description of Requested Deviation:**

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**Rationale (Pros and Cons):**

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY  
ATTACHMENT F – REQUIRED FORMS

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1. If a qualifier, i.e. (Required >\$100,000) follows the title of the form, then submit that form only if the solicitation meets that requirement.
2. Duplicate forms as necessary.
3. **Submit ONLY those forms that are checked, unless required elsewhere in the IFB/RFP/RFQ.**
4. Submit the following checked items AT THE TIME OF BID SUBMISSION:
  - Proposal Pricing Form (Sealed separate envelope)
  - Buy America Certification (Required >\$150,000)
  - Current Client References
  - Not on Excluded Parties List System (SAM.com) (Provide page from website)
  - X  Affidavit of Non-Collusion
  - Debarment, Suspension, & Other Responsibility Matters
  - Restriction on Lobbying (Prime) One (1) form required of each prime bidder and any proposed subcontractor having greater than a \$100,000 share of the bid.
  - Proposed Disadvantaged Business Enterprise (DBE) Participation; if you or a subcontractor are a DBE, please submit certification with proposal.
  - List of Subcontractors and DBE's (Required >1/2 of 1% Share of Bid) See Attachment I
  - CSLB Contractor's License(s). (Provide Copy (ies) in your Bid Package)
  - DIR Registration (Provide a screen shot from the DIR Page.)
  - Bid Bond - a certified or cashier's check, or by a corporate surety bond on the form furnished by VVTA. Said check or bidder's bond shall be in an amount not less than 10% (ten percent) of the amount of the bid.
  - Warranty Procedures Form
  - Audited Financials or Tax Returns prepared by a Certified Public Accountant, for the most recent two-year period. (Required)
5. Submit the following **Required** forms **AT THE TIME OF CONTRACT AWARD**
  - a. **Proof of Licenses.** As required by law, in addition to contract requirements. Must be California approved, valid, showing expiration dates and license numbers. These include, but are not limited to (**Only those items checked**):
    - i.  Sales or Services; if applicable
    - ii.  Business: authorized by the city wherein business is to be conducted (if applicable.)

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS  
FACILITY

ATTACHMENT F – REQUIRED FORMS

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- b.  **Insurance Certificate (Proof)** must meet the requirements in the RFP. If the Insurance Certificate with the additional insured endorsement is submitted with the proposal, the Notice to Proceed can be issued sooner. Failure to submit the Proof of Insurance as requested may result in the proposal being deemed non-responsive.
- d.  **Performance Bond:** One Hundred percent (100%) of the contract price
- e.  **Payment Bond:** One Hundred percent (100%) of the contract price.

# VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY

## ATTACHMENT F – REQUIRED FORMS

### VVTA – RFP 2018-17 PRICE PROPOSAL

Proposer shall complete the following form and include same in the Price Proposal package.

By execution below Proposer hereby agrees to furnish the related equipment, and services as specified in Victor Valley Transit Authority's RFP 2018-17 at the prices submitted in response to this solicitation.

PROPOSER COMPANY NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP CODE: _____
AUTHORIZED OFFICER: _____
COMPANY OFFICER TITLE: _____
SIGNATURE OF AUTHORIZED OFFICER: _____
CONTACT INFORMATION: _____
OFFICE PHONE NUMBER: _____
EMAIL ADDRESS:     

Description	Unit of Measure	Unit cost	Extended Price

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY  
 ATTACHMENT F – REQUIRED FORMS

				Please use the sheet below to list all parts, labor, and any other applicable rates for construction and installation of the System at

VVTA in order to complete the Battery Energy Storage and Demand Response system. Use additional sheets, if needed – Be sure the Total Cost for all labor, parts and equipment is included in the final total.

Staff Title	*Hourly Rate	Number of Hours	Total

<b>TOTAL COST</b>	<b>\$</b>
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CURRENT CLIENT

REFERENCES

Proposer by its signature below, certifies that the following references BATTERY ENERGY STORAGE AND DEMAND RESPONSE supplied to other clients over the last seven (7) years (use additional pages as necessary): (A minimum of 5 are required)

Agency Name	Contact Name/Phone	Year
VVTA RFP 2018-13 ATTACHMENT F – REQUIRED FORMS	Page 4 of 13	(Rev. 06/2018)

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS  
FACILITY  
ATTACHMENT F – REQUIRED FORMS

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- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

\_\_\_\_\_  
Signature of the Proposer's Authorized Official

\_\_\_\_\_  
Name and Title of the Proposer's Authorized Official

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

\_\_\_\_\_  
Date

**NON-COLLUSION AFFIDAVIT**  
**(Per Public Contract Code Section 7106)**

State of California )

) ss.

County of \_\_\_\_\_)

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY  
ATTACHMENT F – REQUIRED FORMS

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\_\_\_\_\_, being first duly sworn, deposes and says that he or she is \_\_\_\_\_, of \_\_\_\_\_ ("Proposer") the party making the foregoing proposal that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly solicited any other Proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposers or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal fee of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal fee, or of that of any other Proposer, or to secure any advantage against the public body making the award of anyone interested in the proposed award; that all statements contained in the proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her proposal fee or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Title

SUBSCRIBED AND SWORN TO BEFORE ME

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Seal)

Notary Public

**FTA CERTIFICATION REGARDING DEBARMENT,  
DEBARRED BIDDERS CERTIFICATION  
SUSPENSION, INELIGIBILITY AND VOLUNTARY  
EXCLUSION  
For Contracts and Subcontracts in Excess of \$25,000.00**

Instructions for Certification

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS  
FACILITY  
ATTACHMENT F – REQUIRED FORMS

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1. By signing and submitting its bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into; If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, VVTA may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to VVTA if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “principal,” “proposal,” and “voluntary excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 C.F.R. Part 29]. You may contact VVTA for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting its bid or proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by VVTA.
6. The prospective lower tier participant further agrees by submitting its bid or proposal that it will include the clause, set out below, titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntary excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in



VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS  
FACILITY  
ATTACHMENT F – REQUIRED FORMS

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addition to all remedies available to the Federal Government, RT may pursue available remedies including suspension and/or debarment.

**“Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier covered Transaction”**

1. The prospective lower tier participant certifies, by submission of its bid or proposal, that neither it nor its “principals” [as defined at 49 C.F.R. §29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. When the prospective lower tier participant is unable to certify to the statement in this certification, such prospective participant shall attach an explanation to its bid or proposal.

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Signature of the Proposer’s Authorized Official

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Name and Title of the Proposer’s Authorized Official

---

Company Name

---

Date

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY

ATTACHMENT F – REQUIRED FORMS

FTA CERTIFICATION OF RESTRICTIONS ON LOBBYING

(For Bids Over \$100,000)

I. \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_ (Company Name) that:

- 1. No Federal or State appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or the United States Congress, an officer or employee of the Legislature or Congress, or an employee of a Member of the Legislature or Congress, in connection with the awarding of any State or Federal contract, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any State or Federal cooperative agreement and the extension, continuation, renewal, amendment or modification of any State or Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, or an officer or employee of Congress, in connection with this contract, grant, loan or cooperative agreement, which is funded in whole or in part by Federal funds, the undersigned shall complete and submit Standard Form–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for any subcontractor at any tier performing work under this Federal-Aid funded Contract and that all subcontractors of any tier shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by § 13 52, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature of the Proposer's Authorized Official

Name and Title of the Proposer's Authorized Official

Company Name

Date

PERFORMANCE BOND

Bond No. Premium:

KNOW ALL PERSONS BY THESE PRESENTS THAT:

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY

ATTACHMENT F – REQUIRED FORMS

WHEREAS, on \_\_\_\_\_, 2018, the VICTOR VALLEY TRANSIT AUTHORITY (“VVTA”) awarded to (“PRINCIPAL”) a contract for performance of the work described as **Design-Build Barstow Maintenance and Operations Facility - RFP No. 2018-13** (“CONTRACT”), the terms and conditions of which are incorporated herein by reference; and

WHEREAS, the CONTRACT requires PRINCIPAL to furnish this Performance Bond (“BOND”) to guarantee PRINCIPAL’s faithful performance of all provisions of the CONTRACT; and

WHEREAS, \_\_\_\_\_ (“SURETY”), a corporation legally authorized to execute and furnish performance bonds as sole surety in the State of California, is willing to act as PRINCIPAL’s SURETY in the making and giving of this BOND.

NOW, THEREFORE, we PRINCIPAL and SURETY hereby hold and firmly bind ourselves to pay to CITY in lawful United States currency the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for which payment well and truly to be made to CITY or CITY’s successors or assigns we hereby bind ourselves and our heirs, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS BOND IS THAT IF PRINCIPAL or PRINCIPAL’s heirs, legal representatives, successors or assigns shall in all things stand to, abide by, and well and truly keep and faithfully perform all of the covenants, conditions and promises in the CONTRACT, including its work Guaranty, and all alterations thereof made as therein provided on PRINCIPAL’s part to be kept and performed at the time and in the manner specified therein, and in all respects according to their true intent and meaning, and shall indemnify and save harmless CITY and CITY’s officers, employees and agents as therein specified, then this obligation shall become null and void; otherwise, it shall be and remain in full force and binding effect.

SURETY hereby agrees that no change in the terms of the CONTRACT or the work to be performed thereunder, or any extension of time for completion thereof, shall in any way relieve it of its obligations under this BOND, and hereby waives notice of any change or extension thereof, and further waives the provisions of California Civil Code sections 2819 and 2845.

If lawsuit is brought by CITY on this BOND, PRINCIPAL and SURETY shall pay to CITY, over and above the principal sum hereof, reasonable costs and attorney’s fees which the court is hereby authorized to award.

IN WITNESS WHEREOF, we sign and seal this BOND on \_\_\_\_\_ .

Correspondence or claims relating to this BOND should be sent to SURETY at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Principal  
By \_\_\_\_\_ (Seal)  
\_\_\_\_\_  
Typed Name and Title  
\_\_\_\_\_  
Surety  
\_\_\_\_\_  
Attorney-In-Fact (Seal)  
\_\_\_\_\_  
Typed Name and Title

Telephone Number \_\_\_\_\_

Note: Signatures of those executing for SURETY must be acknowledged, and a Power of Attorney attached.

VVTA RFP 2018-13 DESIGN BUILD BARSTOW MAINTENANCE AND OPERATIONS FACILITY  
ATTACHMENT F – REQUIRED FORMS

PAYMENT BOND

Bond No.  
Premium:

**KNOW ALL PERSONS BY THESE PRESENTS THAT:**

WHEREAS, on \_\_\_\_\_, 2018, the VICTOR VALLEY TRANSIT AUTHORITY (“VVTA”) awarded to (“PRINCIPAL”) a contract for performance of work described as **Design-Build Barstow Maintenance and Operations Facility, RFP No. 2018-13** (“CONTRACT”), the terms and conditions of which are incorporated herein by reference; and

WHEREAS, the CONTRACT requires PRINCIPAL to furnish this Payment Bond (“BOND”) to secure payment of the claims of persons described in California Civil Code section 3248(b); and

WHEREAS, \_\_\_\_\_ (“SURETY”), a corporation legally authorized to execute and furnish payment bonds as sole surety in the State of California, is willing to act as PRINCIPAL’s SURETY in the giving of this BOND.

NOW, THEREFORE, we PRINCIPAL and SURETY hold and firmly bind ourselves unto CITY and all persons and entities described in California Civil Code section 3248(b) whose claims are not paid by PRINCIPAL in the total sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for which payment well and truly to be made we bind ourselves and our heirs, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS BOND IS THAT IF PRINCIPAL or PRINCIPAL’s successors, assigns, or subcontractors fail to pay any of the persons described in California Civil Code section 3181, any amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the CONTRACT or any amounts required to be deducted, withheld and paid over to the California Employment Development Department from the wages of employees of PRINCIPAL and PRINCIPAL’s subcontractors pursuant to California Unemployment Insurance Code section 13020 with respect to such work and labor, SURETY will pay for the same in an amount not exceeding the sum stated above, plus all costs and reasonable attorney’s fees awarded by any court of competent jurisdiction in any lawsuit brought upon this BOND.

THIS BOND SHALL INURE TO the benefit of all persons and entities described in California Civil Code section 3248(b) so as to give them or their assigns a right of action in any lawsuit brought upon this BOND, and is executed and filed to comply with the Public Works Payment Bond provisions of Chapter 7, Title 15, Part 4, Division 3 of the California Civil Code (commencing at Section 3247) and all amendments thereto, which provisions are incorporated herein by this reference.

IN WITNESS WHEREOF, we sign and seal this BOND on \_\_\_\_\_ .

Correspondence or claims relating to this BOND should be sent to SURETY at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number \_\_\_\_\_

\_\_\_\_\_  
Principal

By \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Attorney-In-Fact (Seal)

\_\_\_\_\_  
Typed Name and Title

Note: Signatures of those executing for SURETY must be acknowledged, and a Power of Attorney attached.

**ATTACHMENT F – SUBMISSION OF FORM  
RFP 2015-03 – CNG FUEL CYLINDER REPLACEMENT  
BUY AMERICA CERTIFICATION  
Steel, Iron and Manufactured Products**

Note: Complete either Alternative A or B

**ALTERNATIVE A**

**CERTIFICATE OF COMPLIANCE WITH 49 U.S.C. §5323(j) (1)**  
[Former Section 165 (a)]

The Proposer hereby certifies that it will comply with the requirements of 49 U.S.C. §5323(j) (1) and the applicable regulations in 49 C.F.R. part 661.

\_\_\_\_\_  
Signature of the Proposer's Authorized Official

\_\_\_\_\_  
Name and Title of the Proposer's Authorized Official

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

\_\_\_\_\_  
Date

**ALTERNATIVE B**

**CERTIFICATE OF NON-COMPLIANCE WITH 49 U.S.C. §5323(j) (1)**  
[Former Section 165(a)]

The Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. §5323(j) (1), but it may qualify for an exception pursuant to 49 U.S.C. §5323(j)(2)(B), or (D) and regulations in 49 C.F.R. §661.7.

\_\_\_\_\_  
Signature of the Proposer's Authorized Official

\_\_\_\_\_  
Name and Title of the Proposer's Authorized Official

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

\_\_\_\_\_  
Date

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT F – SUBMISSION OF FORMS

**BUY AMERICA LAW**  
**49 U.S.C. §5323(j)**

BUY AMERICA STIPULATIONS:

- “(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if steel, iron, and manufactured goods used in the project are produced in the United States.
  
- “(2) The Secretary of Transportation may waive paragraph (l) of this subsection if the Secretary finds that –
  - “(A) applying paragraph (1) would be inconsistent with the public interest;
  
  - “(B) the steel, iron, and goods produced in the United States are not produced in sufficient and reasonably available amount or are not of a satisfactory quality;
  
  - “(C) when procuring rolling stock (including train control, communication and traction power equipment) under this chapter –
    - “(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and
  
    - “(ii) final assembly of the rolling stock has occurred in the United States;
  
  - “(D) including domestic material will increase the cost of the overall project by more than Twenty-Five percent (25%).
  
- “(3) In this subsection, labor costs involved in the final assembly are not included in calculating the cost of components”

**VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT G – ACKNOWLEDGEMENT OF ADDENDA**

The following form shall be completed and included in the Proposal package.

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

The undersigned Proposer acknowledges receipt of the following addendum to the documents:

Addendum No.	Date:
Addendum No.	Date:
Addendum No.	Date:
Addendum No.	Date:
Addendum No.	Date:
Addendum No.	Date:

\_\_\_\_\_  
Signature of the Proposer's Authorized Official

\_\_\_\_\_  
Name and Title of the Proposer's Authorized Official

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

\_\_\_\_\_  
Date

VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT H – SUBCONTRACTORS LIST  
SUBCONTRACTOR'S LIST

(If additional space is needed, supply information on separate form)

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

CONTRACTOR'S LICENSE NUMBER/DIR REGISTRATION #: \_\_\_\_\_ / \_\_\_\_\_

CERTIFIED DBE? \_\_\_\_\_  
                                    YES                                    NO

If yes, please provide certification: CERT NUMBER: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

CONTRACTOR'S LICENSE NUMBER/DIR REGISTRATION #: \_\_\_\_\_ / \_\_\_\_\_

CERTIFIED DBE? \_\_\_\_\_  
                                    YES                                    NO

If yes, please provide certification: CERT NUMBER: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

CONTRACTOR'S LICENSE NUMBER/DIR REGISTRATION #: \_\_\_\_\_ / \_\_\_\_\_

CERTIFIED DBE? \_\_\_\_\_  
                                    YES                                    NO

If yes, please provide certification: CERT NUMBER: \_\_\_\_\_



VVTA RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND  
RESPONSE  
ATTACHMENT H – SUBCONTRACTORS LIST

**A. All or a portion of the Scope of Work in the Contract or Purchase Order (as applicable) requires the payment of prevailing wages and compliance with the following requirements.**

**1. Determination of Prevailing Rates:**

- a. Federal – The general Federal Prevailing rate of wages are included with this document (General Federal Wage Decision.); provided, that if there is any difference between the State or Federal wage rate for any given craft or mechanic needed to execute the work, is shall be mandatory upon the Contractor or any Subcontractor to pay the higher of the two rates.

The General Federal Wage Decision that is in effect on the date the proposals are due, as long as the Contract is awarded within ninety (90) days of said date, locks in that Federal Wage Decision for the entire duration of the Project. If the contract is not awarded within such ninety (90) day period, the date of the execution of the Contract would be the date used in determining the applicable federal Wage Decision.

Revision to the General Federal Wage Decision, up to fourteen (14) calendar days before the proposals are due, shall be identified by the issuance of addenda, and the final Contract between VVTA and the Contractor will physically include the applicable General Federal Wage Decision as revised by addenda, if any such addenda have been issued. Both the Prime Contractor and all Subcontractors are required to pay their laborers and mechanics employed under the resulting contract wage not less than the highest wage applicable for their work classification.

- b. State: Pursuant to Labor Code sections 1770, et seq., VVTA has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the VVTA, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at [www.dir.ca.gov](http://www.dir.ca.gov). The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the jobsite, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

**2. Payment of Prevailing Rates**

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

### **3. Prevailing Rate Penalty**

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to VVTA for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

### **4. Ineligible Contractors:**

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to VVTA. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Scope of Work.

### **5. Payroll Records:**

Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by

his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- (2) A certified copy of all payroll records shall be made available for inspection or furnished upon request to VVTA, or the Division of Labor Standards Enforcement of the DIR;
- (3) A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either VVTA or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to VVTA or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;
- (4) The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
- (5) Copies provided to the public, by VVTA or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform VVTA of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.

The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to VVTA, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

## **6. Limits on Hours of Work:**

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

#### **7. Penalty for Excess Hours:**

The Contractor shall pay to VVTA a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

#### **8. Senate Bill 854 (Chapter 28, Statutes of 2014) Requirements:**

- (1)** Contractor shall comply with Senate Bill 854 (signed into law on June 20, 2014). The requirements include, but are not limited to, the following:
  - a.** No contractor or subcontractor may be listed on a bid proposal (submitted on or after March 1, 2015) for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
  - b.** No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.
  - c.** This project is subject to compliance monitoring and enforcement by the DIR.
  - d.** As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.

- e. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all new public works projects issued on or after April 1, 2015, and for all public works projects, new or ongoing, on or after January 1, 2016.
  - f. The certified payroll must be submitted at least monthly to the Labor Commissioner.
  - g. VVTA reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
  - h. The certified payroll records must be in a format prescribed by the Labor Commissioner.
- (2) As required by Labor Code 1771.1(a) “A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

## **B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS**

### **1. State Public Works Apprenticeship Requirements:**

The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

**2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:**

**(1) Submit Contract Award Information (DAS-140)**

- a. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project. **b.** The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*
- c. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
- d. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.
- e. Contractors who are NOT approved to train apprentices (i.e. those that check either “Box 2” or “Box 3” on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.

**(2) Employ Registered Apprentices**

- a. Labor Code section 1777.5 requires that a contractor performing work in an “apprenticeable” craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor’s completion of work on the project. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.

- b.** All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
- c.** Contractors may use the “DAS-142” form for making a request for the dispatch of an apprentice.
- d.** Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
- e.** Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
- f.** Only “registered” apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).

**(3) Make Training Fund Contributions**

- a.** Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
- b.** Contractors may use the “CAC-2” form for submittal of their training fund contributions.
- c.** Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
- d.** Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
- e.** The “training” contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.



### **3. Exemptions to Apprenticeship Requirements:**

The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices.

- a. When the Contractor holds a sole proprietor license (“Owner-Operator”) and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
- b. Contractors performing in non-apprenticeable crafts. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
- c. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
- d. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
- e. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

### **4. Exemption from Apprenticeship Ratios:**

The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:

- a. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
- b. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
- c. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
- d. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a

specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

## **5. Contractor's Compliance:**

The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

## **C. LAWS AND COMPLIANCE**

The contractor and all subcontractors shall comply with **all** Federal and State laws, regulations, and guidelines required in the performance of the contract. Copies of the updated Wage Determination rates are available to any interested party, by visiting (Federal) [www.dol.gov](http://www.dol.gov) and (State) [www.dir.ca.gov](http://www.dir.ca.gov).

**Contractor shall be solely responsible for using the correct wage decision or determination and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the responsibility for payment of the correct prevailing wage and compliance with the maintenance and inspection of payroll records, posting of prevailing wage rate at work site, employment of apprentices, and other requirements of California labor Code (1720, et seq; 1770-1776, 1810, 1813, and 1815), California Code of Regulations, Title 8, Section 16000 et seq; and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor will require the same of all its Subcontractors.**

NOTE: A CERTIFIED PAYROLL from the Contractor and Subcontractors must be submitted weekly to VVTA. Payment of invoice(s) may be delayed when certified payrolls are not current.

**Electronic Certified Payroll Reporting (eCPR):** Contractors and Subcontractors on all public works projects awarded on or after April 1, 2015, must use this system to furnish certified payroll records (CPRs) to the Labor Commissioner. Contractors and Subcontractors who have been submitting PDF copies to their CPRs for earlier projects must also be using the new system. For more information, please go to [www.dir.gov](http://www.dir.gov) under Labor Law Public Works. A CERTIFIED PAYROLL is required with each invoice to VVTA.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

#### **D. WAGE DECISIONS AND DETERMINATIONS**

State Wage Determinations are available at [www.dir.ca.gov](http://www.dir.ca.gov). VVTA also has a copy of the Determinations on file and is available to all interested parties, by request to [cplasting@vvt.org](mailto:cplasting@vvt.org).

The latest Federal Decisions are below:

eneral Decision Number: CA180037 07/20/2018 CA37

Superseded General Decision Number: CA20170037

State: California

Construction Types: Building, Heavy (Heavy and Dredging) and Highway

County: San Bernardino County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/05/2018
1	01/12/2018
2	01/19/2018
3	02/09/2018

4	05/04/2018
5	05/18/2018
6	06/15/2018
7	06/29/2018
8	07/06/2018
9	07/13/2018
10	07/20/2018

ASBE0005-002 07/03/2017

	Rates	Fringes
Asbestos Workers/Insulator (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems).....	\$ 39.72	20.81
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls).....	\$ 26.96	17.81

ASBE0005-004 07/03/2017

	Rates	Fringes
Asbestos Removal worker/hazardous material handler (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials from mechanical systems, whether they contain asbestos or not)....	\$ 19.26	11.27

BOIL0092-003 03/01/2018

	Rates	Fringes
BOILERMAKER.....	\$ 44.07	33.52

\* BRCA0004-011 05/01/2018

	Rates	Fringes
BRICKLAYER; MARBLE SETTER.....	\$ 40.39	13.65

\*The wage scale for prevailing wage projects performed in Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine Palms, Needles and 1-15 corridor (Barstow to the Nevada

State Line) will be Three Dollars (\$3.00) above the standard San Bernardino/Riverside County hourly wage rate

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BRCA0018-004 07/01/2017

	Rates	Fringes
MARBLE FINISHER.....	\$ 30.93	12.95
TILE FINISHER.....	\$ 25.98	11.23
TILE LAYER.....	\$ 37.76	16.37

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BRCA0018-010 09/01/2017

	Rates	Fringes
TERRAZZO FINISHER.....	\$ 29.75	12.91
TERRAZZO WORKER/SETTER.....	\$ 36.75	13.82

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CARP0409-001 07/01/2016

	Rates	Fringes
CARPENTER		
(1) Carpenter, Cabinet Installer, Insulation Installer, Hardwood Floor Worker and acoustical installer.....	\$ 39.83	15.50
(2) Millwright.....	\$ 40.90	15.50
(3) Piledrivermen/Derrick Bargeman, Bridge or Dock Carpenter, Heavy Framer, Rock Bargeman or Scowman, Rockslinger, Shingler (Commercial).....	\$ 40.53	15.50
(4) Pneumatic Nailer, Power Stapler.....	\$ 40.09	15.50
(5) Sawfiler.....	\$ 39.83	15.50
(6) Scaffold Builder.....	\$ 31.60	15.50
(7) Table Power Saw Operator.....	\$ 40.93	15.50

FOOTNOTE: Work of forming in the construction of open cut sewers or storm drains, on operations in which horizontal lagging is used in conjunction with steel H-Beams driven or placed in pre- drilled holes, for that portion of a lagged trench against which concrete is poured, namely, as a substitute for back forms (which work is performed by piledrivers): \$0.13 per hour additional.

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CARP0409-002 07/01/2016

	Rates	Fringes
RFP 2018-17 ATTACHMENT I	Page 12 of 46	(Rev.10/2016)

Diver		
(1) Wet.....	\$ 712.48	17.03
(2) Standby.....	\$ 356.24	17.03
(3) Tender.....	\$ 348.24	17.03
(4) Assistant Tender.....	\$ 324.24	17.03

Amounts in "Rates" column are per day

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 CARP0409-005 07/01/2015

	Rates	Fringes
Drywall		
DRYWALL INSTALLER/LATHER....	\$ 40.40	15.03
STOCKER/SCRAPPER.....	\$ 10.00	7.17

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 CARP0409-008 08/01/2010

	Rates	Fringes
Modular Furniture Installer.....	\$ 17.00	7.41

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 ELEC0440-004 01/01/2018

COMMUNICATIONS AND SYSTEMS WORK

	Rates	Fringes
Communications System		
Installer.....	\$ 32.49	3%+13.52
Technician.....	\$ 30.18	4%+11.45

SCOPE OF WORK:

Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background-foreground music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media, multiplex, nurse call systems, radio page, school intercom and sound, burglar alarms, fire alarms, and low voltage master clock systems in commercial buildings. Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems. Does not cover work performed at China Lake Naval Ordnance Test Station.

ELEC0477-002 06/01/2018

	Rates	Fringes
Electricians:.....	\$ 38.29	3%+24.24

CABLE SPLICER: \$1.50 per hour above Electrician rate.

TUNNEL WORK: 10% above Electrician rate.

ZONE PAY:

Zone A - 80 road miles from Post Office, 455 Orange Show Lane, San Bernardino, will be a free zone for all contractors

Zone B - Any work performed outside Zone A's 80 road miles, shall add \$12.00 per hour to the current wage scale.

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ELEC1245-001 06/01/2018

	Rates	Fringes
LINE CONSTRUCTION		
(1) Lineman; Cable splicer..	\$ 56.79	17.91
(2) Equipment specialist (operates crawler tractors, commercial motor vehicles, backhoes, trenchers, cranes (50 tons and below), overhead & underground distribution line equipment).....	\$ 45.36	16.74
(3) Groundman.....	\$ 34.68	16.36
(4) Powderman.....	\$ 49.55	3%+17.65

HOLIDAYS: New Year's Day, M.L. King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and day after Thanksgiving, Christmas Day

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ELEV0018-001 01/01/2018

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 53.85	32.645

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.  
PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

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\* ENGI0012-003 07/01/2018

	Rates	Fringes
OPERATOR: Power Equipment		
(All Other Work)		
GROUP 1.....	\$ 45.30	25.25
GROUP 2.....	\$ 46.08	25.25
GROUP 3.....	\$ 46.37	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.96	25.25
GROUP 6.....	\$ 48.08	25.25
GROUP 8.....	\$ 48.19	25.25
GROUP 9.....	\$ 49.29	25.25
GROUP 10.....	\$ 48.31	25.25
GROUP 11.....	\$ 49.41	25.25
GROUP 12.....	\$ 48.48	25.25
GROUP 13.....	\$ 48.58	25.25
GROUP 14.....	\$ 48.61	25.25
GROUP 15.....	\$ 48.69	25.25
GROUP 16.....	\$ 48.81	25.25
GROUP 17.....	\$ 48.98	25.25
GROUP 18.....	\$ 49.08	25.25
GROUP 19.....	\$ 49.19	25.25
GROUP 20.....	\$ 49.31	25.25
GROUP 21.....	\$ 49.48	25.25
GROUP 22.....	\$ 49.58	25.25
GROUP 23.....	\$ 49.69	25.25
GROUP 24.....	\$ 49.81	25.25
GROUP 25.....	\$ 49.98	25.25
OPERATOR: Power Equipment		
(Cranes, Piledriving & Hoisting)		
GROUP 1.....	\$ 46.65	25.25
GROUP 2.....	\$ 47.43	25.25
GROUP 3.....	\$ 47.72	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.08	25.25
GROUP 6.....	\$ 48.19	25.25
GROUP 7.....	\$ 48.31	25.25
GROUP 8.....	\$ 48.48	25.25
GROUP 9.....	\$ 48.65	25.25
GROUP 10.....	\$ 49.65	25.25
GROUP 11.....	\$ 50.65	25.25
GROUP 12.....	\$ 51.65	25.25
GROUP 13.....	\$ 52.65	25.25
OPERATOR: Power Equipment		
(Tunnel Work)		
GROUP 1.....	\$ 47.15	25.25
GROUP 2.....	\$ 47.93	25.25
GROUP 3.....	\$ 48.22	25.25
GROUP 4.....	\$ 48.39	25.25
GROUP 5.....	\$ 48.58	25.25
GROUP 6.....	\$ 48.69	25.25
GROUP 7.....	\$ 48.81	25.25



PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base and Camp Pendleton

Workers required to suit up and work in a hazardous material environment: \$2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

SEE ZONE DEFINITIONS AFTER CLASSIFICATIONS

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator); Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine operator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar type (Skid steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable); Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway signalman; Hydra-hammer-aero stomper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator, bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator; Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford, Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine,

caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-Texoma 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less tha 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth- moving equipment operator (multiple engine, Euclid, Caterpillar

and similar type, over 50 cu. yds. struck); Rubber-tired self-loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote-control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem

(scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

#### CRANES, PILEDIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile

operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

#### TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without

attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 10 tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip form pump operator (power-driven hydraulic lifting device for concrete forms); Tugger hoist operator (1 drum); Tunnel locomotive operator (over 10 and up to and including 30 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repairperson; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 30 tons)

GROUP 6: Heavy Duty Repairman

GROUP 7: Tunnel mole boring machine operator

ENGINEERS ZONES

\$1.00 additional per hour for all of IMPERIAL County and the portions of KERN, RIVERSIDE & SAN BERNARDINO Counties as defined below:

That area within the following Boundary: Begin in San Bernardino County, approximately 3 miles NE of the intersection of I-15 and the California State line at that point which is the NW corner of Section 1, T17N,m R14E, San Bernardino Meridian. Continue W in a straight line to that point which is the SW corner of the northwest quarter of Section 6, T27S, R42E, Mt. Diablo Meridian. Continue North to the intersection with the Inyo County Boundary at that point which is the NE corner of the western half of the northern quarter of Section 6, T25S, R42E, MDM. Continue W along the Inyo and San Bernardino County boundary until the intersection with Kern County, as that point which is the SE corner of Section 34, T24S, R40E, MDM. Continue W along the Inyo and Kern County boundary until the intersection with Tulare County, at that point which is the SW corner of the SE quarter of Section 32, T24S, R37E, MDM. Continue W along the Kern and Tulare County boundary, until that point which is the NW corner of T25S, R32E, MDM. Continue S following R32E lines to the NW corner of T31S, R32E, MDM. Continue W to the NW corner of T31S, R31E, MDM. Continue S to the SW corner of T32S, R31E, MDM. Continue W to SW corner of SE quarter of Section 34, T32S, R30E, MDM.

Continue S to SW corner of T11N, R17W, SBM. Continue E along south boundary of T11N, SBM to SW corner of T11N, R7W, SBM. Continue S to SW corner of T9N, R7W, SBM. Continue E along south boundary of T9N, SBM to SW corner of T9N, R1E, SBM. Continue S along west boundary of R1E, SBM to Riverside County line at the SW corner of T1S, R1E, SBM. Continue E along south boundary of T1S, SBM (Riverside County Line) to SW corner of T1S, R10E, SBM. Continue S along west boundary of R10E, SBM to Imperial County line at the SW corner of T8S, R10E, SBM. Continue W along Imperial and Riverside county line to NW corner of T9S, R9E, SBM. Continue S along the boundary between Imperial and San Diego Counties, along the west edge of R9E, SBM to the south boundary of Imperial County/California state line. Follow the California state line west to Arizona state line, then north to Nevada state line, then continuing NW back to start at the point which is the NW corner of Section 1, T17N, R14E, SBM

\$1.00 additional per hour for portions of SAN LUIS OBISPO, KERN, SANTA BARBARA & VENTURA as defined below:

That area within the following Boundary: Begin approximately 5 miles north of the community of Cholame, on the Monterey County and San Luis Obispo County boundary at the NW corner of T25S, R16E, Mt. Diablo Meridian. Continue south along the west side of R16E to the SW corner of T30S, R16E, MDM. Continue E to SW corner of T30S, R17E, MDM. Continue S to SW corner of T31S, R17E, MDM. Continue E to SW corner of T31S, R18E, MDM. Continue S along West side of R18E, MDM as it crosses into San Bernardino Meridian numbering area and becomes R30W. Follow the west side of R30W, SBM to the SW corner of T9N, R30W, SBM. Continue E along the south edge of T9N, SBM to the Santa Barbara County and Ventura County boundary at that point which is the SW corner of Section 34. T9N, R24W, SBM, continue S along the Ventura County line to that point which is the SW corner of the SE quarter of Section 32, T7N, R24W, SBM. Continue E along the south edge of T7N, SBM to the SE corner to T7N, R21W, SBM. Continue N along East side of R21W, SBM to Ventura County and Kern County boundary at the NE corner of T8N, R21W. Continue W along the Ventura County and Kern County boundary to the SE corner of T9N, R21W. Continue North along the East edge of R21W, SBM to the NE corner of T12N, R21W, SBM. Continue West along the north edge of T12N, SBM to the SE corner of T32S, R21E, MDM. [T12N SBM is a thin strip between T11N SBM and T32S MDM]. Continue North along the East side of R21E, MDM to the Kings County and Kern County border at the NE corner of T25S, R21E, MDM, continue West along the Kings County and Kern County Boundary until the intersection of San Luis Obispo County. Continue west along the Kings County and San Luis Obispo County boundary until the intersection with Monterey County. Continue West along the Monterey County and San Luis Obispo County boundary to the beginning point at the NW corner of T25S, R16E, MDM.



\$2.00 additional per hour for INYO and MONO Counties and the Northern portion of SAN BERNARDINO County as defined below:

That area within the following Boundary: Begin at the intersection of the northern boundary of Mono County and the California state line at the point which is the center of Section 17, T10N, R22E, Mt. Diablo Meridian. Continue S then SE along the entire western boundary of Mono County, until it reaches Inyo County at the point which is the NE corner of the Western half of the NW quarter of Section 2, T8S, R29E, MDM. Continue SSE along the entire western boundary of Inyo County, until the intersection with Kern County at the point which is the SW corner of the SE 1/4 of Section 32, T24S, R37E, MDM. Continue E along the Inyo and Kern County boundary until the intersection with San Bernardino County at that point which is the SE corner of section 34, T24S, R40E, MDM. Continue E along the Inyo and San Bernardino County boundary until the point which is the NE corner of the Western half of the NW quarter of Section 6, T25S, R42E, MDM. Continue S to that point which is the SW corner of the NW quarter of Section 6, T27S, R42E, MDM. Continue E in a straight line to the California and Nevada state border at the point which is the NW corner of Section 1, T17N, R14E, San Bernardino Meridian. Then continue NW along the state line to the starting point, which is the center of Section 18, T10N, R22E, MDM.

REMAINING AREA NOT DEFINED ABOVE RECIEVES BASE RATE

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 ENGI0012-004 08/01/2015

	Rates	Fringes
OPERATOR: Power Equipment		
(DREDGING)		
(1) Leverman.....	\$ 49.50	23.60
(2) Dredge dozer.....	\$ 43.53	23.60
(3) Deckmate.....	\$ 43.42	23.60
(4) Winch operator (stern winch on dredge).....	\$ 42.87	23.60
(5) Fireman-Oiler, Deckhand, Bargeman, Leveehand.....	\$ 42.33	23.60
(6) Barge Mate.....	\$ 42.94	23.60

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 IRON0377-002 01/01/2017

	Rates	Fringes
Ironworkers:		
Fence Erector.....	\$ 29.58	21.59
Ornamental, Reinforcing and Structural.....	\$ 36.00	30.15

PREMIUM PAY:

\$6.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland, Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.00 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

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LABO0300-005 01/01/2018

	Rates	Fringes
Asbestos Removal Laborer.....	\$ 33.19	17.78

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos-containing material and toxic waste, encapsulation, enclosure and disposal of asbestos- containing materials and toxic waste by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

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LABO0345-001 07/02/2017

	Rates	Fringes
LABORER (GUNITE)		
GROUP 1.....	\$ 41.08	17.39
GROUP 2.....	\$ 40.13	17.39
GROUP 3.....	\$ 36.59	17.39

FOOTNOTE: GUNITE PREMIUM PAY: Workers working from a Bosn'n's Chair or suspended from a rope or cable shall receive 40 cents per hour above the foregoing applicable classification rates. Workers doing gunite and/or shotcrete work in a tunnel shall receive 35 cents per hour above the foregoing applicable classification rates, paid on a portal-to-portal basis. Any work performed on, in or above any smoke stack, silo, storage elevator or similar

type of structure, when such structure is in excess of 75'-0" above base level and which work must be performed in whole or in part more than 75'-0" above base level, that work performed above the 75'-0" level shall be compensated for at 35 cents per hour above the applicable classification wage rate.

GUNITE LABORER CLASSIFICATIONS

GROUP 1: Rodmen, Nozzlemen

GROUP 2: Gunmen

GROUP 3: Reboundmen

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LABO0783-002 07/03/2017

	Rates	Fringes
LABORER (TUNNEL)		
GROUP 1.....	\$ 39.04	18.24
GROUP 2.....	\$ 39.36	18.24
GROUP 3.....	\$ 39.82	18.24
GROUP 4.....	\$ 40.51	18.24
LABORER		
GROUP 1.....	\$ 33.19	18.24
GROUP 2.....	\$ 33.74	18.24
GROUP 3.....	\$ 34.29	18.24
GROUP 4.....	\$ 35.84	18.24
GROUP 5.....	\$ 36.19	18.24

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete; Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete,

the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curbs, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer(lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellower

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Asphalt raker, lute person, ironer, asphalt dump person, and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt- rubber distributor boot person; Laser beam in connection with laborers' work; Oversize concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping

of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all other types of mechanical drills without regard to the form of motive power; Toxic waste removal

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Batch plant laborer; Changehouse person; Dump person; Dump person (outside); Swamper (brake person and switch person on tunnel work); Tunnel materials handling person; Nipper; Pot tender, using mastic or other materials (for example, but not by way of limitation, shotcrete, etc.)

GROUP 2: Chucktender, cabledtender; Loading and unloading agitator cars; Vibrator person, jack hammer, pneumatic tools (except driller); Bull gang mucker, track person; Concrete crew, including rodder and spreader

GROUP 3: Blaster, driller, powder person; Chemical grout jet person; Cherry picker person; Grout gun person; Grout mixer person; Grout pump person; Jackleg miner; Jumbo person; Kemper and other pneumatic concrete placer operator; Miner, tunnel (hand or machine); Nozzle person; Operating of troweling and/or grouting machines; Powder person (primer house); Primer person; Sandblaster; Shotcrete person; Steel form raiser and setter; Timber person, retimber person, wood or steel; Tunnel Concrete finisher

GROUP 4: Diamond driller; Sandblaster; Shaft and raise work

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LABO0783-005 07/01/2017

	Rates	Fringes
Brick Tender.....	\$ 31.36	17.82

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LABO1184-001 07/01/2017

	Rates	Fringes
Laborers: (HORIZONTAL DIRECTIONAL DRILLING)		
(1) Drilling Crew Laborer...	\$ 34.65	13.20
(2) Vehicle Operator/Hauler.	\$ 34.82	13.20
(3) Horizontal Directional Drill Operator.....	\$ 36.67	13.20
(4) Electronic Tracking Locator.....	\$ 38.67	13.20

Laborers: (STRIPING/SLURRY SEAL)

GROUP 1.....	\$ 35.86	16.21
GROUP 2.....	\$ 37.16	16.21
GROUP 3.....	\$ 39.17	16.21
GROUP 4.....	\$ 40.91	16.21

LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

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LABO1414-003 08/02/2017

	Rates	Fringes
LABORER		
PLASTER CLEAN-UP LABORER....	\$ 35.50	18.29
PLASTER TENDER.....	\$ 38.05	18.29

Work on a swing stage scaffold: \$1.00 per hour additional.

Work at Military Bases - \$3.00 additional per hour:  
 Coronado Naval Amphibious Base, Fort Irwin, Marine Corps Air Station-29 Palms, Imperial Beach Naval Air Station, Marine

Corps Logistics Supply Base, Marine Corps Pickle Meadows,  
 Mountain Warfare Training Center, Naval Air  
 Facility-Seeley, North Island Naval Air Station, Vandenberg  
 AFB.

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 PAIN0036-001 07/01/2018

	Rates	Fringes
Painters: (Including Lead Abatement)		
(1) Repaint (excludes San Diego County).....	\$ 27.59	14.92
(2) All Other Work.....	\$ 31.12	15.04

REPAINT of any previously painted structure. Exceptions:  
 work involving the aerospace industry, breweries,  
 commercial recreational facilities, hotels which operate  
 commercial establishments as part of hotel service, and  
 sports facilities.

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 PAIN0036-008 10/01/2017

	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 38.58	18.57

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 PAIN0036-015 06/01/2018

	Rates	Fringes
GLAZIER.....	\$ 42.15	25.83

FOOTNOTE: Additional \$1.25 per hour for work in a condor,  
 from the third (3rd) floor and up Additional \$1.25 per  
 hour for work on the outside of the building from a swing  
 stage or any suspended contrivance, from the ground up

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 PAIN1247-002 05/01/2018

	Rates	Fringes
SOFT FLOOR LAYER.....	\$ 33.85	14.56

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 PLAS0200-008 08/02/2017

	Rates	Fringes
PLASTERER.....	\$ 41.26	14.46

FORT IRWIN; MARINE CORPS AIR STATION 29 PALMS, AND MARINE  
 CORPS LOGISTICS SUPPLY BASE: \$3.00 additional per hour.

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PLAS0500-002 07/01/2018

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.75	22.48

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PLUM0016-002 07/01/2017

	Rates	Fringes
PLUMBER, PIPEFITTER, STEAMFITTER		
Plumber and Pipefitter All other work except work on new additions and remodeling of bars, restaurant, stores and commercial buildings not to exceed 5,000 sq. ft. of floor space and work on strip malls, light commercial, tenant improvement and remodel work.....	\$ 49.28	21.61
Work at Edwards AFB.....	\$ 56.28	21.61
Work at Fort Irwin Army Base, Marine Corps Logistic Base at Nebo, Marine Corps Logistic Base at Yermo and Twenty-Nine Palms Marine Base.....	\$ 56.28	21.61
Work ONLY on new additions and remodeling of bars, restaurants, stores and commercial buildings, not to exceed 5,000 sq. ft. of floor space.....	\$ 47.76	20.63
Work ONLY on strip malls, light commercial, tenant improvement and remodel work.....	\$ 36.91	18.96

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PLUM0345-001 07/01/2017

	Rates	Fringes
PLUMBER		
Landscape/Irrigation Fitter..	\$ 32.30	21.00
Sewer & Storm Drain Work....	\$ 33.24	17.13

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ROOF0036-002 08/01/2017

	Rates	Fringes
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ROOFER.....\$ 37.07 16.17

FOOTNOTE: Pitch premium: Work on which employees are exposed to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive \$1.75 per hour "pitch premium" pay.

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SFCA0669-009 04/01/2017

Does not include the northern part of the City of Chino, or the Cities of Montclair and Ontario

	Rates	Fringes
SPRINKLER FITTER.....	\$ 39.07	15.84

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SFCA0709-004 01/01/2018

THE NORTHERN PART OF THE CITY OF CHINO, AND THE CITIES OF MONTCLAIR AND ONTARIO:

	Rates	Fringes
SPRINKLER FITTER (Fire).....	\$ 42.26	25.92

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SHEE0105-003 07/01/2018

LOS ANGELES (South of a straight line drawn between Gorman and Big Pines)and Catalina Island, INYO, KERN (Northeast part, East of Hwy 395), MONO ORANGE, RIVERSIDE, AND SAN BERNARDINO COUNTIES

	Rates	Fringes
SHEET METAL WORKER (1) Commercial - New Construction and Remodel work.....	\$ 44.28	28.46
(2) Industrial work including air pollution control systems, noise abatement, hand rails, guard rails, excluding aritechtural sheet metal work, excluding A-C, heating, ventilating systems for human comfort....	\$ 44.28	28.46

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TEAM0011-002 07/01/2017

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 29.59	27.74
GROUP 2.....	\$ 29.74	27.74
GROUP 3.....	\$ 29.87	27.74
GROUP 4.....	\$ 30.06	27.74
GROUP 5.....	\$ 30.09	27.74
GROUP 6.....	\$ 30.12	27.74
GROUP 7.....	\$ 30.37	27.74
GROUP 8.....	\$ 30.62	27.74
GROUP 9.....	\$ 30.82	27.74
GROUP 10.....	\$ 31.12	27.74
GROUP 11.....	\$ 31.62	27.74
GROUP 12.....	\$ 32.05	27.74

WORK ON ALL MILITARY BASES:

PREMIUM PAY: \$3.00 per hour additional.

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB, El Centro Naval Facility, Fort Irwin, Marine Corps Logistics Base at Nebo & Yermo, Mountain Warfare Training Center, Bridgeport, Point Arguello, Point Conception, Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2 axles; Traffic control pilot car excluding moving heavy equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3 axles; Boot person; Cement mason distribution truck; Fuel truck driver; Water truck - 2 axle; Dump truck, less than 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire person (\$0.50 additional for tire person); Pipeline and utility working truck driver, including winch truck and plastic fusion, limited to pipeline and utility work; Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - \$1.25 additional when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular

rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an

interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

General Decision Number: CA180003 01/05/2018 CA3

Superseded General Decision Number: CA20170003

State: California

Construction Type: Heavy Water Well Drilling

Counties: California Statewide.

WATER WELL DRILLING

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/05/2018

SUCA1989-001 01/01/1989

Rates Fringes

PUMPS

Installer

Alameda.....	\$ 7.50	
Alpine.....	\$ 8.00	
Amador.....	\$ 8.00	
Colusa.....	\$ 10.57	2.03
Contra Costa.....	\$ 7.50	
El Dorado.....	\$ 8.00	
Fresno.....	\$ 7.25	1.04
Imperial.....	\$ 8.50	
Kern.....	\$ 7.25	.43
Lake.....	\$ 10.57	2.03
Los Angeles.....	\$ 9.76	.57
Madera.....	\$ 7.50	.72
Marin.....	\$ 10.57	2.03
Mariposa.....	\$ 7.50	.72
Mendocino.....	\$ 10.57	2.03
Monterey.....	\$ 12.50	
Napa.....	\$ 13.00	.81
Placer.....	\$ 8.00	
Plumas.....	\$ 10.36	1.65
Riverside.....	\$ 7.25	.34
Sacramento.....	\$ 9.43	.83
San Benito.....	\$ 8.39	2.65
San Bernardino.....	\$ 10.30	.77
San Diego.....	\$ 7.85	
San Joaquin.....	\$ 11.39	3.82
San Luis Obispo.....	\$ 7.25	
San Mateo.....	\$ 10.36	1.65
Santa Barbara.....	\$ 7.57	
Santa Clara.....	\$ 8.39	2.65
Santa Cruz.....	\$ 8.39	2.65
Shasta.....	\$ 9.63	1.36
Sonoma.....	\$ 10.57	2.03
Tehama.....	\$ 10.36	1.65
Trinity.....	\$ 9.63	1.36
Tuolumne.....	\$ 7.50	.72
Ventura.....	\$ 11.00	1.48

Water Well Driller

Alameda.....	\$ 10.00	.36
Alpine.....	\$ 9.60	
Amador.....	\$ 9.60	
Butte.....	\$ 7.25	
Calaveras.....	\$ 7.50	
Colusa.....	\$ 11.07	2.03
Contra Costa.....	\$ 9.50	
Del Norte.....	\$ 8.00	.31
El Dorado.....	\$ 9.60	
Fresno.....	\$ 13.37	1.45
Glenn.....	\$ 7.25	
Humboldt.....	\$ 8.00	.31
Imperial.....	\$ 8.70	.36
Inyo.....	\$ 7.29	1.13

Kern.....	\$ 7.25	.06
Kings.....	\$ 7.25	1.21
Lake.....	\$ 11.07	2.03
Lassen.....	\$ 7.25	.43
Los Angeles.....	\$ 9.65	
Madera.....	\$ 7.50	.72
Marin.....	\$ 11.07	2.03
Mariposa.....	\$ 7.50	.72
Mendocino.....	\$ 11.07	2.03
Merced.....	\$ 7.25	.13
Modoc.....	\$ 10.50	
Mono.....	\$ 10.00	
Monterey.....	\$ 12.50	
Napa.....	\$ 8.00	.81
Nevada.....	\$ 7.25	.13
Orange.....	\$ 11.00	1.48
Placer.....	\$ 9.60	
Plumas.....	\$ 10.00	
Riverside.....	\$ 7.25	.36
Sacramento.....	\$ 10.00	
San Benito.....	\$ 8.39	2.65
San Bernardino.....	\$ 10.20	.37
San Diego.....	\$ 8.18	
San Francisco.....	\$ 10.00	
San Joaquin.....	\$ 7.25	.13
San Luis Obispo.....	\$ 7.25	1.02
San Mateo.....	\$ 10.00	.81
Santa Barbara.....	\$ 7.98	
Santa Clara.....	\$ 8.39	2.65
Santa Cruz.....	\$ 8.39	2.65
Shasta.....	\$ 7.25	
Sierra.....	\$ 7.25	.13
Siskiyou.....	\$ 8.00	.31
Solano.....	\$ 9.15	
Sonoma.....	\$ 10.07	1.70
Stanislaus.....	\$ 7.25	.13
Sutter.....	\$ 7.25	
Tehama.....	\$ 10.00	
Trinity.....	\$ 7.25	
Tulare.....	\$ 7.29	1.13
Tuolumne.....	\$ 7.50	.72
Ventura.....	\$ 11.00	1.48
Yolo.....	\$ 10.36	1.65
Yuba.....	\$ 7.25	.13

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this



contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that

no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.)

and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
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4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

General Decision Number: CA180006 01/05/2018 CA6

Superseded General Decision Number: CA20170006

State: California

Construction Type: Heavy Hopper Dredge Work

Counties: California Statewide.

HOPPER DREDGE CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number            Publication Date  
    0    01/05/2018

SUCA1985-002 01/01/1985

	Rates	Fringes
Self-Propelled Hopper Dredge		
Drag tender.....\$	8.78	4.23

FOOTNOTE: Nine paid holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Paul Hall's Birthday (Aug. 20th), Veterans Day, Thanksgiving Day and Christmas Day.

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 WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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 Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons

resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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#### WAGE DETERMINATION APPEALS PROCESS

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U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

# RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT J – INSURANCE REQUIREMENTS

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## 1. INSURANCE REQUIREMENTS

### A. General Requirements for Contractor

- 1) Without limiting or diminishing the Contractor's obligation to indemnify or hold VVTA harmless, Contractor shall procure, prior to commencement of the services required under this contract and maintain for the duration of the contract at its own expense, insurance of the kinds and in the amounts as indicated below;
- 2) Provide VVTA with valid original certificates of insurance and (except with regard to Professional Liability and Workers' Compensation) showing VVTA as an additional insured.

### B. Deductibles or Self-Insured Retention (SIR)

SIR must be declared to and approved by VVTA. At the option of VVTA, either: the insurer shall reduce or eliminate such deductibles or SIR or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### C. Other Insurance Provisions

#### **1) Commercial General Liability and Automobile Liability**

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name VVTA, its officers, officials, employees, agents and volunteers as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded VVTA, its officers, officials, employees, agents, and volunteers.

- a) For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects VVTA, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or self-insured programs maintained by VVTA, its officers, officials, employees, agents, and volunteers shall be excess of Contractor's insurance and shall not be construed as contributory.
- b) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- c) Contractor shall notify VVTA of any suspension, void, cancellation or reduction in coverage or in limits, as required by contract, within (30) days of change.

#### **2) Workers' Compensation**



# RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT J – INSURANCE REQUIREMENTS

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If the Contractor has employees as defined by the State of California, the Contractor shall maintain statutory Workers' compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of VVTA and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

### 3) **Care, Custody, and Control**

Contractor shall insure any VVTA property while under its Care, Custody, and Control according to the requirements listed in the insurance coverage required.

### **D. Acceptability of Insurers**

Insurance companies shall be State of California admitted or approved and have a current **A.M. Best's** rating of no less than **A: VIII**.

### **E. Verification of Coverage**

- 1) Contractor shall furnish VVTA with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements are to be received and approved by VVTA before work commences.
- 2) As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- 3) In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of VVTA.

### **F. Subcontractors**

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

### **G. Notification of Terminated Insurance**

Insurance shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract.

### **H. Endorsements**

The following endorsements 1 through 4 are required to be made a part of the Comprehensive General Liability policy, and Endorsement No.4 is required to be made part of the Workers' Compensation and Employers' Liability policy:

1. "Victor Valley Transit Authority (herein referred to as VVTA), its employees, officers, agents and contractors are hereby added as additional insurers."

# RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE ATTACHMENT J – INSURANCE REQUIREMENTS

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2. "This policy shall be considered primary insurance as respects any other valid and collectible insurance VVTA may possess, including any self-insured retention VVTA may have, and any other insurance VVTA does possess shall be considered excess insurance only."
3. "This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company." Coverage specified herein shall apply to acquisition actions of all procuring agencies under this contract.
4. "Thirty (30) days' prior written notice of Termination shall be given to VVTA in the event of Termination."

Such notice shall be sent to:  
Victor Valley Transit Authority  
ATTN: Christine Plasting  
17150 Smoketree Street  
Hesperia, California 92345

## I. Proof of Coverage

Copies of all the required Endorsements shall be attached to the CERTIFICATE OF INSURANCE which shall be provided by the Contractor's insurance company as evidence of the stipulated coverage. This Proof of Insurance shall then be mailed to:

Victor Valley Transit Authority  
ATTN: Christine Plasting  
17150 Smoketree Street  
Hesperia, California 92345

## J. Special Provisions

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor and any approval of said insurance by the VVTA Board, VVTA staff or their insurance consultant(s), are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to this Contract, including, but not limited to, the provisions concerning indemnification.
2. VVTA reserves the right to withhold payments to Contractor in the event of material noncompliance with the insurance requirements outlined above.

## 2. MINIMUM INSURANCE COVERAGE

- 1) **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *VVTA named and endorsed as an Additional Insured.*
- 2) **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *VVTA named and endorsed as an Additional Insured.*
- 3) **Workers' Compensation:** statutory limits

RFP 2018-17 BATTERY ENERGY STORAGE AND DEMAND RESPONSE  
ATTACHMENT J – INSURANCE REQUIREMENTS

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- 4) **Employer's Liability:** \$1,000,000; per occurrence.