



VICTOR VALLEY TRANSIT AUTHORITY

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

REQUEST FOR PROPOSAL RFP 2021-17

DESIGN BUILD HESPERIA TRANSFER HUB

December 15, 2023

NOTICE INVITING PROPOSALS 2021-17

1. Purpose of the Procurement and Period of Performance

VVTA is requesting proposals from qualified contractors for the design and construction (Design-Build Contract) of a Transfer Hub adjacent to its Hesperia, CA, location. The period of performance for construction will not exceed 18 months.

2. Obtaining the Request for Proposal (RFP) Document

RFP documents may be obtained from VVTA, in person at 17150 Smoke Tree Street, Hesperia, CA 92345-8305, electronically at www.vvta.org/Procurement or via www.publicpurchase.com.

Documents are also available via email request to cplasting@vvta.org. RFPs requested by courier or via USPS mail shall be packaged and sent only at the Proposers' expense.

3. Proposal Due Date and Submittal Requirements

Proposals must be received before **3:00 PM (PST), Thursday, February 8, 2024**

3.1. Sealed Proposal packages will be accepted at the following address:

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

3.2. Envelopes, boxes, or electronic submissions via publicpurchase.com containing proposals shall be sealed and clearly labeled with VVTA's RFP number and the solicitation title: "VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB"

3.3. Proposers are to submit to VVTA either one (1) hard copy of the proposal and one (1) electronic copy via thumb/flash drive **OR** via www.publicpurchase.com. A Proposal is deemed to be late if VVTA receives it 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

A Bid Bond of 10% of the total price proposal is required at the time the proposal is submitted. The awarded contractor may be required to provide a Performance Bond and Payment Bond after the notice of intent to award.

5. Prevailing Wage

The Secretary of Labor has predetermined minimum wage rates for this project. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the prevailing wage rates as determined by the State for similar classifications of labor, the contractor and his/her subcontractors shall pay not less than the higher wage rate. In accordance with provisions of Section 1773.2 (amended 1977) 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.

This work falls under the Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) and that contractor shall supply VVTA with certified payroll documentation. The Davis-Bacon and Related Acts will apply to contractors and subcontractors performing construction, alteration, or repair with federally funded or

assisted contracts of \$2,000 or more. Under this Act, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. A current copy of the Davis Bacon Wage Determinations is available upon request. The Davis Bacon Wage determination for San Bernardino County is located here: <https://sam.gov/wage-determination/CA20230026/14>

If the State of California prevailing Wage is higher than Davis Bacon, contractor is required to pay the higher rate.

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 Proposer shall enter DIR Registration Number on its 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 Proposer responding to this RFP.

8. Job Walk

There will be a non-mandatory Job Walk on Monday, January 8, 2024 at 10:00 AM (PST). The deadline for questions is at 5:00 PM (PST), Friday, January 26, 2024. Prospective Proposers are requested to submit questions, in writing, to the Procurement Manager at cplasting@vvta.org. Responses shall be shared with all known prospective proposers by written addenda only.

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

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INSTRUCTIONS TO PROPOSERS

A. TIMELINE

Date of Request for Proposal (RFP):	December 15, 2024
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)	10:00 AM PST, Monday, January 8, 2024, at 17150 Smoke Tree Street, Hesperia, CA 92345 Room A104 (Board Room)
Last Day for Questions	5:00 PM PST, Friday, January 26, 2024
Addenda and Answers to questions	2:00 PM PST, Thursday, February 1 2024
Proposal Due Date	3:00 PM PST, Thursday, February 8, 2024
Anticipated Award Date	March 18, 2024

B. PURPOSE

The purpose of the new Hesperia Transfer Hub is to enhance the performance and reliability of public fixed route and demand response transit services provided by the Victor Valley Transit Authority (VVTA) in its San Bernardino County service area. This new Transfer Hub will improve services and reduce operating inefficiencies by providing a new Transfer Hub in the City of Hesperia, replacing the current Hub at the Hesperia Post Office.

This Project includes the design and construction of a new Transfer Hub. The Transfer Hub will be located on a 10-acre lot just east of the VVTA Hesperia Facility. The Hub will include 10 (ten) sawtooth cut bus stops, an opening between the sawtooth cut areas to accommodate awaiting passengers, shelter covering to shade the passengers, passenger benches, two (2) public gendered restrooms, 2-3 stalls each (Must meet all ADA requirements), 2 private gender-neutral restrooms, an office for Security, and a shaded area for vending machines. The building will have an appealing façade to match the adjacent Victor Valley Transit Authority Facility aesthetic.

The project will also include a parking lot which will be placed directly adjacent to the transfer hub and must provide sufficient spaces to accommodate approximately 75-100 passenger

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vehicles, 10-15 of those being designated as customer parking.

The Project will be a start to finish design-build project. VVTA does not currently have any of the designs, which will be the responsibility of the selected Design Build Team. The Project will be a start to finish design-build project. VVTA does not currently have any of the designs, which will be the responsibility of the selected Design Build Team.

VVTA already solicited Statements of Qualifications (SOQs) to Interested Parties – these parties were part of an evaluation process to short list those qualified Proposers. However, because this is a Federally Funded project, VVTA must allow for an “open playing field” and not prohibit competition, VVTA will accept additional SOQs from other proposers.

However, for those proposers who submitted SOQ’s and have been deemed qualified, VVTA will provide those Proposers with a 5% preference. See Attachment E – Required Forms – the end of the Price Proposal page (Form P).

C. BACKGROUND

Victor Valley Transit Authority (VVTA) is a public transit agency and Consolidated Transportation Services Agency (CTSA), providing bus, ADA paratransit, and vanpool service to California’s High Desert. VVTA’s service area spans nearly 1,000 square miles, featuring service to Adelanto, Apple Valley, Barstow, Hesperia, Needles, Victorville, and unincorporated San Bernardino County, including Daggett, Helendale, Hinkley, Lucerne Valley, Newberry Springs, Oak Hills, Oro Grande, Phelan, Pinon Hills, Wrightwood, and Yermo. Commuter service to Fort Irwin National Training Center (NTC) and connecting service from the High Desert to the Inland Empire is also provided. Additional information and service alerts are available at VVTA.org and [Twitter.com/VVTransit](https://twitter.com/VVTransit).

D. PERIOD OF PERFORMANCE

VVTA intends to award a Lump Sum contract for a period of 18 months unless extended by mutual agreement. 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. At any time during this procurement up to the time specified in the “Proposal Schedule” (Section A), Proposers may request, in writing, 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 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 Proposer making the request shall be responsible for its proper delivery to VVTA per “Contracting Officer” (Section A)

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on the form provided in “Request for Pre-Offer Change or Approved Equal” (Attachment E – Form U.) **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 a substantial increase in cost or time requirements. Any responses to such written requests shall be provided by VVTA in the form of an 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.

2. 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 by 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 Proposers 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. PRE-PROPOSAL CONFERENCE AND JOB WALK

Each Proposer may attend the Pre-proposal Conference and Job Walk at 17150 Smoke Tree Street, Room A104 (Board Room), Hesperia, CA 92345, on Monday, January 8, 2024 at 10:00 AM (PST). Failure to attend this meeting will NOT disqualify a Proposal.

One of the objectives to this Job Walk is to invite local trades to attend and meet with the pre-qualified Design Build Teams to encourage local involvement with this project.

I. 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 the written addendum. VVTA shall provide copies of addenda to all prospective Proposers officially known to have received the RFP. Prospective Proposers, or their agents, shall be responsible for collecting the addenda at the address provided in “Contracting Officer” (Section A. above) or receive the same

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otherwise. Notification of the addenda will also be emailed to all such prospective Proposers officially known to have received the RFP and to the email 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 addenda issued shall become part of the RFP. Prospective Proposers shall acknowledge the receipt of each individual addendum and all prior addendum in their Proposer (See Attachment E Form A). 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.

J. EXCEPTIONS / DEVIATIONS

Using the Form for Proposal Deviation – Attachment E-Form U – 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 forth in the Scope of Work.

K. FORMAT OF PROPOSALS

Qualifications and Technical Proposal. Each Proposer must submit a Qualifications and Technical Proposal (QTP) containing all of the information set forth below:

Tab QTP-1. Proposal Letter; Qualifications; Certifications.

(1) Provide a proposal letter using Attachment E - **Form A** of this RFP, stating the business name of the Proposer and identifying the Proposer's contact person who is authorized to act for and bind the Proposer on all matters relating to this procurement, and his or her address, email, and telephone number. This letter must be submitted without alteration, and executed by an official of the Proposer.

(2) If the Proposer is a corporation, provide evidence that it is in good standing in the state of its corporation/organization and that it is qualified to do business in California. If the Proposer is a partnership, limited liability company, or joint venture, provide this evidence for all general partners or joint venture members. Certificates of good standing and/or status must have been issued within thirty (30) days of the date for receipt of Proposals under this RFP.

(3) Provide the Department of Industrial Relations registration number(s) for the Proposer and its team members. Proposer and all of its team members must be eligible to bid on public works projects.

(4) Provide the following completed forms provided in Attachment E of this RFP:

(a) **Form B** - Certification Regarding Submittal in Response to Request for

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Qualifications No. 2021-17.

- (b) **Form C** - Statement Acknowledging Penal and Civil Penalties Concerning the Contractors' Licensing Laws.
- (c) **Form D** – Affidavit of Non-Collusion.
- (d) **Form E** - Declaration of Eligibility to Contract.
- (e) **Form F** - Certificate of OSHA Compliance.
- (f) **Form G** - Organizational Conflict of Interest Certification.
- (g) **Form H** - Certification of Restrictions on Lobbying.
- (h) **Form I** – Debarment, Suspension & Other Responsibility Matters.
- (i) **Form J** – Buy America/Build America Certification
- (j) **Form K** - Labor Certification.

(5) Submit a Proposal Bond, certified check, or cashiers' check (hereinafter collectively referred to as the "Submitted Proposal Bond") in an amount equal to ten percent (10%) of the Proposer's Lump Sum Price Proposal (LSPP) payable to Victor Valley Transit Authority. If the Proposer submits a proposal bond (rather than a certified check or cashiers' check), the Proposer shall use Attachment E - **Form P** of this RFP. The bond shall be executed by a surety that at the time of submission is an admitted surety insurer, as defined by California Code of Civil Procedure § 995.120 and has a current issuer credit rating of "A" or better by A.M. Best. The Proposer shall also provide evidence that its surety meets the requirements set forth in this Tab.

(a) If a Proposer is awarded the Contract, but fails to execute and deliver the executed Design Build Contract and other required documents to VVTA within the required time, or if a Proposer is selected for negotiations and fails to negotiate in good faith, then the funds represented by the Proposal Bond shall be release to VVTA and become and remain the property of VVTA.

(b) Following receipt of an executed Design Build Contract and required documents by VVTA, the Proposal Bonds (other than any bond(s) that have been forfeited) will be returned to the respective Proposers.

(6) Provide evidence of the Proposer's ability to obtain:

(a) the performance bond required – a sample is provided in Attachment E - in the form of a letter from a surety company that has an A.M. Best Co. rating of "A" and Class VIII or better and that is an admitted surety insurer, as defined by California Code of Civil Procedure § 995.120;

(b) the payment bond required a sample is provided in Attachment E - in the form of a letter from a surety company that has an A.M. Best Co. rating of "A" and Class VIII or better and that is an admitted surety insurer, as defined by California Code of Civil Procedure § 995.120; and

(c) the insurance coverages required under Section 20 of the draft Design Build Contract in Attachment C, in the form of a letter from an insurance carrier or broker that has an A.M. Best Co. rating of "A" and Class VIII or better and that is authorized to conduct business in California.

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(7) Using **Form L** provided in Attachment E of this RFP, provide information regarding the Proposer's Industrial Safety Record. If a Proposer's Experience Modification Rate (EMR) for the most recent three-year period is above 1.00, the Proposer shall provide evidence of those actions it is taking to lower its EMR, and improve workplace safety.

(8) Provide a statement that the Proposer is (or is not) a party to an alternative dispute resolution system as provided for in Section 3201.5 of the California Labor Code. If the Proposer is a party to an alternative dispute resolution system, describe the system and provide a copy of the collective bargaining agreement or other document establishing the system.

(9) If the Proposer qualifies as a certified DBE in accordance with the requirements of 49 C.F.R. Part 26, Subpart D, or is joint venturing with a DBE certified in accordance with the cited regulations, provide a copy of the DBE certification(s) issued by the California Unified Certification Program (CUCP) and a description of the dollar value of the proposed work that it intends to perform with its own forces, together with a statement of the percentage interest in the services and work held by the joint venture DBE.

(10) If the Proposer identifies DBE subcontractors in its Proposal, (a) complete the Subcontractor's Form provided in Attachment E – **Form O** of this RFP, (b) provide sufficient documentation to evidence each DBE subcontractor's status as a certified DBE, and (c) submit written confirmation from each DBE subcontractor that it is participating in the federally funded services and work in the form of a DBE Letter of Intent.

(11) Identify any and all exceptions taken to the draft Sample Contract (Attachment C) using the Deviation Form included in Attachment E – **Form U** of this RFP. Proposers should affirm, in taking exceptions or in electing not to take exceptions, that this RFP and the attached draft Sample Contract have been reviewed by the Proposer's legal counsel. Proposers must identify any exception which, if the contractual provision or requirement cited is not changed, would result in the Proposer not submitting or withdrawing its Proposal and/or not executing the draft Design Build Contract if selected. If no exceptions are stated, VVTA will assume and understand that the Proposer, if selected, will comply with all provisions of the draft Design Build Contract without exception. Any exceptions may be considered material and be cause for rejection of a Proposal on grounds that the Proposal is non-responsive. In addition, the nature and extent of exceptions taken will be considered by VVTA in the evaluation of Proposals.

Tab QTP-2. Key Personnel, Organization, and Major Subcontractors.

(1) Identify the Proposer's *Key Personnel* to be assigned to the Project (for each position defined as "Key Personnel" in Section 2 hereof), with resumes and relevant experience for each individual not to exceed two (2) pages in length. Describe any experience of the Key Personnel in working together. Describe specific experience of the Key Personnel to evidence his/her/their sufficient experience and training to competently manage and complete the design and construction of the Project.

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(2) Identify the Proposer's *Major Subcontractors* to be assigned to the Project with resumes and relevant experience for each not to exceed two (2) pages in length. Any construction subcontractors identified in the Proposal shall be afforded the protections of the California Subletting and Subcontracting Fair Practices Act, California Public Contract Code §§ 4100-4114. Identification of construction subcontractors shall include the California Construction License number and Department of Industrial Relations number for each subcontractor.

(a) VVTA may refuse to award or may revoke an awarded Contract if any Key Personnel or Major Subcontractors identified in the Proposal differs from the Key Personnel or Major Subcontractors identified by the Proposer in its SOQ submitted in response to the RFQ or are otherwise removed, replaced or added without VVTA's written approval.

(b) For approval to be granted, the Proposer must submit a written request to VVTA's Procurement Manager explaining the reason for the change and documenting that the removal, replacement, or addition will be equal to or better than the Key Personnel or Major Subcontractor identified in the Proposer's Proposal and/or SOQ. VVTA will use the criteria specified in Section EE of this RFP and the qualifications submitted by the Proposer to evaluate a Proposer's request.

(3) Provide a project organization and staffing plan (including an organizational chart) that clearly delineates communication and reporting relationships among team members and between the Project Manager, other Key Personnel, and other project staff, including Major Subcontractors.

(4) Provide a statement acknowledging and agreeing that Key Personnel will be available to the extent proposed for the duration of the Project and that no individual designated as "key" will be removed or replaced without the prior written consent of VVTA.

Tab QTP-3. Project Management Approach; Approach to Schedule.

(1) Describe the Proposer's plan for overall management of the Project, including (a) final design management; (b) construction management; and (c) quality assurance/quality control.

(2) Describe the Proposer's approach to third party coordination and resolution of issues with third parties in the engineering, design, and construction process and describe the specific relevant experience of the Proposers in managing third party issues and avoiding or minimizing the impact of third-party coordination on project schedule.

(3) Describe the Proposer's approach to successful management of the elements of the engineering, design, and construction processes that pose a significant schedule and/or cost risk.

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- (4) Describe the Proposer's current workload and the Proposer's capability to accomplish current projects and this Project.
- (5) Provide an explanation of how the Proposer will undertake Project coordination, including how the Proposer will manage its subcontractors.
- (6) Provide the Proposer's proposed plan for site maintenance, which shall describe the Proposer's strategy for the implementation, coordination, scheduling of proposed routines, and monitoring of maintenance activities during the Project.
- (7) Provide a description of the Proposer's schedule approach, including:
 - (a) The proposed number of calendar days from notice to proceed (NTP) to Substantial Completion (as defined in the draft Design Build Contract at Part IV);
 - (b) A Preliminary Baseline Critical Path Schedule, to include the work included in the Price Proposal (without any price information). The term "Preliminary Baseline Critical Path Schedule" means the executive management schedule, including the Proposer's mobilization plan, providing details for the first 120 days of the work and general schedule information for subsequent periods. At a minimum, for the period beyond the initial 120 days, the preliminary baseline project schedule shall include kick off and partnering meetings, detail design, procurement, shop drawings, aggregate source acceptance, material sampling, mix design preparation, fabrication, mobilization, demobilization, and activities or phases of the work; and
 - (c) A narrative explaining the basis for the Preliminary Baseline Critical Path Schedule which describes the planned activities, how the activities interrelate, and how activity durations were determined. Also discuss basis for and assumptions used in preparing the Preliminary Baseline Critical Path Schedule, plan for mobilizing Key Personnel, a summary of major risks to the Preliminary Baseline Critical Path Schedule with planned contingencies and approach to dealing with risks as they arise, and the Proposer's proposed project controls approach (including system for preparing and updating the Preliminary Baseline Critical Path Schedule).

Tab QTP-4. Design Approach.

Provide a description of the Proposer's design approach, addressing:

- (1) Approach and understanding of applicable design standards;
- (2) Proposed plan for addressing constructability, durability, maintainability, safety, and environmental mitigation in the design process. The constructability program should be tailored to meet the bridging documents as well as new ideas or approach to encourage green certification or sustainability;
- (3) Proposed design approaches, specifically highlighting constructability reviews with team members and coordination with other stakeholders (i.e., utilities);
- (4) Staffing plan and concept for design management;

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- (5) Proposed plan for integrating and coordinating design and construction efforts, including how designs developed by different firms and/or offices will be integrated, and how the design personnel will interface with the construction organization;
- (6) How the Proposer will facilitate and implement the design review process, including a summary of the level of completion anticipated at each design review stage;
- (7) How the Proposer intends to conduct reviews of construction drawings, field design changes, and as-built drawings;
- (8) How the designer(s) and design staff will be involved in the construction; and
- (9) How other technical issues associated with the Project will be handled.

Tab QTP-5. Construction Approach; Safety Plans; Compliance with Mitigation Monitoring and Reporting Program.

- (1) Provide a description of the Proposer's construction approach, addressing:
 - (a) Proposed plan for construction staging, addressing at each stage and phase the approximate duration, areas of active construction, proposed traffic closures, and maintenance of property access;
 - (b) Proposed plan for transportation management during construction staging and sequencing, which shall be designed to minimize Project-related traffic delay and potential accidents and shall address methods and frequency of inspection and maintenance of all traffic control through the Project right-of-way limits, procedures to identify and incorporate the needs of emergency service planners, law enforcement entities, and other related users, a description of contact methods, personnel available, and response times for responses to conditions needing attention during off-hours, a plan for traffic incident management, procedures for coordination of traffic control activities, and plans for installation and maintenance of traffic signs and temporary signage on and adjacent to the Project site;
 - (c) Proposed plan for constructing the Project, including a description in general of the anticipated construction work for each phase;
 - (d) Approach to the utilization of the Proposer's own workforce and expertise and the expertise of proposed Major Subcontractors for critical and/or significant work categories;
 - (e) Proposed coordination with owners of utility facilities. Demonstrate that Proposer has considered utilities, permitting, constructability, and maintenance of traffic activities in determining the proposed construction schedule;
 - (f) Approach to ensure timely deliveries of materials to achieve the Project schedule; and
 - (g) Proposed plan for hazardous materials management to address contamination that is encountered, impacted, caused by, or occurring in connection with the

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work, as well as investigation and remediation of the contamination, both within and outside the right-of-way limits, including outside areas affected by utility relocations.

(2) Provide the Proposer's construction safety plan, including a construction safety organization chart. The plan must address public safety, subcontractors, and other contractors on site. The plan must describe how the Proposer will provide protection to prevent damage, loss, or injury to employees, other persons who are site, and the public; the work, materials, and equipment on the Project site; and all other property on the Project site.

(3) Submit a summary of how the Proposer intends to comply with the City of Hesperia's Mitigation Monitoring and Reporting Program. The summary should include a narrative explaining the Proposer's understanding and approach to effectively mitigate potential impacts to the community and other public agencies as a result of the Project final design and construction activities. The summary should also describe how effective communications will be maintained throughout the life of the Project.

Tab QTP-6. Contracting Plan; Selection of Subcontractors.

(1) Provide the Proposer's contracting plan for the design work and the construction work. The contracting plan shall identify the delivery or subcontracting method that will be used for Major Subcontractors for the design work and the construction work. Allowable methods of performing construction work are self-performance by the Proposer, performance by a subcontractor identified in the Proposer's Proposal, or performance by a subcontractor subsequently selected in accordance with a competitive process that is in accordance with California state law. The contracting plan shall be designed and implemented to ensure that good faith efforts are made to encourage DBE participation in accordance with VVTA's DBE program.

(2) Provide the Proposer's DBE performance plan for the utilization of DBE subcontractors to assist VVTA in achieving its overall DBE goal of twenty (20) percent. The plan shall include the estimated dollar amount to be awarded to DBE firms per year, an identification of the area(s) of work to be subcontracted to DBEs (both areas where DBEs have already been selected and areas in which DBE firms are anticipated to be used), and a description of the race neutral means that the Proposers intends to use to facilitate DBE participation.

Any other information required by this RFP or its addenda which may not be listed above.

Cost/Price Proposal – Proposers shall submit proposed pricing to provide the products/services for the work described in Attachment A – Scope of Work. Proposer is required to use the Pricing Form included in Attachment E – **FORM P**.

Firms may include additional information, however, do NOT attach terms and

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conditions that conflict with the RFP, as your firms' proposal may be deemed non-responsive.

L. PROPOSAL PACKAGING REQUIREMENTS

1. Please note that **all official addenda** must be acknowledged. Proposers are instructed to use **FORM A** included in Attachment E – to acknowledge all official addenda released during this solicitation.
2. **Sealed original proposal plus one (1) electronic copy OR via publicpurchase.com**, must be received at the address shown in "Proposal Schedule" (Section A) before **3:00 PM (PST) on Thursday, February 8, 2024**. All labor and materials 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. Proposer shall submit the Cost/Price Proposal (**FORM P** - Attachment E) separate from the proposal in a separate sealed envelope. Prices are to be quoted exclusive of California State and Local Sales Tax. 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 the awarded Contractor shall itemize applicable California State and Local Sales tax or state "sales tax included".

Proposals including all submittal documents and price elements shall be submitted by the due date specified, in two sealed packages identified as "**VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB – TECHNICAL PROPOSAL**" and "**VVTA RFP 2021-17 – COST/PRICE PROPOSAL**." If submitting proposals through publicpurchase.com, **THE COST/PRICE PROPOSAL MUST BE SUBMITTED AS A SEPARATE DOCUMENT.**

If a Proposer is submitting their proposal electronically through publicpurchase.com, a copy of any required originals (notarized documents, bonds, etc.) must be included. The original documents must be received by VVTA not later than 5 business days after the Proposal Due Date.

M. PREFERENCE – GEOGRAPHIC, ECONOMIC, OR OTHER HIRING PREFERENCES

VVTA will be applying preferences to the final cost of a Proposer's price, for evaluation purposes only. **The reduction in cost is only for the evaluation of bids and is not the final Bid Amount.**

5% Geographic Preference: VVTA will implement this ruling by calculating a reduction in the bid amount for proposers who are deemed to be within the geographic area. VVTA is defining its geographic area to be locations within but not limited to the Cities of Victorville, Hesperia, Barstow, Adelanto, the Town of Apple Valley, and unincorporated areas of San Bernardino County – where fixed route service is provided and is represented by VVTA's Board of Directors. If a subcontractor will be used to be eligible for this preference, the 5% preference will be given based on the amount of the contract to be performed by the subcontractor. Please indicate the amount of the subcontractor's contract on the Subcontractor Form in Attachment E.

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5% Prequalified Preference – For those firms who were deemed qualified during the previous RFQ process.

5% DBE Preference – If the Design Build Contractor is Certified Disadvantaged Business Enterprise (DBE), a 5% preference will be given based on the amount of the contract to be performed by the Design Build Contractor. If the DBE is a subcontractor who is a Certified DBE, the 5% preference will be given based on the amount of the contract to be performed by that subcontractor. Please indicate the amount of the contract to be performed by the subcontractor(s) on the Subcontractor Form in Attachment E – Required Forms.

Please indicate the Claimed Preference on **FORM P** - Attachment E – Required Forms on the pricing form.

N. 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 its proposal; and
 - d. Any other expenses incurred by Proposer prior to date of award, if any, of the Agreement.

O. JOINT PROPOSALS

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

P. 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.

Q. 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

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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.

R. 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. The proposer shall complete the form entitled "List of Subcontractors (**FORM N - Attachment E**)" 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

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with a value in excess of one-half of one percent of Agreement price to be sub-contracted 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.

S. PROPOSER’S LICENSING REQUIREMENTS

1. Required Contractor’s Licenses: The Design Build Team shall hold the following valid California Contractor’s State Licensing Board (CSLB) including:
 - a. Class “A” — General Engineering Contractor The principal business is in connection with fixed works requiring specialized engineering knowledge and skill. **Or**
 - b. Class “B” — General Building Contractor The principal business is in connection with any structure built, being built, or to be built, requiring in its construction the use of at least two unrelated building trades or crafts. **AND**
 - c. Class “C” — “C” Specialty contractors perform their trade using the art, experience, science, and skill necessary to satisfactorily organize, administer, construct, and complete projects under their classification, in accordance with the standards of their trade. A specialty contractor may use subcontractors to complete the incidental and supplemental work or may use his/her own employees to do so. (Also see BPC §7058):
 - i. For this project, the specialized licenses shall include all applicable trades listed with the CSLB at:
http://www.cslb.ca.gov/About_Us/Library/Licensing_Classifications/
2. No contractor or subcontractor may be listed on a bid proposal for a public works project unless currently registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code Section 1771.1(a)]. Contractors and subcontractors must be registered for the current fiscal year.
3. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). Registration can be accomplished through the DIR website by using this link: <http://www.dir.ca.gov/Public-Works/PublicWorks.html>.
4. All design consultants (“Design Consultants”) shall hold an appropriate license for their design discipline on the Proposal Date.
5. Failure of a single-entity Proposer to possess the required license on the Proposal date shall render the Proposal non-responsive. Failure of Design Consultant to possess the required license on the Proposal deadline shall require Proposer to substitute licensed

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design professionals prior to award of the contract without additional cost to VVTA.

T. PREVAILING WAGE REQUIREMENTS AND EMPLOYMENT OF APPRENTICES

This Project is subject to the provisions of Labor Code §1720, *et seq.* and regulations set forth in Title 8 §§ 16000 *et seq.* of the California Code of Regulations, which govern the payment of prevailing wages on public works projects. All Proposers shall be governed by and are required to comply with these statutes and regulations in connection with the Project. Pursuant to Labor Code § 1771, the Design-Build Team receiving award of the contract, its Design Consultants and subcontractors of any tier shall pay not less than prevailing wage rates to all workers employed in the execution of the contract. The Director of the Department of Industrial Relations, State of California pursuant to the California Labor Code and VVTA, has determined the general prevailing rates of wages in the locality in which the work is to be performed. Copies of said rates are on file with the Procurement Manager of VVTA, will be made available for inspection during regular business hours and are also available online at <https://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>.

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code Section 1771.1(a)].

This work falls under the Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) and that contractor shall supply VVTA with certified payroll documentation. The Davis-Bacon and Related Acts will apply to contractors and subcontractors performing construction, alteration, or repair with federally funded or assisted contracts of \$2,000 or more. Under this Act, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The current wage determination can be found here: <https://sam.gov/wage-determination/CA20230026/14>

If the State of California prevailing Wage is higher than Davis Bacon, contractor is required to pay the higher rate.

U. DISADVANTAGED BUSINESS ENTERPRISE

This project is subject to Title 49, Code of Federal Regulations (CFR), Part 26, entitled "Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assistance Programs ("Regulations")." The Regulations in their entirety are incorporated herein by this reference. There is **no DBE goal** on this project, however DBE participation by Proposers is encouraged. It is the policy of VVTA to ensure non-discrimination in the award and administration of all contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts.

Proposers who provide the documentation to ensure DBE participation are also eligible to receive 5 points to its Score during the evaluation process.

V. SUBSTITUTION OF SECURITIES

Pursuant to Public Contract Code 2230, the Design-Build Team who received award of the

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contract may, at its sole cost and expense, substitute approved securities equivalent to any retained funds withheld by VVTA to ensure performance of the work, or, in alternative, request that VVTA make payment of retention to an escrow agent. Notwithstanding the foregoing, the Design-Build Team shall have **thirty (30) calendar days** following VVTA's Notice to Proceed to submit a written request to VVTA for substitution of securities or payment of retention to an escrow account; failure to do so shall be deemed a waiver of such right.

W. CONFIDENTIALITY AND PUBLIC RECORDS ACT

All Proposals and other material submitted become the property of VVTA and are subject to release according to the California Public Records Act (Government Code § 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. VVTA will use reasonable means to ensure that such information is safeguarded but will not be held liable for inadvertent disclosure of the information. Proposals marked "Confidential" in their entirety will not be honored. 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.

The proposer fully understands the scope of work/specifications and has carefully checked 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 RFP 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 RFP, 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

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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

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to be made by VVTA in its sole discretion, bears appropriate notices relating to its confidential character.

X. 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.

Y. 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 a 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 the 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.

Z. CANCELLATION OF PROCUREMENT

VVTA reserves the right to cancel the procurement, for any reason, at any time before

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the Contract is fully executed and approved on behalf of VVTA.

AA. 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.

BB. VVTA'S RIGHTS

1. Each proposal will be received with the understanding 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, and/or require additional evidence or qualifications to perform the work.

CC. 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.

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

DD. AWARD OF CONTRACT

In accordance with FTA Circular 4220.1F (Rev 4, March 18, 2013) Chapter VI, Section 3.e, and FTA's Best Practices Procurement, 3.4.3 – VVTA chose to follow the Two-Step Procurement Process.

1. The first step included the Request for Qualifications in which a Request for Letters of Interest was solicited, the Request for Qualification package was sent to the teams who expressed interest, Statements of Qualification (SOQ) were received, and then the SOQs were evaluated, scored, and then deemed adequate to proceed to step 2 – The Request for Proposal.
2. Step 2 requires the submission of Sealed Bids (Price/Cost Proposal). VVTA will evaluate and score the responses using the criteria below.

To be considered for award, Cost/price must comply in all material respects with the RFP. Such compliance enables Proposers to stand on an equal footing and maintain the integrity of the sealed bidding system.

The Cost/Price Proposal should be filled out, executed, and submitted in accordance with the instructions in the invitation. If a Proposer uses its own bid form or a letter to submit a proposal, the proposal may be considered only if—

- The Proposer accepts all the terms and conditions of the invitation; and
- Award on the proposal would result in a binding contract with terms and conditions that do not vary from the terms and conditions of the invitation.

EE. 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.

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2. EVALUATION TEAM

An evaluation team will be assembled by the VVTA CEO or designee. The team will be made up of staff of VVTA and may include representatives of other nearby government agencies affected by this 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 in conjunction with the criteria contained in Section EE.5., below. All Proposals shall be evaluated and ranked for the purpose of 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 Chairman 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, as they are no longer under consideration.

4. PROPOSAL EVALUATION CRITERIA AND SCORING

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

<u>EVALUATION CRITERIA</u>	<u>MAXIMUM POINTS</u>
RESPONSIVENESS – All documents have been received as requested, prior to the due date.	PASS/FAIL
RESPONSIBILITY – All requested documents include the required signatures and, if needed, required notary review, signature, and stamp. All financial documents received represent that the Proposer has the financial capacity to perform this project.	PASS/FAIL
1. Proposal Letter, Qualifications, Certifications (Tab QTP-1)	MAX 25 POINTS
2.Key Personnel, Organization, Major Subcontractors (QTP-2)	MAX 25 POINTS
<u>3.Project Management and Approach to Schedule (Tab QTP-3)</u>	MAX 25 POINTS
<u>4.Design Approach (Tab QTP-4)</u>	MAX 25 POINTS
<u>5.Construction Approach, Safety Plans, and Compliance with Mitigation Monitoring and Reporting (QTP-5)</u>	MAX 25 POINTS
<u>6.Contracting Plan and Selection of Subcontractors (Tab QTP-6)</u>	MAX 25 POINTS
<u>7. SKETCH OR RENDERING TO ACCOMPANY TECHNICAL PROPOSAL</u> – 24" X 36" size sketch or rendering that best reflects the DB vision of the project.	MAX 25 POINTS
<u>8.COST PROPOSAL</u>	MAX 50 POINTS
<u>OPTIONAL ITEM – PARKING LOT–</u> Score will be based on the proposed plan and cost for this option	MAX 25 POINTS

TOTAL POSSIBLE POINTS

250 POINTS

- i. The cost factor will be made up of two components, technical scores up to 200 base technical points; and Price Fifty (50) Base Price points. The maximum 250 base points available will be awarded to the Proposer with the highest technical score combined with

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the Price score. 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 (50); (Low offer divided by next highest offer) times 50 points.

- j. 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.

5. 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 K. 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 of 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 – **FORM U**). Any such conditions, exceptions, reservations or understanding which do not

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result in the rejection of the proposal are subject to evaluation under the criteria of "Proposal Evaluation Criteria" (Section EE.4.)

- c. Evaluations will be made in strict accordance with all of the evaluation criteria and procedures specified in "Proposal Selection Process" (Section EE.3.) above. VVTA shall select for any award the highest ranked proposal from a responsible Proposer, qualified during the RFQ process 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" (EE.4.).

6. QUALIFICATION OF RESPONSIBLE 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.

7. 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 EE.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 of these requirements must be met; therefore, they are not listed in any particular 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. 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 detailed 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 EE)
 - 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.

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- c. VVTA will document its evaluations in accordance with the criteria and procedures of "Proposal Selection Process" (EE.3.). Any proposal deficiencies which may render a proposal non-responsive and non-responsive will be documented. VVTA will make specific notes 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.

8. 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.

9. 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. In the event that 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 any and 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 considered to be too high with respect to the marketplace or unacceptable. Proposers will not be told of their rankings among the other Proposers.
- d. **Factory and Site Visits.** At its sole discretion, VVTA reserves the right to conduct factory visits to inspect the Proposer's facilities and/or other transit systems which the Proposer has supplied, including representative examples of the equipment and installation provided similar to the scope of this RFP.
- e. **Best Offers.** VVTA expects that all responsible and responsive Proposers shall submit their Best Offer upon initial submission in response to this solicitation.

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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 ****

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ATTACHMENT A – SCOPE OF WORK

A. PROJECT BACKGROUND AND DESCRIPTION

The purpose of the Hesperia Transfer Hub is to enhance the performance and reliability of public transit services provided by the Victor Valley Transit Authority (VVTA) in its San Bernardino County service area. This Transfer Hub will improve services and reduce operating inefficiencies by providing a new Transfer Hub in the City of Hesperia, replacing the current Hub at the Hesperia Post Office.

This Project includes the design and construction of a new Transfer Hub. The Transfer Hub will be located on a 10-acre lot just east of the VVTA Hesperia Facility. The Hub will include 10 (ten) sawtooth cut bus stops, an opening between the sawtooth cut areas to accommodate awaiting passengers, shelter covering to shade the passengers, passenger benches, two (2) public gendered restrooms, 2-3 stalls each (Must meet all ADA requirements), 2 private gender-neutral restrooms, an office for Security, and a shaded area for vending machines. The building will have an appealing façade to match the adjacent Victor Valley Transit Authority Facility aesthetic.

The project will also include a parking lot which will be placed directly adjacent to the transfer hub and must provide sufficient spaces to accommodate approximately 75-100 passenger vehicles, 10-15 of those being designated as customer parking.

The Project will be a start to finish design-build project. VVTA does not currently have any of the designs, which will be the responsibility of the selected Design Build Team.

B. Transfer Hub Specifications

1. Security and Ticketing Building

- a. Matching current VVTA facility aesthetic;
- b. Climate control; HVAC system with natural gas heating;
- c. Open line of sight to bus cutouts and passenger waiting areas.
- d. Security Office
 - i. Workstation equipped with computer desk, chairs, filing cabinets and overhead storage cabinets.
 - 1. 4 ethernet ports per workstation;
 - 2. Two power outlets per workstation;
 - 3. Location, power, and data outlets for tv screen/surveillance system monitor.
- e. Pass Sales Office
 - i. Cutout security window required;
 - ii. Workstation equipped with computer desk, chairs, filing cabinets and overhead storage cabinets;
 - 1. 4 ethernet ports per workstation;
 - 2. Two power outlets per workstation;
 - 3. Secured cabinet or small safe/lockbox for fare media and cash storage;

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- iii. Interior ADA counter/height accessibility;
- iv. OPTIONAL - Interior waiting area/lobby directly outside of/adjacent to pass sales office;
- f. Additional Office
 - i. Workstation equipped with computer desk, chairs, filing cabinets and overhead storage cabinets.
 - 1. Four (4) ethernet ports per workstation
 - 2. Two power outlets per workstation.
- g. Breakroom
 - i. Breakroom to be designed using minimal space while still providing ADA compliance and maximizing comfort;
 - ii. Sink, countertop, and cabinets (ADA compliant);
 - 1. Power for accessories on countertop
 - 2. Water line for coffee pot/hot water dispenser
 - iii. Location, power, water supply, and drain for ice maker;
 - iv. Location, power, water supply, and area for water fountain/bottle filler;
 - v. Location and power for mini refrigerator;
 - vi. Two (2) tables and eight (8) chairs.
- h. Public address system
 - i. Speakers throughout the grounds and ticketing area.
 - ii. Ability to use via phone system
- i. All doors shall be keyed alike to the current Hesperia Facility.
 - i. Must be able to use the same master key to open all doors.
- j. All doors shall be equipped with badge access.
 - i. Currently using HID iClass DL preprogrammed cards with the RS2 Badge Software
- k. Two individual unisex restrooms and two gendered restrooms.
 - i. Design and build two (2) unisex restrooms.
 - 1. Two (2) restrooms will be dedicated to drivers only – with RFID Card access.
 - ii. Restrooms need to be designed to meet all ADA requirements.
 - iii. Restrooms must be such that they can be secured against vandalism at night.
 - iv. Toilet accessories should be stainless steel and tamper resistant.
 - v. LED lighting
 - 1. Shall Include motion detection on/off sensors.
 - vi. Install stainless steel heated electric hand dryers near sink.
 - vii. Needs to be well lit at night.
 - viii. Install exterior lighting and security cameras to monitor the restroom doors.
 - 1. Cameras need to match VVTA current camera specifications.
 - a. Alibi Vigilant Cameras
 - ix. All restrooms with the ability to lock/unlock with a RFID card/Badge when not occupied.
- l. Server and communications room
 - i. Surveillance System NVR
 - 1. Will need to connect to VVTA's existing surveillance system.

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ATTACHMENT A – SCOPE OF WORK

- a. Alibi NVR.
- 2. Minimum of cameras throughout the facility – with 360 view of the location.
- ii. Local RS2 Badge Reader Server
- iii. Network equipment for in office and yard Wi-Fi/ethernet.
- m. All furniture, paint, décor, flooring, etc. recommended by awarded proposer must be approved by VVTA prior to installation.

2. Grounds

- a. Concrete Roadway for all areas where revenue vehicles will be driving.
 - i. Rated thickness and hardness for transit buses gross vehicle weight rating.
- b. Ten (10) bus parking cutouts meeting all bus stop guidelines
 - i. Bus Stop Guidelines
 - 1. Sawtooth bus bay design.
 - 2. Sawtooth bus bays for Standard Bus (40-foot overall length) – 66-foot length with 8-foot indent.
 - 3. Sawtooth bus bays for Commuter Bus (45-foot overall length) – 70-foot length with 8-foot indent.
 - 4. Minimum 28-foot clearance from front left of parked bus to curb line or bypass lane.
 - ii. Preferred ingress and egress on Smoke Tree Street.
- c. Storm water runoff to a central collection area or clarifier depending on current environmental regulations. (Right sized for facility)
 - i. Must comply with Authority Having Jurisdiction (AHJ's) requirements.
- d. Wi-Fi throughout the grounds
- e. Sidewalk
 - i. In all bus waiting areas.
 - ii. Provide accessible pathways throughout parking area, restrooms, ticketing/security office.
 - iii. Meet all ADA requirements.
 - iv. Provide appropriate striping on pedestrian pathways leading from one path to another.
- f. Bike Racks
 - i. Approximately 3 throughout bus waiting area
 - ii. 1 near restrooms and building area.
- g. ADA compliant curb cutouts and pathways.
- h. Desert landscaping and irrigation system.
- i. Exterior Lighting
 - i. LED lighting.
 - ii. Photocell or programmable timer system.
 - iii. In all walk paths, parking and waiting areas.
 - iv. Design/build Proposer to advise.
- j. Benches
- k. Shading
 - i. Overhead cover for benches and bus stop areas.

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- ii. Misting/Mister system.
- l. Bus stops sign mounts and poles.
- m. Traffic signage to meet AHJ's requirements.
 - i. Stop signs.
 - ii. One Way Signs.
 - iii. Speed limit signs.
 - iv. All ADA and accessibility required signage.
- n. Real time signage
 - i. Capability to sync with VVTA's CAD/AVL system.
 - 1. Currently GMV Syncromatics
 - ii. Display route number, destination, and minutes to arrival.
 - iii. Weatherproof
 - iv. Full color LCD screens
 - v. ADA compliant push-to-talk capability
 - vi. Flexibility in placement locations (poles, shelters, structures, etc.)
 - vii. Ability to provide information on service delays and cancellations
- o. Entry Signage
 - i. Lighted signage to denote facility name and entrance to transfer hub designed to match transfer hub and adjacent Victor Valley Transit Authority facility aesthetic.

3. Parking Lot

- i. Approximately 75-100 minimum standard parking stalls
- ii. handicap stalls to meet all codes and ADA requirements.
- iii. Located on the west side of the property to be used for employees and customers.
- iv. A fenced and gated area secured for employee parking
 - 1. This area will include the majority of the parking spaces
 - 2. Must have badge access for employees at vehicle gates and pedestrian access gates
 - a. Must use the current VVTA badge system.
 - b. All pedestrian access gates shall be ADA compliant.
- v. A public parking area (10-15 parking spots) outside of fenced area.

Local environmental conditions such as wind direction and speeds, above average heat and cold need to be considered in the location of building and parking areas along with perimeter fencing and/or security.

C. PROJECT MANAGER/PROJECT REPRESENTATIVE

1. Overall coordination of the Project will be the responsibility of VVTA's Chief Maintenance Officer.
2. All requests for clarification, changes, exceptions, deviations to the terms and conditions set forth in this RFP should be submitted in writing to the Procurement Manager at

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cplasting@vvta.org.

VVTA reserves the right to modify the composition of and scope of work for this RFP.

D. General

The scope generally includes All drawings signed by perspective engineers with stamp. Satisfy the technical specifications of this RFP. The selected Proposer shall also obtain the required permits from all AHJ's. All design and construction Work must be completed within eighteen (18) months after the Date of Commencement established in VVTA's Notice to Proceed. Awarded Proposer to pay for all utility connection fees. SOW to include commissioning and close out procedures to include equipment training, operational-readiness, and warranty information. (Note utility connection fees will be refunded by VVTA)

E. PLANS AND SPECIFICATIONS

1. **Standard Specifications.** The work embraced herein shall be done in accordance with the provisions of the STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, most current Edition, written by Public Works Standards, Inc., insofar as the same may apply, which specifications are hereinafter referred to as the standard Specifications, and as modified herein. All "Work" involved with this project shall conform to all applicable codes including, but not limited to, California Code of Regulations (CCR), Title 24, Building Code (CBC), Plumbing Code (CPC), Mechanical Code (CMC), Electrical Code (CEC), Fire Code (CFC), others as listed in the latest edition of Technical Specifications as approved and adopted by the Hesperia City Council.
2. **General.** Within thirty (30) calendar days after receiving the Notice to Proceed, the Proposer shall furnish a schedule of all required submittals to the Project Manager.

The term "submittal" as used herein, shall be understood to include detail site plan, detail structural calculations, design drawings, electric drawings, shop drawings, erection drawings, operating instructions, catalog sheets, data sheets (Equipment Nameplate for example), samples, Proposer's work plan(s) (Construction Safety for example), and similar items. Unless otherwise required, said submittals shall be submitted to the Project Manager for review and comments prior to submission to the required AHJ's for permits. All submittals shall be in English.

Design Submittals: In-progress Construction (50%), (90%) Construction Documents, and Final Construction Documents.

Shop drawings shall show in detail the size, sections, and dimensions of all the member(s); the arrangement and construction of all connections and joints; all holes, straps, and other fittings required for attaching work; and other pertinent details. When required, engineering computations shall be submitted. The Proposer shall be responsible for delivering reviewed shop copies of the shop drawings to all others whose work is dependent thereon.

Except as may otherwise be provided herein, the Project Manager will return copies of each submittal to the Proposer, with its comments noted thereon, within ten (10) working days following their receipt by the Project Manager. It is considered reasonable that the

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Proposer shall make a complete and acceptable submittal to the Project Manager by the second submission of a submittal item.

All Proposer submittals shall be carefully reviewed by an authorized representative of the Proposer prior to submission to the Project Manager (Provide Submittal Reviewers, other than the QC Manager, Licensed Engineers per discipline, to review, sign off, and certify that the submittals meet the requirements of the awarded Contract prior to certification or approval by the QC Manager. Submit qualifications of the QC Manager and Submittal Reviewers for each discipline for approval of the Owner.

All submittals not requiring Owner/Project Manager approval will be “For Information Only”.

The Project Manager’s review and the AHJ’s issued permits of Proposer submittals shall not relieve the Proposer of the entire responsibility for the correctness of details and dimensions and conformance to the RFP’s terms and conditions and Instructions to Proposers. The Proposer shall assume all responsibility and risk for any misfits due to any errors in submitted approved submittals. Any fabrication or other work performed in advance of the receipt of accepted submittals, and of the receipt of all permits shall be entirely at the Proposer’s risk and expense. The Proposer shall be responsible for the dimensions and the design of adequate connections and details.

The following is a list of the minimum pre-construction submittals that the selected Proposer is required to provide to VVTA for review and comment. Additional Works Submittals may be requested by the VVTA at any time, and the Proposer shall be required to provide same to the VVTA for review.

3. Pre-Construction Submittals but not limited to the following:

- Complete list of final proposed sub-contractor.
- Complete list of all proposed products, materials, and equipment.
- Construction Progress Schedule along with Construction Phasing plan (Narrative referencing activity code on approved baseline schedule).
- Submittal schedule.
- Schedule of values (referencing activity code on approved baseline schedule).
- Health and safety plan.
- Environmental protection plan.
- Quality control plan (Three Phases of Control: Preparatory, Initial, and Follow-up): Production Report. Quality Control Report: Preparatory Phase Checklist. Initial Phase Checklist. Quality Control Validation Reports from the QC Specialist(s): Testing Plan and Log. Rework Items List. As-Built Drawings. Notification on Non-Compliance.
- QC Manager Duties: Provide a QC Manager at the work site with a minimum of 10 years of QC experience to implement and manage the QC program. The only duties and responsibilities of the QC Manager are to manage and implement the QC program during the awarded contract.. The QC Manager shall not be designated as the safety competent person. The QC Manager is required to attend the QC Plan Meeting, attend the Coordination and Mutual Understanding

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Meeting, conduct the QC meetings, perform the three phases of control, perform submittal review and acceptance, ensure testing is performed and provide QC certifications and documentation required in their proposal. The QC Manager is responsible for managing and coordinating the three phases of control and documentation performed by the QC specialists, Testing Laboratory personnel and any other inspection and testing personnel required by this RFP.

- Traffic Control Plan:
Notify the Project Manager at least 10 days prior to the proposed traffic interruption at any location per the accepted Traffic Control Plan. Any deviation from the accepted plan must be accepted by the Project Manager.
- Dirt and Dust Control Plan
- Shop Drawings
- Product Data
- Samples
- Test Reports
- Permits, (digging prior to excavations, hot permits prior to any hot works)
- Material, equipment, operators Certificates
- Manufacturer's Instructions
- Storage Inventory Form
- Preconstruction survey
- Solid waste disposal permit
- Waste determination documentation
- Disposal documentation for hazardous and regulated waste
- Solid waste disposal report
- Design-Builder Hazardous Material Inventory Log

4. Closeout phase submittals not limited to the following:

- As-built drawings (Hard and soft (CAD Drawings) copies).
- Utility as-built drawings
- Special warranties.
- Equipment/product warranty tag
- Posted operating instructions.
- Operation and Maintenance Data Manuals:

Data Package:

Furnish the O&M Data Packages specified in individual technical sections. The required information for each O&M Data Package is as follows:

- a. Safety precautions
- b. Operator prestart
- c. Environmental conditions
- d. Preventive maintenance plan and schedule
- e. Troubleshooting guides and diagnostic techniques
- f. Wiring and control diagrams

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- g. Maintenance and repair procedures
- h. Spare parts and supply list
- i. Testing equipment and special tools
- j. Warranty information
- k. Proposer information
- Training plan.
- Testing and Commissioning as required per the Project Manager and RFP Documents
- Manufacturers and all required Certificates.
- Final Inspections reports/Signed off cards.
- Equipment/product warranty list
- Record of materials
- Valves identification plan.
- Monthly project waste summary report.
- Hazardous material reporting (If any)

5. Post Award Kickoff (PAK)

After awarding the contract, the Proposer shall attend a Kickoff meeting with VVTA to set out the work process in greater detail and ensure that the works are completed in accordance with the requirements set forth in this RFP.

The Proposer shall present a proposed design schedule which is in line with the proposed overall CPM schedule to allow attendees to prepare for key milestone events. Early Start Design Submittal Packages may be proposed by the Proposer as part of the design schedule that is presented and discussed during the Post Award Kickoff (PAK) Meeting. The proposer shall supply a planned schedule of the completion time frame.

The Proposer shall lead discussions to develop an understanding of the accepted technical proposal and conduct a working session to develop the approved construction documents. The Proposer shall organize and sponsor the session. The initial session will be held following the PAK meeting. Follow-up weekly sessions shall be held throughout the awarded contract period, with the same participants.

6. PRE-CONSTRUCTION CONFERENCE

At the final design completion, but prior to commencement of any work at the site, the Proposer shall meet with the Project Manager and his/her team to discuss and develop a mutual understanding relative to the administration of the value engineering and safety program, schedule of values, shop drawings, and other submittals, scheduling programming, and execution of the work. Major sub-contractors who will engage in the work shall also attend. Attending the Pre-Construction conference is required; Proposer and major sub-contractors Key Personnel (PM, QC Manager, Safety Manager, Superintendent,) must attend this meeting. The date, place and time shall be specified after awarding the contract.

7. Shop Drawings. Shop drawings are drawings showing details of manufactured or

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assembled products proposed to be incorporated into the Work. Shop drawings will be required. Unless otherwise noted herein, the Proposer shall be responsible for all shop drawing or specification submittals to the proper agency or other departments in order to obtain the proper permits.

- 8. Rights of Entry.** Rights of entry do not relieve the Proposer of the need to provide, at Proposer's cost, permits and insurance required of the Proposer by other agencies and organizations.

F. SURVEYING is the responsibility of the awarded VVTA Contracted Construction Manager.

- a. Geotechnical Survey information will be shared once completed by the sub-contractor of the VVTA Contracted Construction Manager.

G. INSPECTION:

- 1. Inspection Scheduling.** Inspection will be provided based on regular eight-hour working days, Monday through Friday, excluding VVTA Holidays, generally from 8:00 AM to 4:30 PM (including 30 minutes for lunch). When the Proposer's operations or public safety requires inspection beyond the regular eight-hour working days, the cost of the additional inspection shall be borne by the Proposer.

If the Proposer wishes to perform any work which would require inspection beyond the regular eight-hour working days, the Proposer shall submit a written request to the Project Manager no less than five working days before the planned start of such work.

VVTA Holidays. VVTA holidays will be observed on the following days:

January 1 st	New Year's Day
Last Monday in May	Memorial Day
July 4 th	Independence Day
First Monday in September	Labor Day
Third Thursday in November	Thanksgiving
December 25	Christmas

If a holiday falls on a Saturday, it will be observed on the preceding Friday. If a holiday falls on a Sunday, it will be observed on the following Monday.

H. EXTRA WORK

- 1. General.** When the price for the extra work cannot be agreed upon, VVTA will pay for the extra work as provided in Subsections 2 and 3 as amended herein. When extra work is to be paid for, the labor, materials and equipment used in the performance of such work shall be subject to the approval of the Project Manager prior to the work being performed.

2. Basis for establishing costs.

- (a) Labor: The Proposer will be paid the cost of labor for the workers (including working

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foremen when authorized by the VVTA Project Manager) used in the actual and direct performance of the work. The cost of labor, whether the employer is the Proposer, sub-contractor, or other forces, will be based upon the actual paid wages and shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes.

- (b) Materials. Only materials furnished by the Proposer and necessarily used in the performance of the work will be paid for. The cost of such materials will be the cost to the purchaser, whether Proposer, sub-contractor, or other forces, from the supplier thereof as evidenced by the supplier's invoice.
- (c) Tool and Equipment Rental. The Proposer will be paid for the use of equipment at the rental rates listed for such equipment in the Department of Transportation publication entitled "Labor Surcharge and Equipment Rental rates" which is in effect on the date upon which the work is performed. These rental rates shall include the cost of fuel, oil, lubrication, supplies insurance, and all incidentals. Move in and out or minimum charges, other than the hourly rate, shall not apply to equipment available from the work force already on the job site.

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to VVTA than holding it at the work site, it shall be returned unless the Proposer elects to keep it at the work site at no cost to VVTA.

Individual pieces of equipment or tools not listed in the Equipment Rental Rates and having a replacement value of \$200 or less, when or not consumed by use, shall be considered to be small tools and no payment will be made, therefore.

When owner-operated equipment is used to perform extra work to be paid for on a force account basis, the Proposer will be paid for the equipment and operator, as follows:

- Payment for the equipment will be made at the rental rates listed for such equipment in the Department of Transportation publication entitled "Labor Surcharge and Equipment Rental Rates" which is in effect on the date upon which the work is performed.
- Payment for the cost of labor will be made at the rates paid by the Proposer to other workers operating similar equipment already on the project or, in the absence of such other workers, at the rates for such labor established by collective bargaining agreement for the type of workers and location of the work, whether or not the owner-operator is actually covered by such an agreement.

3. Markup:

- (a) Work by Proposer. A markup of 10 percent shall be added to the Proposer's cost for labor, materials, equipment rentals and shall constitute the markup for all overhead and profits. In addition to this markup, 1 percent shall be added to the Proposer's costs as compensation for bonding.

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(b) Work by Sub-contractor: When any of the extra work is performed by a Sub-contractor, the markup established in (a) above shall be applied to the Sub-contractor's costs as determined under H.2 above. A markup of 10 percent shall be added to the Sub-contractor's direct cost, for labor, materials, and equipment rentals and shall constitute the markup for all overhead and profits.

4. Daily Reports by Proposer. The Proposer shall maintain a Proposer's daily report of all work accomplished during each day of the work. The daily report will be written so that a natural progression or sequence of the work can be identified. As a part of the said daily report, the names and titles for all employees present each workday will be noted. The Proposer shall maintain the Proposer's records in such a manner as to provide a clear distinction between the direct costs of extra work paid for on a force account basis and the costs of other operations.

Based on those records, the Proposer shall furnish VVTA completed daily extra work reports, on Proposer's form approved by VVTA, for each day's extra work to be paid. The daily extra work reports shall itemize the materials used and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the Proposer, sub-contractor, or other forces. The daily extra work reports shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and the size, type and identification number of equipment, and hours operated.

Material charges shall be substantiated by valid copies of vendors' invoices. Such invoices shall be submitted with the daily extra work reports, or if not available, they shall be submitted with subsequent daily extra work reports. Such daily extra work reports shall be signed by the Proposer, or its authorized representative, and submitted to the Project Manager.

The Project Manager will compare the Inspection records with the completed daily extra work reports furnished by the Proposer and make any necessary adjustments. When these daily extra work reports are agreed upon and signed by both parties, said reports shall become the basis of payment for the work performed.

A. Daily Reports for Extra Work. The daily report specified in 4, above, shall include only that work which is included in the Proposer's claim for extra work.

I. CHANGED CONDITIONS.

Section 7104 of the Public Contract Code requires the following provisions for any project, which involves digging trenches or other excavations that extend deeper than four feet below the surface. These following provisions are hereby extended to apply to all public works projects:

a) The Proposer shall promptly, and before the following conditions are disturbed, notify the VVTA Project Manager, in writing, of any:

1. Material that the Proposer believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, and that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of law;

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2. Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to proposers prior to the deadline for submitting proposals; and
 3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Proposal.
- b) In response to the Proposer's written notice, the proposer's Project Manager shall promptly investigate the conditions, and if the Proposer's Project Manager finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Proposer's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the RFP.
- c) In the event that a dispute arises between the VVTA Project Manager and the Proposer, whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Proposer's cost of, or time required for, performance of any part of the work, the Proposer shall not be excused from any scheduled completion date provided for by the awarded Contract, but shall proceed with all work to be performed under the Contract. The Proposer shall retain any and all rights provided either by the awarded Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

J. DISPUTED WORK

In any case where the Proposer believes extra compensation is due the Proposer for work or materials not clearly covered in the RFP , or not ordered by the CMO as "extra work", the Proposer shall notify the CMO in writing of the Proposer's intention to make claim for such extra compensation before the Proposer begins the work on which Proposer bases the claim. If such notification is not given, or the CMO is not afforded proper facilities by the Proposer for keeping strict account of actual cost, then the Proposer shall be deemed to have waived the claims for such extra compensation. Such notice by the Proposer, and the fact that the CMO has kept account of the cost as aforesaid, shall not in any way be construed as proving the validity of the claim. The validity of the claim must be determined by the CMO. If the CMO determines that the claim is well founded, it shall be allowed and paid for as "extra work"; if the CMO determines that the claim is not well founded, it shall be disallowed and not paid.

K. UNAUTHORIZED WORK

Work done beyond the lines and grades shown on the Plans, work done in the absence or without the knowledge of the CMO or any alleged extra work done without VVTA's written authorization, will be considered as unauthorized and at the expense of the Proposer and will not be measured or paid for by VVTA. The Proposer may be required to remove such unauthorized work at no expense to VVTA, as determined by the CMO.

L. NOTICE OF POTENTIAL CLAIM

The Proposer shall not be entitled to the payment of any additional compensation or extension of time unless the Proposer has given the CMO a written Notice of Potential Claim as required herein. Compliance with this Section shall not be a prerequisite as to matters within the scope

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of the protest provisions (Attachment D), "Time of Completion," or the notice provisions in Section I, "Changed Conditions," nor to any claim which is based on differences in measurements or errors of computation as to Proposal quantities.

The Proposer shall submit the written Notice of Potential Claim to the CMO prior to the time that the Proposer performs the work giving rise to the potential claim for additional compensation and/or time.

Proposer's written Notice of Potential Claim shall be submitted on the appropriate form furnished by VVTA (Attachment K) and shall be certified with reference to the California False Claims Act, Government Code Sections 12650 - 12655. A copy of the Notice of Potential Claim form is contained in these Special Provisions. The notice shall set forth the justification for the additional compensation, as well as a breakdown of the estimated costs. Within 15 calendar days of completing the affected work, the Proposer shall submit substantiation of the Proposer's actual costs. Failure to do so shall be sufficient cause for denial of any claim subsequently filed based on the Notice of Potential Claim.

The intention of this section is to bring differences between the parties to the attention of the Project Manager as early as possible, in order to expedite resolution. Proposer waives its right to any additional compensation and/or extension of time for any claim not submitted in accordance with this section.

Upon request by VVTA, Proposer shall make available for inspection and copying, all documents or records in Proposer's possession which pertain to the potential claim.

M. CONTROL OF MATERIALS

1. MATERIALS AND WORKMANSHIP

(a) General.

i. Suppliers Sources. The Proposer shall notify the Project Manager in writing within 5 days after VVTA approval of the Contract of the proposed suppliers and sources for material to be incorporated into the project.

ii. Materials and Conditions to be Tested. The Proposer shall be responsible for controlling the quality of the material entering the work and of the work performed and shall perform testing as necessary to ensure control. The test methods used for quality control testing shall be as determined by the Proposer. The results of the testing shall be made available to the Project Manager upon request. These tests are for the Proposer's use in controlling the work and will not be accepted for use as acceptance tests.

Full compensation for performing quality control tests and making the results available to the Project Manager shall be considered as included in the awarded contract prices paid for the various items of work involved and no additional compensation will be allowed.

VVTA may perform quality assurance testing at the discretion of the Project Manager. The Proposer shall provide reasonable access and time to the Project

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Manager to perform quality assurance testing. The cost of retesting any portion of the work or materials, which have failed the initial quality assurance test taken by VVTA, shall be borne by the Proposer.

- iii. Trade Names or Equal.** The Proposer may offer any material, process, or equipment considered to be equivalent to that indicated in the RFP Documents. The substantiation of offers shall be submitted prior to award of Contract.

After the Proposals have been received , Proposers being further considered shall submit all substitution Proposals fully documented for consideration by the Project Manager within five (5) working days after proposal due date. Submittal of substitution Proposals more than five (5) working days after proposal due date may be grounds for rejection of the Proposal based on late submission, at the discretion of the Project Manager. Proposers being further considered shall also submit catalog cuts and specification information on the materials and/or equipment as specified for the Contract. Documentation shall be sufficient to allow for a thorough comparative check of the proposed substitution versus the specified item. It shall be the Proposer's responsibility to show all products proposed for substitution are equal to the items specified.

Proposed substitutions will not be evaluated until after award of Contract. Award of the Contract and Proposals are to be based on items as specified. Within thirty-five (35) calendar days following contract award, VVTA will evaluate the proposed substitutions and shall advise Proposer whether such substitution is approved or not.

N. UTILITIES

Utility Marking/Coordination. The City of Hesperia Public Works Department will not issue a construction permit as referenced in Section P, Permits, of these Provisions for any work involving excavation for underground facilities unless the applicant has been provided an inquiry identification number by Underground Service Alert of Southern California.

O. PROSECUTION, PROGRESS AND ACCEPTANCE OF THE WORK

1. PROJECT SCHEDULE AND COMMENCEMENT OF WORK

(a) Baseline CPM Contract Schedule:

The Proposer shall submit a cost loaded CPM Schedule, containing detailed activities and intended sequencing of Work included in the scope, within 21 calendar days after Notice to Proceed (NTP).

The schedule shall be prepared using software similar to Primavera software. Use of other CPM software is subject to VVTA approval.

The schedule shall include a time phased bar chart, based on workdays, as well as computer generated reports. It shall also include the order in which the Proposer proposes to carry out the work, restrictions of access, availability and use of access, availability of work areas, availability and use of manpower, materials and

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equipment, and any schedule activities affected by any specified access milestones that interface with other Proposers.

The Proposer shall submit the breakdown of contract price into individual activities detailed in the CPM schedule, within 21 calendar days after NTP. A cost loaded activity will have only one (1) line item on the expenses tab and each of these cost-loaded activities will have an assigned unique project level activity code for 'project task' and 'Proposal item'. Cumulative amount of cost loaded Work activities shall equal total contract award price.

After VVTA's review and approval, this schedule will serve as the Baseline CPM Contract Schedule. The Proposer shall use the Baseline CPM Contract Schedule to plan, schedule, coordinate and execute the works under the contract

(b) Construction Schedule. The Proposer shall prepare and submit a detailed construction schedule (in line with the Baseline CPM Contract Schedule) to the Project Manager at the preconstruction conference. During the construction the Proposer shall review and update the schedule weekly and put in place a mitigation action for any deviation compared to the baseline schedule. Rescheduling any work under this Contract shall not be permitted to allow the Proposer the ability to accommodate another contract, even with VVTA.

The work activities comprising the Construction Schedule shall be in sufficient detail to assure that adequate planning has been done for proper execution of the work and such that the schedule provides an appropriate basis for monitoring and evaluating the progress of the work. A work activity is defined as an activity that requires time and resources (including staffing, equipment, or materials) to complete. Exclusive of those activities for submittal review and material fabrication and delivery, activity durations shall not be less than one (1) nor more than thirty (30) calendar days, unless otherwise approved by the Project Manager.

The work activities shall include, but are not limited to, mobilization; submittals; Project Manager's review of submittals, allowing a minimum of ten (10) working days for review of each submittal unless a longer period of time is specified elsewhere in these Contract Documents; procurement, delivery, installation and check out of equipment or materials; Sub-contractor's items of work' and all major construction activities.

Work plan and Permission to interrupt any Activity and/or utility service:
Make utility cutovers and interruptions after normal working hours or on Saturdays, Sundays, and Government holidays. Ensure that new utility lines are complete, except for the connection, before interrupting existing service.
Working outside regular working hours requires the Project Manager's approval. Make an application 10 days prior to such work to allow arrangements to be made by the Owner for inspecting the work in progress, giving the specific dates, hours, location, type of work to be performed, contract number, and project title.

(c) Progress Meetings. The Proposer shall conduct progress meetings once a week at a location to be determined by the Project Manager. The Proposer shall:

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- i. Distribute to each anticipated participant written notice and agenda to each progress meeting at least 2 working days before meeting.
- ii. Require attendance of Proposer's Superintendent and sub-contractors who are or are proximate to be actively involved in the Work, or who are necessary to attend per the agenda.
- iii. Invite Project Manager and others as necessary to attend progress meeting. Project Manager will preside at meetings.
- iv. Prepare and distribute agenda.
- v. Purpose of Progress Meeting: To review construction progress, assist Proposer, sub-contractors, suppliers, and Project Manager; maintain scheduled progress and assist in expediting work and resolving conflicts and discrepancies that could impact the project completion schedule.
- vi. Review progress of the Work, Progress Schedule, application for payment, record documents and additional items of current interest that are pertinent to execution of the Work.
- vii. Verify:
 - 1. Actual start and finish dates of completed activities since last progress meeting.
 - 2. Durations and progress of activities not completed.
 - 3. Reason, time, and cost data for Change Order work that will be incorporated into Progress Schedule and Application for Payment.
 - 4. Percentage completion of items on Application for Payment.
 - 5. Reasons for required revisions to Progress Schedule and their effect on Contract Time and Contract Price.
- viii. Discuss potential problems which may impede scheduled progress and agree on corrective measures.
- ix. Proposer will record minutes of meeting and distribute copies of minutes within 2 working days of meetings to participants and interested parties.

2. SUSPENSION OF WORK

- (a) Stage III Smog Episode.** No work shall be done on a day for which a Stage III smog episode is forecast as defined by the Air Quality Management District (AQMD). The Proposer will not be entitled to any delay damages for such a suspension, but an

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automatic time extension will be granted. When AQMD predicts that a Stage III episode level will be reached the following day, an announcement containing the specifics will generally be provided by 2 p.m. on the day the prediction is made.

- (b) Imminent Danger to Worker Health and Safety.** VVTA reserves the right to stop work at any time where an unsafe condition or practice poses an imminent risk of injury to workers and is likely to result in serious injury or death. The Proposer shall evaluate the unsafe condition or practice and implement any mitigating measures necessary to satisfy Cal-OSHA safety standards for worker protection prior to resuming work. As worker safety is the Proposer's responsibility on this Contract, no additional compensation shall be given to the Proposer in order for him to maintain a safe work site.
- (c) Requirement for Site Supervision.** In accordance with Section P, VVTA may suspend work if a Superintendent is not present during construction. No additional contract time will be allowed due to a work suspension as result of the Proposer's failure to provide technically qualified supervision during construction.

3. COMPLETION, ACCEPTANCE, AND WARRANTY

When, in the judgment of the CMO, the work has been completed in accordance with the Plans and Specifications and is ready for final acceptance, the CMO may accept the work as complete. Upon acceptance of the work, the CMO will notify the Procurement Manager and the County Counsel of the completion thereof, and the Procurement Manager will file a Notice of Completion with the County Recorder. The date of the CMO's acceptance of the work will be the date when the Proposer is relieved from responsibility to protect and maintain the work. The warranty period of the Work shall commence on the date the Notice of Completion is filed with the County Recorder. As a part of the conditions which must have occurred for this project to be considered "complete", the City of Hesperia's Building and Safety Division's Inspector shall have made his/her final inspection and "signed-off" the Work as complete and /or, if required, issued a Certification of Occupancy.

All Work shall be guaranteed in writing by the Proposer against any and all defective workmanship and materials, furnished by the contract in the performance of the Contract for a minimum period of one year, and portions of the Work for longer periods where noted otherwise. The guarantee period shall commence on the date the Notice of Completion is filed with the County Recorder. The Proposer shall replace or repair any such defective work in a manner satisfactory to the Project Manager, after notice to do so from the Project Manager, and within the time specified within the notice. If the Proposer fails to make such replacement or repairs within the time specified in the notice, VVTA may have this work performed and the Proposer and the Proposer's surety shall be liable for the cost thereof.

The following guarantees are required:

General Contract Work: 18 months

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Manufacturer's Guarantees: Provide the information to VVTA for each mechanical unit, fixture, or other received goods, installed as part of this project.

Written Guarantees shall be in the form of the example as provided as Attachment L on the Proposer's own Letterhead.

4. LIQUIDATED DAMAGES

A. Entitlement.

VVTA and Proposer acknowledge and agree that if Proposer fails to complete the Work within the Contract Time fully and satisfactorily, VVTA will suffer, as a result of Proposer's failure, substantial damages which are both extremely difficult and impracticable to ascertain. Such damages may include, but are not limited to:

- (i) Loss of public confidence in VVTA and its Proposers and consultants.
- (ii) Loss of public use of public facilities.
- (iii) Extended disruption to public.

B. Daily Amount.

VVTA and Proposer have reasonably endeavored, but failed, to ascertain the precise amount relationship to the actual damage that VVTA will incur if Proposer fails to achieve Substantial Completion of the entire Work within the Contract Time. Therefore, the parties agree that in addition to all other damages to which VVTA may be entitled other than delay damages, in the event Proposer shall fail to achieve Substantial Completion of the entire Work within the Contract Time, Proposer shall pay VVTA as liquidated damages the amount of \$1,500.00 per day for each Day occurring after the expiration of the Contract Time until Proposer achieves Substantial Completion of the entire Work. The liquidated damages amount is not a penalty but considered to be a reasonable estimate of the number of damages VVTA will suffer.

C. Apportionment.

Such liquidated damages shall be subject to apportionment for delays to Substantial Completion for which Proposer is entitled to receive an extension of time under the Contract Documents. Such apportionment shall not be affected by the fact that liquidated damages may not be capable of apportionment for other periods of time during which there have occurred delays concurrently caused by both VVTA and Proposer. It being the Proposer's obligation to have the entire Work Substantially Completed within the Contract Time, it is agreed that such liquidated damages shall not be apportioned for portions of the Work completed prior to expiration of the Contract Time.

P. RESPONSIBILITIES OF THE PROPOSER

1. PERMITS

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No Work shall be started on VVTA property until the Proposer has obtained the necessary permits. The Proposer shall obtain all permits and give all notices necessary and incident to the due and lawful prosecution of the Work and to the preservation of the public health and safety. Notification of any other agencies including all Local, State or Federal shall be the responsibility of the Proposer.

(a) Local Licenses. The Proposer shall obtain and pay for all licenses necessitated by the Proposer's operations. Prior to starting any work, the Proposer shall be required to have a City of Hesperia Business Tax Registration valid for the life of the Contract; sub-contractors shall also have Business Tax Registrations valid for the time they are engaged in the work.

2. THE PROPOSER'S REPRESENTATIVE

A technically qualified Superintendent shall be designated in writing as the Proposer's representative at the job site, who shall supervise the work and shall provide competent supervision of the work until its completion. VVTA may suspend the work if a superintendent is not present during construction.

The superintendent is required to attend the Preconstruction Conference.

3. PROJECT SITE MAINTENANCE

(a) Cleanup and Dust Control. The generation of dust shall be controlled as required by the Air Quality Management District. Grading activities shall cease during periods of high winds (greater than 25 MPH). Trucks hauling soil, dirt, sand or other emissive materials shall have their loads covered with a tarp or other protective cover as determined by the Project Manager.

- i. All trash, debris, and waste must be properly disposed of in a dumpster/bin and properly disposed of. At no time shall the Proposer utilize VVTA's dumpsters or site to store or dispose of any trash, debris, or waste.
- ii. Any permits required to dispose of all trash, debris, and waste shall be obtained by the Proposer.

(b) Water Pollution Control.

- i. **General Requirements.** The Proposer must follow and implement the Best Management Practices (BMPs) required by the attachment to these Special Provisions titled " Best Management Practices for Typical Construction Activities".
 1. Proposer shall provide copies of certification that the superintendent or foreman has attended a Stormwater Pollution Prevention course within the last 12 months. Any work requiring the placement of BMP's shall not begin until this certification is provided to the Project Manager.
- ii. **Storm Water Pollution Prevention Plan Preparation and Approval.** The

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Proposer will comply with the requirements of the State Permit for Storm Water Discharges Associated with Construction Activity (State Storm Water Construction Permit) during all phases of construction. A copy of the permit is available at https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/con_stpermits/wqo_2009_0009_complete.pdf. The Proposer will not need to submit a fee or notification to the State as required by the permit. VVTA will be responsible for notifying the Executive Officer of the Regional Water Quality Control Board of the construction project.

- iii. The Proposer is responsible for preparing and implementing the Storm Water Pollution Prevention Plan (SWPPP) and monitoring plan as required by the State Storm Water Construction Permit for all phases of project construction. The SWPPP must be prepared by a licensed engineer. The SWPPP and monitoring plan must be approved by the Project Manager, per this section, before commencement of any construction activity. Both the SWPPP and the monitoring program shall be implemented by the Proposer throughout the duration of the construction project. The Proposer shall be responsible for conducting the required monitoring inspections and shall file copies of the inspections and all other reports, certifications or records as required by the SWPPP with the Public Works Department. The SWPPP shall be kept at the construction site and be made available to the public and/or Regional Board staff upon request for review. The Proposer shall be responsible for all costs and for any liability imposed by law as a result of the Proposer's failure to comply with the requirements of the State Storm Water Construction Permit. The SWPPP shall be the Proposer's sole responsibility.

Proposer shall provide copies of certification that the superintendent or foreman has attended a Stormwater Pollution Prevention course within the last 12 months. Any work requiring the placement of BMP's shall not begin until this certification is provided to the Project Manager.

The Project Manager may order the suspension of construction operations if the Proposer fails to comply with the requirements of this section. Time extensions will not be allowed for any suspension of work as a result of the Proposer's noncompliance with the State Storm Water Construction Permit or SWPPP.

The Proposer shall, at reasonable times, allow authorized agents of the California Regional Water Quality Control Board-Lahontan Region and USEPA, upon the presentation of credentials to:

- i. Enter the construction site and the Proposer's facilities pertinent to the work.
- ii. Have access to and copy any records required to be kept as specified in the State Storm Water Construction Permit.
- iii. Inspect the construction site, including any off-site staging areas or material storage areas, and related soil stabilization practices and sediment control Best Management Practices (BMPs); and
- iv. Sample or monitor for the purpose of ensuring compliance with the State Storm Water Construction Permit.

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The Proposer shall notify the Project Manager immediately upon request from regulatory agencies to enter, inspect, sample, monitor or otherwise access the project site or the Proposer's records.

- v. **Payment.** The Proposer's cost of implementing the required BMPs for all project activities shall be included with other items of work.
- vi. Any BMP required to protect storm water quality shall be installed within 24 hours of the time the Proposer is notified by the Project Manager or regulatory agencies to install such BMP's.
- vii. **Drainage Control.** Special attention is directed to possible flood hazards, and/or nuisance water such as irrigation and other runoff. The Proposer shall be responsible for all injuries or damages to any portion of the work and/or any private or public property occasioned by these causes and shall make good such injuries or damages at no cost to VVTA prior to the completion and acceptance of the work.
- viii. **Responsibility for Site.** The Proposer shall be in full charge of and be responsible for the project site and the construction work of this Contract, subject to the directions of the Project Manager. No other operations of any nature shall be performed except as specifically authorized in the Contract Documents or as authorized by the Project Manager.
- xv. The Proposer shall exercise care not to damage adjacent land and facilities while traveling on roads to and from the job site. The Proposer shall correct any damage caused within seventy-two (72) hours and hold VVTA harmless for any such damage.

5. PUBLIC CONVENIENCE AND SAFETY

(a) Public Safety During Non-Working Hours. Public safety at or in the affected vicinity of the jobsite is always the Proposer's responsibility. If, in the absence of the Proposer, the Project Manager determines that an unsafe condition exists at or in the affected vicinity of the jobsite, the Project Manager will endeavor to notify the Proposer to correct the unsafe condition. However, the Project Manager reserves the right to direct VVTA forces to perform any functions Project Manager may deem necessary to ensure public safety. If such procedure is implemented the Proposer will bear all expenses incurred by VVTA. In all cases the judgment of the Project Manager shall be final in determining whether an unsafe condition exists.

(b) Proposer's Construction Safety Plan. The Proposer shall provide a Construction Safety Plan to the Project Manager for review and approval. The Project Manager is responsible for verifying receipt of all required Proposer safety information, screening Proposer, and evaluating the Proposer safety program. The Proposer shall:

- i. Identify a Certified or Licensed Safety Consultant who will prepare, initiate, maintain, and supervise safety programs and procedures.
- ii. Include procedures for providing workers with an awareness of safety and health hazards expected to be encountered during the course of construction.

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- iii. Provide safety equipment appropriate to the safety and health hazards expected to be encountered during construction. Include warning devices, barricades, safety equipment in public right of way and protected areas, and safety equipment used in multi-level structures.
- iv. Methods for minimizing employees' exposure to safety and health hazards expected during construction.
- v. Procedures for reporting safety and health hazards.
- vi. Procedures for investigation of accidents, injuries, illnesses, and unusual events that have occurred at the construction site.
- vii. Transmit to the Project Manager copies of reports and other documents related to the accidents or injuries encountered during construction.
- viii. Periodic and scheduled inspections of general work areas and specific workstations.
- ix. Training for employees and workers at the jobsite.
- x. Assume responsibility for every aspect of health and safety on the jobsite, including the health and safety of sub-contractors, suppliers and other persons on the jobsite.
- xi. Forward available information and reports to the Project Manager who shall make the necessary recommendations concerning worker health and safety at the jobsite.
- xii. Employ additional health and safety measures specified by the Project Manager, as necessary, for workers in accordance with OSHA safety standards and NFPA standards.
- xiii. Transmit to the Project Manager copies of reports and other documents related to accidents or injuries encountered during construction.
- xiv. Fencing: Enclose the Proposer lay-down area with a chain link fence and gates, UV light resistant, plastic fabric mesh netting. Remove the fence upon completion and acceptance of the work.
- xv. Signs: Place warning signs at the construction area perimeter. It is required that all points of entry shall have signs designating the construction site as a hard hat area.
- xvi. Accident Report: For recordable occupational injuries and illnesses, conduct an accident investigation to establish the root cause(s) of the accident, and provide to the Owner within 5 calendar days of the accident.

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xvii. Crane: Notify the Owner at least 15 days prior to bringing any crane equipment on-site so that the Project Manager may arrange for any additional quality assurance and safety spot checks necessary. Submit certifications as required.

- (c) Storage of Equipment and Direction Signs.** The Proposer shall store contract equipment and material in designated areas on VVTA property as agreed upon by the Project Manager. Only company vehicles shall be allowed on the work site. All other personal vehicles shall be restricted to a designated Proposer parking area. Proposer's ingress and egress to the worksite shall be on a designated route approved by the Project Manager. During staging, storage of equipment around the work area is subject to Project Manager's approval. A minimum of 12 feet driving area shall be always maintained around the work area.

If applicable, Proposer shall provide and maintain a weather resistant Project Identification Sign consisting of painted 8-foot wide by 4-foot-high exterior grade plywood and minimum 10-foot long 4-by-4 lumber posts, set in ground at least 3 feet, with exhibit lettering by professional sign painter using no more than 5 sign colors. The Sign shall include the title of the Project; the name of the Owner, the name of the Proposer; the Temporary Onsite Mailing Address as required under Section.

Q,2. The placement of the sign shall be at a location designated by the Project Manager.

In addition, Proposer shall provide and maintain weather resistant Project Direction Signs that direct equipment deliveries and Proposer's employees to the Proposer equipment and material storage area from the project entrance. The signs should be of sufficient size and with text size such that delivery drivers can read without having to exit their vehicle. The Proposer shall provide samples and a map depicting where they will be located to the Project Manager for approval prior to deployment. Additional signs may be required by the Project Manager as directed.

- (d) Non-smoking Construction Zone.** The project site is a non-smoking facility except for designated areas approved by VVTA.

- (e) Record Drawings and Construction Documents.** Proposer shall maintain at the project site and shall make available to VVTA, one complete file of the Contract Documents, including, but not limited to, Special Provisions, Addenda, Requests For Information, Change Orders and other Modifications to the Contract Documents, VVTA approved drawings, approved construction documents, shop drawings, product data, samples and mock-ups, permits, inspection reports, test results, daily logs, schedules, subcontracts, and purchase orders in good order (the "Record Documents"). The Record Documents shall include a set of "As-Built" construction documents, which shall be continuously updated during the prosecution of the Work. The prints for As-Built construction documents will be a set of blackline prints produced by Proposer and approved by VVTA at the start of construction. Proposer shall maintain said set in good condition and shall use colored pencils to markup said set with "record information" in a legible manner to show: (i) deviations from the VVTA-approved construction documents made during construction; (ii) details in the Work not previously shown; (iii) changes to existing conditions or existing conditions found to differ from those shown on any existing construction documents; (iv) the actual installed position of equipment,

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conduits, light switches, electric fixtures, circuiting, ducts, access panels, and control valves; and (v) such other information as VVTA may reasonably request.

It is the Proposer's obligation to keep Record Documents current, including As-Built construction documents, and to make them available to VVTA is a condition precedent to VVTA's duty to process applications for payment. The Project Manager shall review the Record Documents prior to submittal of all monthly payment requests. If in the opinion of the Project Manager, the Record Documents are not current, approval of the monthly payment may be withheld until the Record Documents are made current. In addition, the Proposer shall submit a signed certification with each monthly payment request stating that the Record Documents are complete and accurate as of the date of the payment request.

Within **thirty (30) calendar days** after Substantial Completion or earlier termination of the Agreement and as a condition precedent to final payment, Proposer shall provide final approved Record Documents including, but not limited to, As-Built construction documents approved shop drawings; submittals; warranties and other closeout documents, as required. One hard copy of the required documents shall be submitted, as well as in electronic form, and three (3) sets of CD disks or other electronic media as agreed to by the Project Manager.

(f) Manufacturer's Field Services. An experienced, competent, and authorized representative of the manufacturer of each item of equipment for which field services are indicated in specified equipment sections shall visit the site of Work and inspect, check, adjust if necessary, and approve the equipment installation. In a case where correction is needed, the representative shall revisit the jobsite as often as necessary until all trouble is corrected and the equipment installation and operation are satisfactory in the opinion of the Project Manager. Each manufacturer's representative shall furnish to the Project Manager a written report certifying that the equipment has been properly installed and lubricated; is in accurate alignment; is free from any undue stress imposed by connecting piping or anchor bolts; and has been operated under full load conditions and that it operated satisfactorily. All costs for these services shall be included in the Proposer's proposal.

(g) Work Coordination and Work Restrictions. The Proposer shall:

- i. Work in a manner that will not impair the operational capabilities of essential elements of the treatment process or reduce the capacity of the entire treatment plant below levels sufficient to treat the quality of raw wastewater to the water quality limitations specified in the discharge permit.
- ii. Indicate required shutdowns of existing facilities or interruptions of existing operations on Progress Schedule. Shutdowns will be permitted to the extent that existing operation of the facility will not be jeopardized and identified constraints are satisfied. Shutdowns shall not be permitted on holidays.
- iii. Submit to the Project Manager notification of required shutdowns of existing facilities at least 15 days and again at 7 days prior to the planned date of shutdown. Proposer shall also resubmit to the Project Manager notification of shutdowns 48 hours prior to the planned shutdown.

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- iv. Not begin alterations until Project Manager's written permission has been received. All planned shutdowns must be documented in writing and submitted for review and approval by the Project Manager prior to commencement of any associated work.
- v. Minimize shutdown times by thorough advanced planning. Have all required equipment, materials, power, fuel, and labor on hand at time of shutdown.
- vi. Provide temporary power, lighting, controls, instrumentation, and safety devices where required to minimize service interruptions while complying with specified sequencing constraints.
- vii. Only take direction from the Project Manager. If anybody other than the Project Manager requests changes or additional work, the Proposer shall politely decline the request(s) and immediately notify the Project Manager of such request(s). Any additional work done at the request of anybody other than the Project Manager shall be at the Proposer's own risk and expense per Section 3-6 Unauthorized Work.
- viii. The Proposer's attention is directed to the fact that other Proposers may conduct work at the site during the performance of the Work under this or another Contract. The Proposer shall conduct its operations so as to cause a minimum of interference with the Work of such other Proposers and shall cooperate fully with such Proposers to provide continued safe access to their respective portions of the site, as required to perform work under their respective contracts.

Q. FACILITIES FOR AGENCY PERSONNEL

1. **GENERAL:** Facilities for VVTA personnel will not be required.
2. **TEMPORARY ONSITE MAILING ADDRESS:** If needed, the Proposer shall establish a separate mailing address with the Post Office to receive all on-site mails and deliveries. VVTA will not be responsible for any delays or claims associated with materials or mail sent to the wrong address.

R. MEASUREMENT AND PAYMENT

1. LUMP SUM WORK

- (a) **Payment Schedule.** The Proposer shall submit a payment schedule for all lump sums proposal items. The schedule shall be submitted in accordance with this section.

Schedule of Values:

1. Proposer shall submit "partial" Schedule of Values for design and construction within 21 calendar days after Notice of Award. Identify value of Work planned for first 120 calendar days following NTP. Allocate costs to related cost accounts. Allocate Schedule of Values to activities to be performed in first 120 calendar days after NTP.
2. Proposer shall submit a "complete" Schedule of Values; a breakdown of Contract price into individual cost accounts and into individual activities detailed by Proposer in Baseline CPM Contract Schedule, within 45 calendar days after the Commencement Date stated in the NTP. Cost information will be allocated to discrete activities using the 'Expenses' tab in Exhibit E – Form P as an expense item named 'Budget'. Cost Loaded activities to satisfy this requirement will have only one

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(1) cost associated with the line item. Multiple costs allocated to a single activity will warrant rejection of the schedule. All cost loaded activities will utilize unique project level activity codes for 'project task' and 'proposal item'.

Payments will not be made until the Schedule of Values has been submitted to and accepted by the Owner. The schedule of values shall identify and breakdown the cost for each item of the scope of work.

2. PAYMENT

(a) Payment. Payment for the Various items of the Proposal Pricing Sheets, as further specified herein shall include all compensation to be received by the Proposer for furnishing all tools, equipment, supplies, and manufactured articles, and for all labor, operations, and incidentals appurtenant to the items of work being described, as necessary to complete the various items of work specified and shown on the drawings, including all appurtenances thereto, and including all costs of compliance with the regulations of public agencies having jurisdiction, including Safety and Health requirements of the California Division of Industrial Safety and the Occupational Safety and Health Administration of the U.S. Department of Labor (OSHA). No separate payment will be made for any item that is not specifically set forth in the Pricing Sheet(s), and all costs therefore shall be included in the price named in the Pricing Sheet(s) for the various listed items of work.

(b) Mobilization.

i. Payment. The Proposer shall furnish data and documentation to substantiate the amounts claimed under Mobilization. Payment for mobilization includes but may not be limited to cost for the following items:

1. Moving on the site any equipment required for the first month operations.
2. Installing temporary construction power and wiring.
3. Establishing fire protection system.
4. Developing construction water supply.
5. Providing field office trailers for the Proposer complete with furnishings, utilities, telephones, and fax.
6. Providing on-site sanitary facilities and potable water facilities as specified.
7. Arranging for and erection of Proposer's work and storage yard.
8. Sub-contractor insurance and bonds.
9. Obtaining all required permits, licenses, and fees.
10. Preparing and maintaining the construction schedule and any required updates.

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11. Provide and erect the project sign(s), fences, gates, etc.
12. Proposer bonds and insurance.
13. Construction Surveying
14. Any other items that are mutually agreed to be included as Mobilization.

Payment for mobilization shall not be made until all mobilization items listed above have been completed as specified.

(c) Progress Payments. Progress payment requests shall be processed in accordance with the provisions of Public Contract Code Section 20104.50, which is summarized as follows:

- i. Proposer shall base application for Progress Payment on the breakdown of costs for each scheduled activity in the Progress Schedule and the Percentage of Completion for each activity. Generate Application for Payment by downloading cost data from the Progress Schedule to a spreadsheet-type format. Identify each activity on the Progress Schedule that has a cost associated with it, the cost of each activity, the estimated Percent Complete for each activity, and the Value of Work Completed for both the payment period and job-to-date. Progress payment shall be contingent upon updated schedule as noted and as-built construction documents as referenced in Section 5, e.
- ii. Upon its receipt of Proposer's written payment request, VVTA shall review it as soon as practicable to determine whether it is a proper payment request. If VVTA determines that it is not a proper payment request suitable for payment, VVTA shall return it to Proposer as soon as practicable, but not later than seven (7) days after its receipt, together with a document setting forth in writing the reasons why it is not proper.
- iii. The number of days available to VVTA to make a payment without incurring an interest obligation thereon shall be reduced by the number of days by which VVTA exceeds the seven-day return requirement of ii above for return of an improper request.
- iv. A "progress payment" includes all payments due under the Contract, except that portion of the final payment which is designated as retention earnings, and a payment request shall be considered properly executed if funds are available for payment thereof and payment is not delayed due to an audit inquiry by VVTA's financial officer.
- v. Facility Equipment progress payments: Progress payments for all equipment requiring O&M manuals shall be made according to the following schedule:

<u>Condition</u>	<u>Maximum Payment For Equipment (%)</u>
Acceptance of Shop Drawings (Code 1 Status)	5

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ATTACHMENT A – SCOPE OF WORK

Certifications, Manufacturer's Tests, Warranties, etc.	10
Acceptance and Delivery of Final O& M Manuals (Code 1 Status)	20
Factory Witness Test and Delivery to Approved Location	80
Completion of Field tests, Pre-start-up, and Certificate of Equipment Installation Services	85
Start-up, Manufacturers Certificate of start-up services, and Certification of Instructional Services	90
Certificate of Post start-up Services, Spare Parts, and Completion	100

- vii. The payment sequence described above shall be paid in consecutive sequence, with the preceding item being completed prior to advancing to the next item.
- viii. Percentages are based on the actual cost of the equipment delivered to the site. Prior to payment, the Proposer shall transmit to the Project Manager a copy of all contracts, purchase orders, and correspondence between the supplier and the Proposer, to substantiate the actual cost of the equipment.
- ix. In the event that the equipment cost is less than the amount indicated in the schedule of values, the Proposer shall only be paid for the actual invoice cost. If the invoice cost exceeds the amount indicated in the schedule of values, the payment shall be based on the amount of the equipment cost indicated in the schedule of values.
- x. For equipment not requiring O&M manuals, the Proposer shall be paid the actual invoice price, provided Shop Drawings are approved to a Code 1 status. Equipment shall be delivered to the site prior to payment, or the Proposer shall pay for all expenses required to transport the equipment off site.

(d) Progress Payment Requests

- i. Prepare progress payment requests on a monthly basis. Base requests on the breakdowns of costs for each scheduled activity and the percentage of completion for each activity. Interim as-built, red-lined drawings depicting work progress along with Updated Monthly Schedule and conditional waivers shall be submitted along with each progress payment application.

3. FINAL PAYMENT AFTER FINAL ACCEPTANCE

After the work has been accepted by the CMO, as provided in Section R, 2, c payments will be made to the Proposer subject the following:

The Project Manager will make a proposed final estimate in writing of the total amount payable to the Proposer. Within 30 calendar days of receipt of the proposed final estimate, Proposer shall submit written approval of the proposed final estimate, or a written statement of all claims arising under or by virtue of the contract. No claim will be considered that was not included in the written statement of claims, nor for which a Notice of Potential Claim was required, under Section I.

Upon Proposer's approval of the proposed final estimate, or if the Proposer fails to file a claim within the specified period, the Project Manager will process a request for final

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payment. VVTA's issuance of a final payment shall bar Proposer's right to any claim arising out of the contract.

If the Proposer files a claim within the specified period, VVTA will review and make a final determination of such claim, in accordance with Section J and/or other applicable sections. Claims submitted by the Proposer shall be in sufficient detail to enable the Project Manager to ascertain the basis and amount of those claims.

U. TECHNICAL SPECIFICATIONS

1. Design Guidelines

The information provided under this section is general and is intended only as a guide.

2. Design Standards and Applicable Codes

- California Building Code (CBC), 2007
- California Electrical Code (CEC), 2007
- California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA), California Code of Regulations (CCR), Title 8; Electrical Safety Orders, latest edition
- NFPA 820 Fire Protection in Wastewater Treatment and Collection Facilities
- ASTM Standards (latest edition)

3. Design Drawing Content

The following are to be included in the proposal:

- Clearly dimensioned Site Plan to show and include all required improvements and specifications.

4. System Warranties, Maintenance, and Support

(a) Warranties

The Proposer shall be required to state its warranty and/or guarantee policy. The procedure for submitting warranty claims must also be provided. At a minimum, the warranty period for material defects and workmanship shall be one year from date of acceptance.

(b) Maintenance and Support

In addition to warranty periods, the Proposer shall be required to supply information on required or optional maintenance programs beyond the warranty period.

RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB ATTACHMENT B – FEDERAL REGULATORY REQUIREMENTS

THE RESULTING CONTRACT FROM THIS RFP SHALL BE FINANCED WITH FEDERAL FUNDS

The links below are attached to this RFP and are herein incorporated. By submitting a proposal, the PROPOSER agrees to compliance with all reference Federal Regulatory Requirements.

It is the responsibility of the Proposer to ensure compliance with all of the regulations that are applicable to this solicitation and resulting contract.

The federal regulations Check List – a listing by Contract Dollar amount showing the applicable regulations for any Federally Funded contract: https://vvta.org/wp-content/uploads/2023/03/VVTA_PROCUREMENT_FEDERAL-CLAUSE-CHECKLIST_20230301.pdf

The following is “Appendix A” of the Federal Procurement Best Practices Manual and includes the full text for all of the clauses included in the above checklist: https://vvta.org/wp-content/uploads/2023/03/FTA_Required_Clauses_23.03.01-1.pdf

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT C – SAMPLE CONTRACT

THIS CONTRACT 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 Proposal (“RFP”) to the firms who submitted Statements of Qualifications per RFQ 2021-17 and were deemed adequate to proceed to step two of the procurement process. The RFP is for the Design/Build of the Hesperia Transfer Hub, a copy which is attached herein as Exhibit 1 (RFP); and

WHEREAS, CONTRACTOR submitted a proposal to provide the required services per the Scope of Work described in the RFP, a copy which is attached herein as Exhibit 2: 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 Contract, 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 Contract.

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

1. SCOPE OF WORK

- A. CONTRACTOR will perform the Work and related tasks as described in Attachment A, Scope of Work (Exhibit 2) hereto and is incorporated by reference into and made a part of this Contract.
- B. This is a non-exclusive Contract, 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

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT C – SAMPLE CONTRACT

same Work for VVTA.

2. CONTRACT DOCUMENTS

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

This Contract;

- A. Exhibit 1 – RFP 2021-17 DESIGN BID HESPERIA TRANSFER HUB, including Addenda and all Attachments;
- B. Exhibit 2 – RFP 2021-17 SCOPE OF WORK
- C. Exhibit 3 – CONTRACTOR's PROPOSAL Submission dated _____
- D. Exhibit 4 – CONTRACTOR's Proof of Insurance dated _____
- E. Exhibit 5 – CONTRACTOR's Price Proposal dated _____
- F. Exhibit 6 – Completed, signed, and notarized (if applicable) forms as required by the Solicitation.

All the Exhibits mentioned in this Contract are attached and are herein incorporated. This Contract and the other Exhibits mentioned constitute the entire Contract between the parties. In the event of any conflict between any of the provisions of this Contract 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 and shall be submitted separately in each Proposer's Price Bid.

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.

3. PERIOD OF PERFORMANCE

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

4. TOTAL CONSIDERATION

- A. In accordance with the terms and conditions of this Contract, VVTA shall pay CONTRACTOR for its obligations under this Contract. 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

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ATTACHMENT C – SAMPLE CONTRACT

RATES

- B. VVTA's maximum cumulative payment obligation under this Contract 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. ACCEPTANCE, INVOICING AND PAYMENT

A. Acceptance

When the whole Project has been completed in all respects in accordance with the completed, plan-checked and VVTA approved Plans and Specifications, to the full satisfaction of VVTA, VVTA will then file a Notice of Completion with the County Recorder in San Bernardino County. Projects bid with a segregation of costs for separate, independent portions may, at VVTA's discretion, have each of the separate portions accepted individually. The date of acceptance of the Project as stated on the Notice of Completion shall be the official completion date relating to the assessment of liquidated damages. Acceptance shall be final and conclusive except for latent defects, gross mistakes amounting to fraud, audit rights, or Trustees' rights under any warranty or guarantee.

The County Recorder's date of recording on the Notice of Completion, if filed timely (within fifteen Days of acceptance), shall be the official completion date relating to stop notices and stop payment notices. All stop notices and stop payment notices must be filed with VVTA within 30 Days after the County Recorder's recordation date on VVTA's timely filed Notice of Completion. All claims arising from this Contract shall be submitted in writing to VVTA no later than 30 Days after the recordation date on VVTA's Notice of Completion (Section 25. SUBMITTAL OF CLAIMS BY CONTRACTOR).

B. Partial Payment

To assist in computing payments, CONTRACTOR shall submit to the Project Manager and VVTA a "Schedule of Values" of CONTRACTOR'S actual and estimated costs for each item of Work, including approved change orders. The cost breakdowns shall be in sufficient detail for use in estimating the Work to be completed each month and shall be submitted within 21 Days after the date of commencement of Work given in the Notice to Proceed. CONTRACTOR shall also provide the breakdown of the awarded Contract value by completing the Unifomat Building Systems form. This information is valuable to VVTA for budgeting purposes and shall be submitted by CONTRACTOR to the Project Manager along with the initial submittal of the Schedule of Values.

Once each month during the progress of the Work, CONTRACTOR shall submit to the Project Manager a partial payment request. CONTRACTOR shall base the partial payment request on the approved bid breakdown for the cost of the Work completed plus, where applicable, a maximum of 90% of the verified supplier-invoiced and CONTRACTOR-purchased value for the acceptable materials delivered to the site, or stored subject to the control of CONTRACTOR but identified as the property of VVTA, and not yet installed and as allowed on the Contract

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ATTACHMENT C – SAMPLE CONTRACT

Payment Request Form, line 2-f. CONTRACTOR must make any materials stored offsite accessible to VVTA to verify invoiced value and shall deliver these materials to VVTA upon request. When submitting a request for payment for materials, CONTRACTOR shall submit the Request for Materials On Hand Form with its partial payment request.

The partial payment request shall be submitted on the monthly anniversary of the day selected by CONTRACTOR in the job start meeting. The Project Manager shall review and certify the validity of the request, which, if the request includes an invoice for materials, then it shall include an inspection by the Project Manager of materials invoiced. No partial payment shall be made without the certification of the Project Manager, unless the partial payment is strictly administrative, and is processed after the completion of the Work (e.g. release of stop notice and stop payment notice claims).

Partial payment requests shall be processed with five percent (5%) retention. VVTA shall hold retention in part as security for the fulfillment of the Contract by CONTRACTOR. VVTA will withhold sufficient funds in addition to the retention to cover for anticipated liquidated damages, stop payment notices, Labor Code wage and penalty assessments, unacceptable Work, punch list Work, and VVTA's back-charges such as for retesting and re-inspection. VVTA will withhold monies from partial payments for incomplete punch list Work in addition to retention. VVTA shall not process partial release of retention before Contract completion (Public Contract Code section 10851) unless the Project is phased with a segregation of costs.

Partial payments shall not be construed as acceptance of any Work which is not in accordance with the requirements of the Contract. Once the Project Manager has certified the partial payment request, it shall be submitted to VVTA's Contract Administrator for approval and processing (Public Contract Code section 10851). Payment will then be processed in accordance with section 10853 of the Public Contract Code. Such procedure provides for 39 Days processing, from the date of receipt of an undisputed and properly submitted payment request by the Construction Administrator.

CONTRACTOR shall submit invoices in duplicate to:
VICTOR VALLEY TRANSIT AUTHORITY
ATTN: PROCUREMENT MANAGER/CONTRACT ADMINISTRATOR
17150 SMOKE TREE STREET
HESPERIA, CA 92345-8305

- C. VVTA shall remit payment within thirty (30) 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.

D. Stop Payment Notices

VVTA shall retain out of any money due or that may become due CONTRACTOR, sums sufficient (125 percent of the claim) to cover claims filed pursuant to the stop payment notice provisions of the law (Civil Code section 9000 et seq.).

Preliminary notices and stop payment notices shall be presented to VVTA in proper form and should be addressed to the Construction Administrator and sent to VVTA at the address above

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and at the preconstruction conference. CONTRACTOR shall be responsible to communicate this information to all subcontractors.

E. Final Payment

After VVTA's acceptance of the Project as complete, CONTRACTOR shall submit to the Construction Administrator a payment request stating the total due under the Contract less the retention. This payment request will be processed in the same manner as the partial payment requests. Refer to 5.B, Partial Payments.

VVTA shall notify CONTRACTOR of the date of recordation of the Notice of Completion. CONTRACTOR shall then submit a request for payment of the retention to the Construction Administrator, who will process the retention payment 45 Days after the date of recordation by the County Recorder.

VVTA shall continue to retain funds to cover liquidated damages, stop notices and stop payment notices, state labor commissioner claims, back charges from VVTA, unexecuted credit change orders, and other such claims that may be received up to the end of the 45 Days period following recordation. If any stop notices or stop payment notice has been filed, payment shall be withheld in an amount of at least 125 percent of the total claims filed until either the rights under the stop notice or stop payment notice have been settled or CONTRACTOR has posted sufficient bond in an amount of at least 125 percent of the total claims filed to secure payment of such claims.

On projects bid with a segregation of costs for separate, independent portions which portions are accepted individually pursuant to Section 5.A, Acceptance, the final payment procedure specified in this Article shall be followed. The total amount due under the Contract, the amounts retained, other claims for compensation, and the filing of stop notices and stop payment notices shall refer only to the portion accepted.

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 of 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 Contract or any other Contract 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,**

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ATTACHMENT C – SAMPLE CONTRACT

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, 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 Contract 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: Procurement Manager
Victor Valley Transit Authority
17150 Smoke Tree Street
Hesperia, CA 92345-8305

To CONTRACTOR:

8. VVTA AND CONTRACTOR'S REPRESENTATIVES

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ATTACHMENT C – SAMPLE CONTRACT

A. VVTA

VVTA's Executive Director has been delegated the authority to execute contracts on behalf of VVTA. Except as expressly specified in this Contract, the Executive Director may exercise any powers, rights and /or privileges that have been lawfully delegated by VVTA. Nothing in this Contract 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 Contract, including the power to enforce compliance with this Contract.
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 Contract 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 Contract.

B. Contractor's Key Personnel

The following are CONTRACTOR's key personnel and their associated roles in the Work to 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 indeed possess such expertise and experience.

VVTA awarded this Contract to CONTRACTOR based on VVTA's confidence and reliance on the expertise of CONTRACTOR's key personnel described above. CONTRACTOR shall

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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 for in whole, or from time to time in part, by VVTA for the convenience of VVTA whenever VVTA determines that such termination for convenience is in the best interest of VVTA and the other procuring agencies. Any such termination for convenience 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 for Convenience, 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 for Convenience.
 - (b) Place no further orders or subcontracts for materials, services, or facilities, 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 for convenience.
 - (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

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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 for Convenience; 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 for Convenience, 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.
- 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

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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 Contract Consideration as reduced by the number 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 for convenience 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.

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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, 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 for Cause 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

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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;
 - (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 for Cause;
 - (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 for Cause;

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- (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 for Cause.
- (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 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 for Cause 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 for Cause 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

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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 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 Contract, 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 Contract 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 Contract.

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 Bid. CONTRACTOR shall include in each subcontract Contract the stipulation that CONTRACT, 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

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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, 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 Contract 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

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secure and pay for all permits and governmental fees, licenses, and inspections necessary for the proper execution and completion of this Contract.

- E. CONTRACTOR shall give VVTA Administration at least 24 hours prior notice when CONTRACTOR's Corporate representatives are scheduled to visit either the Hesperia or Barstow locations. Corporate representatives include, but not limited to, Board Members, Executive Staff, Regional staff, and Management.
- F. Project Design: VVTA does not intend to contract for, pay for, or receive any design services which are in violation of any professional licensing laws, and by execution of the Contract, CONTRACTOR acknowledges that VVTA has no such intent. It is the intent of the Parties that CONTRACTOR is fully responsible for furnishing the design of the Project, although the fully licensed CONTRACTOR's Design Team will perform the design services required by the CONTRACT.
- G. Standard of Care: All design Services to be performed by the CONTRACTOR, its design consultant, subcontractors, and their employees identified by the CONTRACTOR shall be performed in an expeditious and professional manner using architects, engineers and other professional properly licensed and duly qualified in the jurisdiction in which the Project is located. The professional obligations of such person shall be undertaken and performed in the interest of the CONTRACTOR. All design services performed pursuant to this Contract shall be performed with the degree of skill and learning ordinarily possessed by architects and engineers in good standing in the community regularly engaged in the design and construction of a facility such as this Project and must apply that knowledge with the diligence ordinarily exercised by reputable architects and engineers under similar circumstances ("Standard of Care").

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.

17. PUBLIC RECORDS ACT

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

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18. INDEMNIFICATION

- A. To the furthest extent allowed by law, Contractor shall indemnify, hold harmless and defend (with counsel reasonably approved by VVTA) the 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 Contract. 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 Contract, 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 Contract.

- B. If CONTRACTOR has retained legal counsel reasonably acceptable to VVTA, 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 counsel of its own selection at its own expense.

19. INSURANCE

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)

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

\$10,000,000 per occurrence for bodily injury and property damage;
\$10,000,000 per occurrence for personal and advertising injury;
\$20,000,000 aggregate for products and completed operations;
\$20,000,000 general aggregate applying separately to the work performed under

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the Contract.

- (e) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of liability of not less than \$10,000,000 per accident for bodily injury and property damage.

2) Workers' Compensation

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.

- 4) EMPLOYERS' LIABILITY** insurance with limits of liability of not less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

- 5) PROFESSIONAL LIABILITY** (Errors and Omissions) insurance appropriate to Consultant's profession, with limits of liability of \$2,000,000 per claim/occurrence and \$4,000,000 policy aggregate.

- 6) BUILDERS RISK** (Course of Construction) insurance in an amount equal to the completed value of the project with no coinsurance penalty provisions.

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

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to and approved by VVTA's Executive Director or his/her designee in his/her sole discretion. At the option of VVTA's Executive Director or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects VVTA, its members, board members, officers, officials, employees, and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to VVTA's Executive Director or his/her designee in his/her sole discretion, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall VVTA be responsible for the

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payment of any deductibles or self-insured retentions.

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

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing operations and completed operations) and Automobile Liability insurance policies shall name VVTA, its members, board members, officers, officials, employees, agents and volunteers as an additional insured. All such policies of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of VVTA, its members, board members, officers, officials, employees, agents and volunteers. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to VVTA, its members, board members, officers, officials, employees, agents, and volunteers. The Builders Risk (Course of Construction) insurance policy shall name VVTA as a loss payee. The coverage(s) shall contain no special limitations on the scope of protection afforded to VVTA, its members, board members, officers, officials, employees, agents, and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, VVTA requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to VVTA.

7) Claims-Made Policies - If Professional Liability (Errors and Omissions) insurance is written on a claims-made coverage form:

- a. The retroactive date must be shown and must be before the effective date of the Contract or the commencement of work by Contractor.
- b. Insurance must be maintained, and evidence of insurance must be provided for at least 5 years after completion of the work or termination of the Contract, whichever first occurs.
- c. If coverage is canceled or non-renewed, and not replaced with another claims made policy form with a retroactive date prior to the effective date of the Contract, or work commencement date, Contractor must purchase extended reporting period coverage for a minimum of 5 years after completion of the work or termination of the Contract, whichever first occurs.
- d. A copy of the claims reporting requirements must be submitted to VVTA for review.

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e. These requirements shall survive expiration or termination of the Contract.

Contractor shall furnish VVTA with all certificates and applicable endorsements effecting coverage required hereunder. **All certificates and applicable endorsements are to be received and approved by VVTA's Executive Director or his/her designee in his/her sole discretion prior to VVTA's execution of the Contract and before work commences.** Upon request of VVTA, Contractor shall immediately furnish VVTA with a complete copy of any insurance policy required under this Contract, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Contract.

If at any time during the life of the Contract or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Contract shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by VVTA that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to VVTA. Any failure to maintain the required insurance shall be sufficient cause for VVTA to terminate this Contract. No action taken by VVTA hereunder shall in any way relieve Contractor of its responsibilities under this Contract.

The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Contract. The duty to indemnify VVTA shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve liability nor limit the liability of Contractor, its principals, officers, agents, employees, persons under the supervision of Contractor, vendors, suppliers, invitees, consultants, sub-consultants, contractors, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should contract or subcontract all or any portion of the services to be performed under this Contract, Contractor shall require each subcontractor to provide insurance protection in favor of VVTA, its members, board members, officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that subcontractor's certificates and endorsements shall be on file with Contractor and VVTA prior to the commencement of any work by subcontractor.

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.

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- 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."
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: Procurement Manager
17150 Smoke Tree Street
Hesperia, California 92345

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT C – SAMPLE CONTRACT

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: Procurement Manager
17150 Smoke Tree Street
Hesperia, CA 92345

G. 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 quality 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.

MINIMUM INSURANCE COVERAGE

1. Commercial General Liability including Products/Completed Operations: \$10,000,000; per occurrence for bodily and property damage liability and \$20,000,000 aggregate; VVTA named and endorsed as an Additional Insured.
2. Automobile Liability: \$10,000,000; per occurrence for bodily and property damage liability and aggregate; VVTA named and endorsed as an Additional Insured.
3. Workers' Compensation: statutory limits
4. Employer's Liability: \$1,000,000; per occurrence.
5. Professional Liability (Errors and Omission): \$2,000,000 per claim/occurrence
6. Builder's Risk: at an account equal to the completed value of the project.

20. REVISIONS

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

Price Adjustments:

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ATTACHMENT C – SAMPLE CONTRACT

- 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 Contract, this Contract may only be modified by written mutual consent evidenced by signature of representative authorized to enter into and modify the Contract. 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.

21. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Contract 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 Contract 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 Contract and/or final payment thereunder.

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ATTACHMENT C – SAMPLE CONTRACT

22. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Contract 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.

23. 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 developed by CONTRACTOR, its 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 and 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.

24. WORK FOR HIRE

Any Work created or produced as a part of this Contract 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 hereon 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), as defined under federal copyright law that may be created or produced under this Contract by its suppliers, contractors, or subcontractors.

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT C – SAMPLE CONTRACT

25. 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 with this Contract.

26. 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.

27. 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 Contract. 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 Contract. The provisions of this paragraph shall survive termination or expiration of this Contract 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 Contract under this Article shall not be reassigned to perform Work in any other capacity under this Contract without VVTA's prior written approval.

28. 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, 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

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ATTACHMENT C – SAMPLE CONTRACT

whether the individual will be an officer, principal, or shareholder of the entity and/or will participate in the performance of this Contract.

29. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Contract, 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).

30. COMPLIANCE WITH LAW

CONTRACTOR shall familiarize itself with and perform the Work required under this Contract 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 Contract. CONTRACTOR shall also comply with all Federal, State, and local laws and ordinances.

31. 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 Contract and VVTA shall have the right to immediately terminate or suspend this Contract.

32. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Contract by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Contract. Failure of either party to enforce any provision of this Contract 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 Contract shall no void or affect the validity of any other provision.

33. 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.

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT C – SAMPLE CONTRACT

34. CONFIDENTIALITY

CONTRACTOR agrees that for and during the entire term of this Contract, any information, data, figures, records, findings, and the like received or generated by CONTRACTOR in the performance of this Contract, 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 Contract 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.

35. 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 Contract 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 Contract.

36. 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.

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ATTACHMENT C – SAMPLE 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 Contract 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.

37. 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 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.

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ATTACHMENT C – SAMPLE CONTRACT

3. Contractor shall include a copy of subparagraphs A (1) and A (2) of this provision in any Contract 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.

38. 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.

39. ENTIRE CONTRACT

This Contract, including any and all Exhibits, constitutes the entire Contract between VVTA and CONTRACTOR and supersedes all prior negotiations, representations, or Contracts, 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.

40. ELECTRONIC SIGNATURES

This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

Signatures on following page.

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

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB
ATTACHMENT C – SAMPLE CONTRACT

VICTOR VALLEY TRANSIT AUTHORITY

By: _____
Kevin Kane, VVTA Executive Director

APPROVED AS TO FORM

By: _____
VVTA Legal Counsel

CONTRACTOR

By: _____

Name: _____ Title: _____

By: _____

Name: _____ Title: _____

SAMPLE

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB 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.
- iii. VVTA violated a specific law, rule, or regulation in the procurement process.

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT D – PROTEST PROCEDURES

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
Attn: Procurement Manager
17150 Smoke Tree Street**

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT D – PROTEST PROCEDURES

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.

RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT E – REQUIRED FORMS

Submit Forms within Tabs per the instruction in the RFP. If a document is not referenced per the tabs, create a Tab at the end of your package with “Required Forms”

FORM	DESCRIPTION	CORRESPONDING PROPOSAL TAB
A	Proposal Letter	Tab QTP-1
B	Certification Regarding Submittal in response to RFQ 2021-17	Tab QTP-1
	Statement Acknowledging Penal and Civil Penalties Concerning the Contractors’ Licensing Laws	Tab QTP-1
D	Affidavit of Non-Collusion	Tab QTP-1
E	Declaration of Eligibility to Contract	Tab QTP-1
F	Certificate of OSHA Compliance	Tab QTP-1
G	Organizational Conflict of Interest Certification	Tab QTP-1
H	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.	Tab QTP-1
I	Debarment, Suspension, & Other Responsibility Matters	Tab QTP-1
J	Buy America/Build America Certification (Required >\$150,000)	Tab QTP-1
K	Labor Certification	Tab QTP-1
L	Industrial Safety Record	Tab QTP-1
M	Current Client References	Tab Required Forms
N	List of Subcontractors	Tab Required Forms
O	Proposed Disadvantaged Business Enterprise (DBE) Participation; if you or a subcontractor are a DBE, please submit certification with proposal.	Tab QTP-1
P	Proposal Pricing Form	(Sealed separate envelope)
Q	Not on Excluded Parties List System (SAM.com) (Provide page from website)	Tab Required Forms
R	CSLB Contractor’s License(s). (Provide Copy (ies) in your Bid Package.)	Tab QTP-1 (with Form C)
S	DIR Registration (Provide a screen shot from the DIR Page.) Required for subcontractors, as well.	Tab Required Forms
T	Proposal 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.	Tab QTP-1
U	Proposed Deviation, Pre-Offer Change or Approved Equal	Tab Required Forms
V	Performance Bond	<i>Contract Award</i>
W	Payment Bond	<i>Contract Award</i>
X	Statutory Provisions for Payments and Assignments	<i>Contract Award</i>
Y	Statutory Provisions for Construction Contract Claims and Payments	<i>Contract Award</i>
Z	Proof of Insurance	<i>Contract Award</i>

**RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS**

**FORM A
Proposal Letter**

Mrs. Christine Plasting
Procurement Manager
Victor Valley Transit Authority
17150 Smoke Tree Street
Hesperia, CA 92345
RFP 2021-17

Dear Mrs. Plasting:

1. _____ (Name of Proposer) is hereby submitting its Proposal and other Submittal materials in response to Request for Proposal RFP 2021-17 issued by Victor Valley Transit Authority for the Design Build Hesperia Transfer Hub project.
2. The Proposer is a [corporation] [joint venture] [general partnership] organized under the laws of the State of _____ and authorized to do business in the State of California. If applicable: The members of the Joint Venture are:

3. The Proposer has reviewed the RFP, including the attached Forms, and agrees to make this proposal and participate in this RFP process in accordance with the terms and conditions established by VVTA in these solicitation documents.
4. The Proposer agrees to keep its proposal in response to this RFP, including price proposed, open for ninety (90) days without unilaterally altering or amending its terms.
5. The Proposer understands and agrees that its proposal constitutes a binding offer to provide the work and services covered by the RFP in accordance with the terms, conditions, and reпреments of the RFP, including the Exhibits and Attachments thereto and the draft Design Build Contract (Attachment C). If selected as the Contractor, the Proposer agrees that it will execute the Contract and perform all the work and services in accordance with the terms and conditions thereof, and at the price proposed, subject to any exceptions identified in Tab QTP-1 of its proposal and agreed to by VVTA.
6. The Proposer understands that VVTA is not bound to accept any Proposals it may receive, and that all costs and expenses incurred by the proposer in preparing this submittal and participating in the RFP process will be borne solely the proposer's responsibility. Any errors or omissions in this proposal are also solely the proposer's responsibility.

**RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS**

7. The Proposer acknowledges receipt of the following Addenda (identify by number and date,)

No.	Date
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

8. The Proposer agrees that it will not challenge this procurement process, or the Proposer selected by VVTA except pursuant to the protest procedure set forth in Attachment D of this RFP.

9. The Proposer designates the following individual(s) to act on its behalf and to bind and commit the Proposer during this procurement process on all matters relating to the RFP and the Draft Contract (Attachment C) including the price and to take all actions necessary to finalize the contract with VVTA if the Proposer is selected for contract award.

Name, Title, Email, Telephone

Name, Title, Email, Telephone

Signature Block

(Proposer Name)

By (signature of authorized official): _____

Print Name: _____

Title: _____

Proposer's Business Address:

Street/floor or Suite

City, State, Zip code, Country

FORM B

Page 3 of 36

RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT E – REQUIRED FORMS

CERTIFICATION REGARDING SUBMITTAL IN PRESONSE TO REQUEST FOR QUALIFICATIONS (RFQ) NO 2021-17

I, the undersigned, certify the following:

1. The organizational documents or agreement committing to form an organization or the listing of shareholders, partners, or joint venture members who will perform work on the Project submitted in the Proposer's Submittal of Qualifications ("SOQ") in response to Request for Qualifications No. 2021-17 (the "RFQ") have/has not been changed, altered, or withdrawn and remain(s) valid, enforceable, and accurate.
2. The identity of the lead Architects and Engineers that will be responsible for final design on the Project submitted in the Proposer's SOQ in response to the RFQ is not being changed by the Proposer in its Proposal.
3. If the Proposer is a partnership or joint venture, the Proposer's commitment that all general partners or joint venture members agree, if awarded the Contract, to be fully and jointly and severally liable for the performance of all obligations under the Contract remains valid and enforceable.
4. All licenses, registrations, and credentials submitted by the Proposer as part of its SOQ in response to the RFQ remain valid and have not been revoked, suspended, or withdrawn since the date of the Proposer's SOQ.
5. The audited financial statements submitted by the Proposer in its SOQ in response to the RFQ still fully and accurately reflect the Proposer's true financial condition and the Proposer's or the Proposer's general partners' or joint venture members' assets, liabilities, and net worth.
6. The Proposer's record of past performance and activities has not changed since the Proposer's submission of its SOQ in response to the RFQ with respect to the following:
 - (a) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the Federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against the Proposer.
 - (b) Any debarment, disqualification, or removal from a Federal, state, or local government public works project.
 - (c) Any instance where the Proposer, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be non-responsive or were found by an awarding body not to be a responsible bidder.

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- (d) Any instance where the Proposer, or its owners, officers, or managing employees defaulted on a construction contract.
 - (e) Any violations of the Contractors' State License Law, as described in Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, including alleged violations of Federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contribution Act (FICA), withholding requirements settled against the Proposer.
 - (f) Any bankruptcy or receivership of the Proposer, including, but not limited to, information concerning any work completed by a surety.
 - (g) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and the Proposer during the five (5) years preceding the date for receipt of Proposals in response to this RFP in which the claim, settlement, or judgment exceeds one hundred thousand dollars (\$100,000). Information shall also be provided concerning any work completed by surety during this five-year period.
7. The Proposer's workers' compensation experience history provided in the Proposer's SOQ in response to the RFP has not changed since the submission of the SOQ.
8. The Proposer affirms the Proposer's commitment, and the commitment of its subcontractors at every tier, to use a skilled and trained workforce to perform all of the work on the Project that falls within an apprenticeable occupation in the building and construction trades, in compliance with Section 22164(c) of the California Public Contract Code.
9. If the Proposer is unable to certify the validity of the statements in paragraphs (1) through 8) above, it shall provide a written explanation to VVTA attached to this Certification. The Proposer's written explanation shall include all relevant facts necessary for VVTA to evaluate the circumstances surrounding the Proposer's inability to certify as to the Proposer's SOQ submitted in response to the RFP.

Proposer

Date

Signature

Title

FORM C **STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES CONCERNING THE** **CONTRACTORS' LICENSING LAWS**

RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT E – REQUIRED FORMS

*[Business & Professions Code § 7028.15]
[Public Contract Code § 20103.5]*

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below:

Business & Professions Code § 7028.15:

- (a) It is a misdemeanor for any person to submit a Bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:
 - (1) The person is particularly exempted from this chapter.
 - (2) The Bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20124 [now § 20103.5] of the Public Contract Code.
- (b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

- (c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a Bid as a joint venture, each person submitting the Bid shall be subject to this section with respect to his or her individual licensure.
- (d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.
- (e) Unless one of the foregoing exceptions applies, a Bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the Bid. Notwithstanding any other provision of law, unless one of the

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foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. **Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.**

- (f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or Bid awarded by a public agency during which time that subdivision was in effect.
- (g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For the purposes of this section, a telephone response by the board shall be deemed sufficient. Public Contract Code § 20103.5:

In all contracts subject to this part where federal funds are involved, no Bid submitted shall be invalidated by the failure of the Bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any Bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of pre-qualification questionnaire and financial statement. **Failure of the Bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the Bidder.**

License Number: _____ Class: _____ Expiration Date: _____

Date: _____ Signature: _____ Title: _____

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

State of California)
) ss.
County of _____)

_____, 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

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ATTACHMENT E – REQUIRED FORMS

FORM E DECLARATION OF ELIGIBILITY TO CONTRACT

[Labor Code §§ 1777.1, 1777.7; Public Contract Code § 6109; Public Contract Code §§ 2202, et seq.]

The undersigned, a duly authorized representative of the proposer, certified and declares that:

1. The proposer is aware of Sections 1771.1 and 1777.7 of the California Labor Code, which prohibit a contractor or subcontractor who has been found by the Labor Commissioner or the Director of Industrial Relations to be in violation of certain provisions of the Labor Code from Bidding on or being awarded a contract for a public works project or performing work as a subcontractor on a public works project for specified periods of time.
2. The proposer is not ineligible to Bid on or be awarded a contract for a public works project or perform work as a subcontractor on a public works project by virtue of the foregoing provisions of Sections 1771.1 or 1777.7 of the California Labor Code or any other provision of law.
3. The proposer is aware of California Public Contract Code Section 6109, which states:
 - a. “A public entity, as defined in Section 1100 [of the Public Contract Code], may not permit a contractor or subcontractor who is ineligible to Bid or work on, or be awarded, a public works project pursuant to Section 1771.1 or 1777.7 of the Labor Code to Bid on, be awarded, or perform work as a subcontractor on, a public works project. Every public works project shall contain a provision prohibiting a contractor from performing work on a public works project with a subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.”
 - b. “Any contract on a public works project 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 the awarding body. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.”
4. The proposer has investigated the eligibility of each and every subcontractor the contractor intends to use on this public works project and determined that none of them is ineligible to perform work as a subcontractor on a public works project by virtue of the foregoing provisions of the Public Contract Code, Sections 1771.1 or 1777.7 of the Labor Code, or any other provision of law.
5. The proposer is aware of Sections 2202, *et seq.* of the California Public

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Contract Code, known as the Iran Contracting Act of 2010, which Act renders a contractor ineligible to bid or propose on a contract for goods or services of one million dollars (\$1,000,000) or more with an awarding body if the contractor is identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5 or engages in investment activities in Iran as described in subdivision (b) of Section 2202.5.

6. The proposer certifies that it is not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5. The proposer further certifies that it does not engage in investment activities in Iran as described in subdivision (b) of Section 2202.5.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on ____ [date], at _____ [city], _____ [state].

Company

Signature

Printed Name

Title

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**FORM F
CERTIFICATION OF OSHA COMPLIANCE**

The undersigned as Proposer, hereby certifies that the Proposer is aware of the applicable requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 (O.S.H.A.), and all latest revisions thereto, and that this Proposal is prepared on the basis of compliance with those requirements.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____
[date], at _____ [city], _____ [state].

Proposer: _____

Address: _____

License Number: _____

Signed by: _____
(Authorized Signor)

Printed Name: _____

Title: _____

**FORM G
ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATIONS**

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1. The Proposer certifies that the Proposer:
 - A. Is able to provide impartial and objective assistance or advice to VVTA and is not limited in its ability to do so by other activities, relationships, contracts, or circumstances.
 - B. Has not have an unfair competitive advantage in this procurement through the receipt of or access to nonpublic information; and
 - C. Has not established the ground rules for the solicitation or selection of the services or goods to be acquired in this procurement by developing specifications, evaluation factors, or similar documents during the performance of an earlier contract or the conduct of a procurement.
2. The Proposer also certifies that if it becomes aware of any information contradicting the statements of subparagraphs (A) through (C) above, it will promptly disclose that information to VVTA and include in such disclosure all relevant facts concerning the organizational conflict of interest.
3. If the Proposer is unable to certify the validity of the statements in paragraphs (1) and (2) above, it shall provide a written explanation to VVTA attached to this Certification. The Proposer's written explanation shall include all relevant facts concerning any past, present, or currently planned interests that preclude the Proposer from certifying as to the validity of the statements in paragraphs (1) and (2) above.

Name

Title

Authorized Signature

FORM H
FTA CERTIFICATION OF RESTRICTIONS ON LOBBYING
(For Bids Over \$100,000)

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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

**FORM I
FTA CERTIFICATION REGARDING DEBARMENT**

DEBARRED PROPOSERS CERTIFICATION

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SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

For Contracts and Subcontracts in Excess of \$25,000.00

Instructions for Certification

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 voluntarily 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

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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 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.

Signature of the Proposer's Authorized Official

Name and Title of the Proposer's Authorized Official

Company Name

Date

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FORM J Buy America/Build America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal fund may not be obligated unless all 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

Effective May 14, 2022, the office of Management and Budget requires recipients (VVTA) include the following Build America, Buy America (BABA) Buy America Preference terms and conditions to all contracts that will use Federal Funds:

Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project. Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

(a) When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are

**RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB
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subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described.

Certificate of Compliance with Buy America/Build America Requirements
The bidder or offeror hereby certifies that it will comply with the requirements of 49
U.S.C.
323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America/Build America Requirements
The bidder or offeror hereby certifies that it cannot comply with the requirements of 49
U.S.C.
323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C.
5323(j)(2), as
amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

FORM K
LABOR CERTIFICATIONS
[Labor Code §§ 1720, et seq.]

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The undersigned, a duly authorized representative of the Proposer, certifies and declares that:

1. The Proposer acknowledges that the Contract is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works, and agrees to be bound by all the provisions thereof.

2. The Proposer certifies that it and any subcontractors performing work called for under the Contract are currently registered and qualified to perform public work pursuant to Section 1725.5 of the California Labor Code. The Proposer shall furnish proof of its and its subcontractors' current registration status to VVTA.

3. The Proposer agrees to comply with the provisions of California Labor Code Section 1773.1, which requires the payment of travel and subsistence payments to each worker needed to execute the work to the extent required by law.

4. The Proposer agrees to comply with the provisions of California Labor Code Section 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Proposer shall, as a penalty to VVTA, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the Contract by Proposer or by any subcontractor.

5. The Proposer agrees to comply with the provisions of California Labor Code Section 1776, which requires the Proposer, as contractor, and each subcontractor to: (1) keep accurate payroll records; (2) certify and make such payroll records available for inspection as provided by Section 1776; and (3) inform VVTA of the location of the records. The Proposer, as contractor, is responsible for compliance with Section 1776 by itself and all of its subcontractors.

6. The Proposer agrees to comply with the provisions of California Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that it is responsible for compliance with Section 1777.5 by itself and all of its subcontractors.

7. The Proposer agrees to comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. The Proposer shall, as a penalty to VVTA, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the Contract by the Proposer, as contractor, or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code.

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8. California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, the Proposer hereby certifies that it is aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provision of that code, and that it will comply with such provisions before commencing the performance of the work of this contract.

9. The Proposer acknowledges that the Contract is subject to compliance monitoring and enforcement by the California Department of Industrial Relations as provided in California Labor Code Section 1771.4(a)(1).

10. As applicable, the Proposer agrees to comply with the provisions of Section 1771.4(a)(2), which requires the posting of job site notices as prescribed by regulation.

11. The Proposer acknowledges that copies of applicable prevailing wage rates are on file at VVTA's Administrative Offices.

12. Prior to entering into any subcontract with any subcontractor, the Proposer, as contractor, shall educate and inform its subcontractors regarding compliance with the foregoing provisions, and requirements contained in this Certification and shall have each subcontractor acknowledge in writing that to the extent applicable, such subcontractor shall comply (and shall cause any of its subcontractors to comply) with such provisions and requirements. The Proposer, as contractor, shall certify to VVTA that the Proposer has complied with the foregoing requirement to educate and counsel its subcontractors. Such certification shall be submitted to VVTA with the Proposer's first monthly invoice together with each subcontractor's acknowledgment that it will comply (and that it shall cause any of its subcontractors to comply), to the extent applicable, with such labor certification requirements set forth in this Certification.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on ____ [date], at _____ [city], _____ [state].

Proposer

Signature

Printed Name

Title

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FORM L INDUSTRIAL SAFETY RECORD

PROPOSER: _____

The information entered on this form must include construction work undertaken nationwide and in the state of California by the Proposer, as well as by any partnership, corporation or joint venture that any principal of the Proposer participated in as a principal or owner, for the current calendar year and the prior five (5) calendar years. A separate form shall be submitted for each individual, partnership, corporation and/or joint venture that makes up the proposing entity. The Proposer may be requested to submit additional information or explanation of data that VVTA requires for evaluating the safety record.

ITEM	INFORMATION	2018	2019	2020	2021	2022	Current Year
1.	Total Hours Worked						
	Nationwide:						
	California:						
2. ¹	Number of fatalities						
	Nationwide:						
	California:						
3. ¹	Number of OSHA recordable injury/illness cases						
	Nationwide:						
	California:						
4. ¹	Number of lost workday cases						
	Nationwide:						
	California:						
5. ¹	Number of lost workdays						
	Nationwide:						
	California:						

RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT E – REQUIRED FORMS

ITEM	INFORMATION	2018	2019	2020	2021	2022	Current Year
6. ¹	Recordable Incident Rates: ²						
	Nationwide:						
	California:						
	Lost Workday Incident Rates ³						
	Nationwide:						
	California:						
	Lost Days Rates ⁴						
	Nationwide:						
	California:						
7. ¹	Worker's Compensation Experience Modifier						
	Nationwide:						
	California:						

The above information was compiled from records available at the time the Proposal was prepared. I declare under penalty of perjury under the laws of the state of California that the information is true and correct within the limitation of those records.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Printed Name

Signature of Authorized Signor

Title

1. The Information required for items is the same as required for column 3 to 13, code 10, Log and Summary of Occupational injuries, and illnesses, OSHA (Cal/OSHA) Form 300A

2 Recordable Incidence Rate = $\frac{\text{Recordable Cases} \times 200,000}{\text{Total Hours Worked}}$

3 Lost Workday Incident Rate = $\frac{\text{Lost Workday Cases} \times 200,000}{\text{Total Hours Worked}}$

4 Lost Days Rate = $\frac{\text{Total Lost Days} \times 200,000}{\text{Total Hours Worked}}$

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**FORM M
CURRENT CLIENT REFERENCES**

Proposer by its signature below, certifies that the following references for DESIGN BUILD projects completed or substantially completed to other clients over the last seven (7) years (use additional pages as necessary): (A minimum of 5 are required)

<u>Agency Name</u>	<u>Contact Name/Phone</u>	<u>Email Address</u>	<u>Year</u>
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

**RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB
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**FORM N
SUBCONTRACTOR'S LIST**

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

COMPANY NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____ FAX: _____ EMAIL: _____

AMOUNT OF SUBCONTRACT: \$ _____

CONTRACTOR'S LICENSE NUMBER: _____ DIR Registration #: _____

CERTIFIED DBE? _____ CERTIFICATE # _____
YES NO

If yes, please provide certification

COMPANY NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____ FAX: _____ EMAIL: _____

AMOUNT OF SUBCONTRACT: \$ _____

CONTRACTOR'S LICENSE NUMBER: _____ DIR Registration #: _____

CERTIFIED DBE? _____ CERTIFICATE # _____
YES NO

If yes, please provide certification

COMPANY NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____ FAX: _____ EMAIL: _____

AMOUNT OF SUBCONTRACT: \$ _____

CONTRACTOR'S LICENSE NUMBER: _____ DIR Registration #: _____

CERTIFIED DBE? _____ CERTIFICATE # _____
YES NO

If yes, please provide certification

**RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB
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**FORM O
DISADVANTAGED BUSINESS ENTERPRISES (DBEs)**

The following identified DBEs will be utilized in the Scope of Work:

DBE Subcontractor Name and Contact Name*	Address & Telephone	Description of Work and Dollar Amount or Percentage Amount of Participation
1.		
2.		
3.		
4.		
5.		
6.		

***For each DBE subcontractor identified by the Proposer, the Proposer must provide (1) sufficient documentation (as described in Part I, Section 20 of this RFP) to evidence the DBE subcontractor's status as a certified DBE, and (2) written confirmation from the DBE subcontractor that it is participating in the services and/or work, in the form of a DBE Letter of Intent.**

Signature of the Proposer below constitutes a written commitment by the Proposer to use a DBE subcontractor.

Signature

Title

Firm

Date

**VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS**

FORM P

VVTA – RFP 2021-17 PRICE PROPOSAL

The 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 2021-17 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:

**VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS**

NOTES AND INSTRUCTIONS

1. The Proposer agrees that all costs of work required by the RFP, including Work reasonable inferable therefrom and necessary thereto required for a project delivery or turnkey contract basis are included in the prices below.
2. The Cost of all Work required in the RFP for which a specific line item is not provided in the attached schedules shall be allocated proportionately among the other prices most closely associated with such costs and included in the proposal price.

Line Item	Work Item	Total \$
1	GENERAL REQUIREMENTS	\$
2	SITE CONDITIONS/ SITE PREPARATION	\$
3	CONCRETE	\$
4.	MASONRY	\$
5.	METALS	\$
6.	WOOD AND PLASTICS	\$
7.	THERMAL AND MOISTURE PROTECTION	\$
8.	DOORS AND WINDOWS	\$
9	FINISHES	\$
10.	SPECIALTIES	\$
11.	EQUIPMENT	\$

**VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS**

13	SPECIAL CONSTRUCTION	\$
14	CONVEING SYSTEMS	\$
15.	HVAC/MECHANICAL	\$
16.	ELECTRICAL	\$
17.	INSTRUMENTATION AND CONTROL	\$
21.	FIRE PROTECTION	\$
22.	PLUMBING	\$
27.	COMMUNICATIONS	\$
32.	EXTERIOR AND STREET IMPROVEMENTS	\$
	SUBTOTAL – 01	\$
	GENERAL CONDITIONS	\$
	OVERHEAD AND PROFIT	\$
	ALLOWANCE ITEMS AND VALUE \$30,000.00	
	SUBTOTAL – 02	\$
	TOTAL COST OF CONSTRUCTION (01+02)	\$
	DESIGN SERVICES	\$
	<i>DESIGN FEES</i>	
	50% Construction Document	\$
	100% Construction Document	\$

**VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS**

	Final % Construction Document	\$
	SUBTOTAL – 03	\$
	MOBILIZATION AND TEMPORARY UTILITIES	\$
	DEMOBILIZATION	\$
	FINAL BUILDING TESTING AND COMMISSIONING	\$
	TRAINING AND MATERIAL OVERSTOCK	\$
	AS BUILT DRAWINGS	\$
	OPERATIONS AND MAINTENANCE MANUALS	\$
	SUBTOTAL – 04	\$
	TOTAL COST OF CONSTRUCTION + DESIGN FEES + OTHERS (01 + 02 + 03 + 04 + 05 + 06 + 07): BASE PRICE	\$

	OPTIONS	
	CONSTRUCTION OF A PASSENGER VEHICLE PARKING LOT ADJACENT TO THE TRANSFER HUB	\$
	TOTAL COST FOR OPTIONAL ITEM	\$

VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB ATTACHMENT E – REQUIRED FORMS

PREFERENCE CLAIMED:

- ☐ 3. Local Bidder – 5% Preference – On May 21, 2021, the FTA and FHWA have announced pilot programs to permit grant recipients to include geographic, economic, or other hiring preferences in contract specification for construction projects. VVTA will implement this ruling by calculating a reduction in the bid amount for proposers who are deemed to be within the geographic area. **The reduction in cost is only for the evaluation of bids and is not the final Bid Amount.** VVTA is defining its geographic area to be locations within the Cities of Victorville, Hesperia, Barstow, Adelanto, the Town of Apple Valley, and unincorporated areas of San Bernardino County – where fixed route service is provided and is represented by VVTA's Board of Directors.
- ☐ 4. Certified Disadvantaged Business Enterprise Firms and/or Subcontractors – 5% Preference. Provide Certification for all firms and subcontractors who are certified DBE's
- ☐ 5. Deemed to be qualified in the RFQ process – 5% Preference.

FORM T - PROPOSAL BOND

BID BOND
(See instructions on reverse)

DATE BOND EXECUTED (Must not be later than bid opening date)

OMB Control Number: 9000-0045
Expiration Date: 8/31/2025

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 USC § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0045. We estimate that it will take 1 hour to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

PRINCIPAL (Legal name and business address)

TYPE OF ORGANIZATION ("X" one)

☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE
☐ CORPORATION ☐ OTHER (Specify)

STATE OF INCORPORATION

SURETY(IES) (Name and business address)

PENAL SUM OF BOND					BID IDENTIFICATION	
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NUMBER
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	FOR (Construction, Supplies or Services)	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) is waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL

SIGNATURE(S)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
NAME(S) & TITLE(S) (Typed)	1.	2.	3.	

INDIVIDUAL SURETY(IES)

SIGNATURE(S)	1.	2.
	(Seal)	(Seal)
NAME(S) (Typed)	1.	2.

CORPORATE SURETY(IES)

SURETY A	NAME & ADDRESS	STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.	
	NAME(S) & TITLE(S) (Typed)	1.	2.	

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ATTACHMENT E – REQUIRED FORMS

FORM U
PROPOSAL DEVIATION, PRE-OFFER CHANGE OR APPROVED EQUAL

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: _____

Detailed Description of Requested Deviation:

Rationale (Pros and Cons):

VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB ATTACHMENT E – REQUIRED FORMS

FORM V SAMPLE PERFORMANCE BOND

Bond No.
Premium:

KNOW ALL PERSONS BY THESE PRESENTS THAT:

WHEREAS, on _____, 20__, the VICTOR VALLEY TRANSIT AUTHORITY (“VVTA”) awarded to (“PRINCIPAL”) a contract for performance of the work described as **Design-Build Hesperia Transfer Hub RFP 2021-17** (“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

(Seal)
Attorney-In-Fact

Typed Name and Title

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

VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB ATTACHMENT E – REQUIRED FORMS

FORM W

SAMPLE 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 Hesperia Transfer Hub, RFP No. 2021-17 (“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:

Principal

By _____ (Seal)

Typed Name and Title

Surety

Attorney-In-Fact (Seal)

Telephone Number _____

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

Typed Name and Title

FORM X
STATUTORY PROVISIONS FOR PAYMENTS AND ASSIGNMENTS
[Public Contract Code § 7103.5] [Business

and Professions Code § 7108.5]

This contract is subject to the following provision of California Public Contract Code Section 7103.5, and the undersigned contractor hereby offers and agrees to make the assignment as provided therein:

(b) In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

This contract is further subject to the following provisions of the California Business and Professions Code Section 7108.5:

(a) A prime contractor or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.

(b) Any violation of this section shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made.

(c) In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs.

(d) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal.

(e) This section applies to all private works of improvement and to all public works of improvement, except where Section 10262 of the Public Contract Code applies.

I, the undersigned Contractor, acknowledge that this contract is subject to the foregoing

VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS

provisions of Section 7103.5 of the California Public Contract Code and Section 7108.5 of the California Business and Professions Code and agree to be bound by all the provisions thereof as set forth in full herein.

Date

Signature

FORM Y
STATUTORY PROVISIONS FOR
CONSTRUCTION CONTRACT CLAIMS AND
PAYMENTS

[Public Contract Code §§ 9201, 20124, & 20124.50]

A. Pursuant to Public Contract Code Section 9201, the awarding agency has full authority to compromise or otherwise settle any claim relating to this contract at any time. The awarding agency will timely notify the contractor of the receipt of any third-party claim relating to the contract. The awarding agency shall be entitled to recover its reasonable costs incurred in providing the notification required by subdivision (b) of Section 9201.

B. This contract is subject to the provisions of Article 1.5 (commencing at Section 20124) of Division 2, Part 3 of the California Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by the contractor, for the response to such claims by the contracting public agency, for a mandatory meet and confer conference upon the request of the contractor, for mandatory nonbinding mediation in the event litigation is commenced, and for mandatory judicial arbitration upon the failure to resolve the dispute through mediation. This contract hereby incorporates the provisions of Article 1.5 as though fully set forth herein.

This contract is further subject to the provisions of Article 1.7 (commencing at Section 20124.50) of Division 2, Part 3 of the California Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to the contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with this Article. This contract hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

I, the undersigned Contractor, acknowledge that this contract is subject to the provisions of Section 20124 of the California Public Contract Code relating to construction contract claims and Section 20124.50 related to progress payments, and agree to be bound by all the provisions thereof as set forth in full herein.

Date

Signature

VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB
ATTACHMENT E – REQUIRED FORMS

***** END OF REQUIRED FORMS *****

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT F - PREVAILING WAGE REQUIREMENTS

- 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. Davis Bacon Act

This project is being funded in part by Federal FTA Grant Funding.

The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

Davis Bacon Wage Determinations are located here: <https://sam.gov/content/wage-determinations>

2. Determination of Prevailing Rates:

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. 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.

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB

ATTACHMENT F - PREVAILING WAGE REQUIREMENTS

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.

If the Davis Bacon Wage determination for the same position as listed in the DIR Wage Determination and the DIR wage is higher, the higher wage is to be paid.

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, and the Davis Bacon Act, 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

VVTA RFP 2021-17 DESIGN BUILD HESPERIA TRANSFER HUB ATTACHMENT F - PREVAILING WAGE REQUIREMENTS

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.

VVTA requires all Certified Payrolls to be included with each invoice submitted for payment. Each certified payroll must include the employee information forms for each position each employee and subcontractor employee performed, matching the information on the Certified Payroll. Each of the Employee information forms must be signed by each employee. Sample employee information forms will be supplied to the awarded contractor with the Notice to Proceed.

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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.

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- 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.

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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 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.

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- 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.

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- 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.

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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.

Effective January 1, 2019 – Skilled and Trained Workforce regulations now apply to any Design Build project that exceeds \$1,000,000.00:

1. PUBLIC CONTRACT CODE - PCC

1. DIVISION 2. GENERAL PROVISIONS [1100 - 22355]

(Division 2 enacted by Stats. 1981, Ch. 306.)

2. PART 1. ADMINISTRATIVE PROVISIONS [1100 - 9204]

(Heading of Part 1 added by Stats. 1982, Ch. 1120, Sec. 2.)

1. CHAPTER 2.9. Skilled and Trained Workforce Requirements [2600 - 2603]

(Chapter 2.9 added by Stats. 2016, Ch. 774, Sec. 4.)

1. 2600.

(a) This chapter applies when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.

(b) A public entity may require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation.

(c) When the use of a skilled and trained workforce to complete a contract or project is required pursuant to subdivision (a) or (b), the public entity shall include in all bid documents and construction contracts a notice that the project is subject to the skilled and trained workforce requirement.

(Amended by Stats. 2020, Ch. 347, Sec. 1. (AB 2311) Effective January 1, 2021.)

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2. 2600.5.

The failure of a public entity to provide a notice pursuant to subdivision (c) of Section 2600 shall not excuse either of the following:

(a) The public entity from the requirement to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.

(b) A bidder, contractor, or other entity from the obligation to use a skilled or trained workforce if such a requirement is imposed by a statute or regulation.

(Added by Stats. 2020, Ch. 347, Sec. 2. (AB 2311) Effective January 1, 2021.)

3. 2601.

For purposes of this chapter:

(a) "Apprenticeable occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

(b) "Chief" means the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) "Graduate of an apprenticeship program" means either of the following:

(1) An individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code.

(2) An individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(d) "Skilled and trained workforce" means a workforce that meets all of the following conditions:

(1) All the workers performing work in an apprenticeable occupation in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief.

(2) (A) For work performed on or after January 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation. This requirement shall not apply to work performed in the occupation of teamster.

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(B) For work performed on or after January 1, 2018, at least 40 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except that the requirements of subparagraph (A) shall continue to apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

(C) For work performed on or after January 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except that the requirements of subparagraph (A) shall continue to apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

(D) For work performed on or after January 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except that the requirements of subparagraph (A) shall continue to apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

(3) For an apprenticeable occupation in which no apprenticeship program had been approved by the chief before January 1, 1995, up to one-half of the graduation percentage requirements of paragraph (2) may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation before the chief's approval of an apprenticeship program for that occupation in the county in which the project is located.

(4) The apprenticeship graduation percentage requirements of paragraph (2) are satisfied if, in a particular calendar month, either of the following is true:

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(A) At least the required percentage of the skilled journeypersons employed by the contractor or subcontractor to perform work on the contract or project meet the graduation percentage requirement.

(B) For the hours of work performed by skilled journeypersons employed by the contractor or subcontractor on the contract or project, the percentage of hours performed by skilled journeypersons who met the graduation requirement is at least equal to the required graduation percentage.

(5) The contractor or subcontractor need not meet the apprenticeship graduation requirements of paragraph (2) if, during the calendar month, the contractor or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the contract or project.

(6) A subcontractor need not meet the apprenticeship graduation requirements of paragraph (2) if both of the following requirements are met:

(A) The subcontractor was not a listed subcontractor under Section 4104 or a substitute for a listed subcontractor.

(B) The subcontract does not exceed one-half of 1 percent of the price of the prime contract.

(e) "Skilled journeyperson" means a worker who either:

(1) Graduated from an apprenticeship program for the applicable occupation that was approved by the chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(2) Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

(Amended by Stats. 2018, Ch. 882, Sec. 1. (AB 3018) Effective January 1, 2019.)

4. 2602.

(a) When a contractor, bidder, or other entity is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the public entity or other awarding body that provides both of the following:

(1) The contractor, bidder, or other entity, and its contractors and subcontractors at every tier, will comply with this chapter.

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(2) The contractor, bidder, or other entity will provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with this chapter.

(b) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the public agency or other awarding body shall withhold further payments until a complete report is provided. If a monthly report is incomplete due to the failure of a subcontractor to timely submit the required information to the contractor, bidder, or other entity, the public agency or awarding body shall only withhold an amount equal to 150 percent of the value of the monthly billing for the relevant subcontractor. If a public agency or other awarding body withholds amounts pursuant to this subdivision, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor until the subcontractor provides the contractor, bidder, or other entity a complete report, and the public agency or awarding body subsequently pays the contractor, bidder, or other entity the withheld payments. If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to provide a complete report, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(c) If a monthly report does not demonstrate compliance with this chapter, the public agency or other awarding body shall do all of the following:

(1) Withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this chapter, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. All of the following shall apply to the withholding of payments under this paragraph:

(A) The public agency or awarding body shall withhold an amount equal to 150 percent of the value of the monthly billing for the entity that failed to comply with this chapter, or 150 percent of the value of the monthly billing for the subcontractor that failed to comply with this chapter. If a public agency or other awarding body withholds amounts pursuant to this paragraph, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor that did not demonstrate compliance with this chapter.

(B) If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to demonstrate compliance, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a

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skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(C) If a contractor, bidder, or other entity submits to the public agency or awarding body a plan to achieve substantial compliance with this chapter, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments unless, within a reasonable time, the public agency or awarding body rejects the plan as insufficient and explains the reasons for the rejection.

(2) Forward a copy of the monthly report to the Labor Commissioner for issuance of a civil wage and penalty assessment in accordance with Section 2603.

(3) Forward to the Labor Commissioner a copy of the plan, if any, submitted by the contractor, bidder, or other entity to achieve substantial compliance with this chapter and the response to that plan, if any, by the public agency or awarding body.

(d) A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection.

(Amended by Stats. 2021, Ch. 615, Sec. 353. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

5. 2603.

(a) If the Labor Commissioner or his or her designee determines after an investigation that a contractor or subcontractor failed to use a skilled and trained workforce in accordance with this chapter, the contractor or subcontractor responsible for the violation shall forfeit, as a civil penalty to the state, not more than five thousand dollars (\$5,000) per month of work performed in violation of this chapter. A contractor or subcontractor that commits a second or subsequent violation within a three-year period shall forfeit as a civil penalty to the state the sum of not more than ten thousand dollars (\$10,000) per month of work performed in violation of this chapter.

(b) For the purposes of this section:

(1) "Any interest" shall have the same meaning as in subdivision (h) of Section 1777.1 of the Labor Code.

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(2) "Contractor or subcontractor" shall have the same meaning as in subdivision (g) of Section 1777.1 of the Labor Code.

(3) "Entity" shall have the same meaning as in subdivision (i) of Section 1777.1 of the Labor Code.

(c) The amount of any monetary penalty may be reduced or waived by the Labor Commissioner if the amount of the penalty would be disproportionate to the severity of the violation. The Labor Commissioner shall consider, in setting the amount of a monetary penalty, all of the following circumstances:

(1) Whether the violation was intentional.

(2) Whether the contractor or subcontractor has committed other violations of this chapter or of the Labor Code.

(3) Whether, upon notice of the violation, the contractor or subcontractor took steps to voluntarily remedy the violation.

(4) The extent or severity of the violation.

(5) Whether a contractor or subcontractor submitted and followed a plan to achieve substantial compliance with this chapter.

(d) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741 of the Labor Code, upon determination of penalties assessed under subdivision (a). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742 of the Labor Code. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code, shall apply.

(e) The determination of the Labor Commissioner as to the amount of the penalty imposed under subdivision (a) shall be reviewable by the Director of Industrial Relations only for an abuse of discretion.

(f) If a subcontractor is found to have violated this chapter, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of the subcontractor's failure to comply with this chapter or unless the prime contractor fails to comply with any of the following requirements:

(1) For contracts entered into on or after January 1, 2019, the contract executed between the contractor and the subcontractor for the performance of work on the project shall include a copy of this chapter.

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(2) The contractor shall periodically monitor the subcontractor's use of a skilled and trained workforce.

(3) Upon becoming aware of a failure of the subcontractor to use a skilled and trained workforce, the contractor shall take corrective action, including, but not limited to, retaining 150 percent of the amount due to the subcontractor for work performed on the project until the failure is corrected.

(4) Prior to making the final payment to the subcontractor for work performed on the project, the contractor shall obtain a declaration signed under penalty of perjury from the subcontractor that the subcontractor has met the requirements of this chapter.

(g) The Labor Commissioner shall notify the prime contractor within 15 days of the receipt by the Labor Commissioner of a complaint that a subcontractor violated this chapter.

(h) Whenever a contractor or subcontractor is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(i) Whenever a contractor or subcontractor is found by the Labor Commissioner to have committed two or more separate willful violations of this chapter within a three-year period, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of up to three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(j) The debarment procedures adopted by the Labor Commissioner pursuant to Section 1777.1 of the Labor Code shall apply to any finding made under subdivisions (h) or (i) of this section.

(k) The Labor Commissioner shall publish on the commissioner's Internet Web site a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this section. The list shall contain the name of the contractor, the Contractors' State License Board license number of the contractor, and the effective period of debarment of the contractor. Contractors shall be added to the list upon issuance of a debarment order and the commissioner shall also notify the Contractors' State

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License Board when the list is updated. At least annually, the commissioner shall notify awarding bodies of the availability of the list of debarred contractors.

(l) (1) If a public entity or awarding body that is required to obtain an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project receives a monthly report which does not demonstrate compliance with the skilled and trained workforce requirements of subdivision (c) of Section 10506.6, Section 10506.8, Section 10506.9, or subdivision (c) of Section 20928.2 of this code, Article 9 (commencing with Section 388) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, or subparagraph (B) of paragraph (8) of subdivision (a) of Section 65913.4 or subparagraph (B) of paragraph (4) of subdivision (f) of Section 66201 of the Government Code, the public entity or awarding body shall forward a copy of the monthly report to the Labor Commissioner for issuance of a civil wage and penalty assessment in accordance with this section.

(2) The penalty and debarment procedures of this section shall apply to violations of subdivision (c) of Section 10506.6, Section 10506.8, Section 10506.9, or subdivision (c) of Section 20928.2 of this code, Article 9 (commencing with Section 388) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, or subparagraph (B) of paragraph (8) of subdivision (a) of Section 65913.4 or subparagraph (B) of paragraph (4) of subdivision (f) of Section 66201 of the Government Code.

VVTA RFP 2021-17 DESIGN/BUILD HESPERIA TRANSFER HUB ATTACHMENT G

VVTA must comply with all applicable Federal laws and regulations related to this project, including the ADA Standards for Transportation Facilities, based on the U.S. Access Board's ADA Accessibility Guidelines. Found here: <http://www.access-board.gov/guidelines-and-standards/transportation/facilities/ada-standards-for-transportation-facilities>

Specifically, VVTA must comply with the ADA Standards for Transportation Facilities when constructing the bus transfer hub. The following is a non-exhaustive list of ADA standards that VVTA must comply with:

- As required under DOT ADA Standard 206.4.1, VVTA must ensure that 60 percent of all public entrances to the facility will be accessible. If a station has only two entrances, then both must be accessible.
- As required under DOT ADA Standard 810.10, for rail projects, VVTA must ensure that no flange way gap can be greater than 2.5" where passenger circulation paths cross tracks at grade (i.e. a street-level pedestrian crossing over streetcar tracks).
- As required under DOT ADA Standard 206.3, VVTA must ensure that accessible routes coincide with or are located in the same area as general circulation paths, and elements such as ramps, elevators, and fare vending and collection areas are placed to minimize the distance that wheelchair users and other persons who cannot climb steps must travel in comparison to the general public.
- As required under DOT ADA Standard 406.8, VVTA must ensure that curb ramps will have detectable warnings.
- As required under DOT ADA Standard 810.2, VVTA must ensure that bus boarding and alighting areas are in compliance with the ADA-ABA Guidelines (Section 810.2), which address surfaces (sturdy); dimensions (96" long x 60" wide); connection to sidewalks, streets, and pedestrian paths; slope (not steeper than 1:48); signs; and public address systems.
- As required by DOT ADA Standard 810.5.3, VVTA must ensure that station platforms must be coordinated with the vehicle floor height.
- BUS SHELTERS: As required under DOT ADA Standard 810.3, VVTA must ensure bus shelters shall provide a minimum clear floor or ground space complying with Standard 305 entirely within the shelter. Bus shelters shall be connected by an accessible route complying with Standard 402 to a boarding and alighting area complying with 810.2.

The information provided above is intended as technical assistance and applies only to the project as described. Should the project scope change or new information on the project be provided, FTA may require a re-evaluation of the project information as it relates to ADA and require additional information. This confirmation is not an express or implied promise of project compliance with the ADA.