

VVTA RFQ 2021-17 HESPERIA TRANSFER HUB ADDENDUM NO. 1

Thursday, October 21, 2021

This addendum is provided to all known prospective proposers for clarification of the subject Request for Qualifications (RFQ).

The following includes questions that have been received by prospective proposers prior to the deadline for question on Friday, October 8, 2021, and answers provided by VVTA Staff:

Q1: “I was going over the insurance requirements in Form L with our insurance agent and he mentioned that the coverage requirements are extremely high for a project of this size. Would the VVTA be willing to lower the limits for this project?”

A1: Our representative at the Public Entity Risk Management Agency (PERMA) provided some updated information to include in Form L, included lower limits on the required insurance. A revised copy of Form L is included with this addendum.

The Due Date for Proposals remains as 3:00 PM, Thursday, November 4, 2021. All other terms and conditions of the RFQ remain the same.

Please include an acknowledgement of receipt of this Addendum as part of your Statement of Qualifications package.

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FORM L – INSURANCE REQUIREMENTS

1. INSURANCE REQUIREMENTS

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

(i) 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 Agreement) with limits of liability of not less than the following:

\$5,000,000 per occurrence for bodily injury and property damage
\$5,000,000 per occurrence for personal and advertising injury
\$10,000,000 aggregate for products and completed operations
\$10,000,000 general aggregate applying separately to the work performed under the Agreement

(ii) 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.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

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

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

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

(vii) CONTRACTORS POLLUTION LIABILITY insurance at a limit of \$2,000,000 each occurrence and aggregate.

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,

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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 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 Additional Insureds on a primary and non-contributory basis for ongoing and completed operations on Insurance Services Office (ISO) forms CG20 10 and CG 20 37 (or forms providing equivalent coverage acceptable to VVTA). 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.

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 Agreement 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 Agreement, 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 Agreement, 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 Agreement, whichever first occurs.
- d. A copy of the claims reporting requirements must be submitted to VVTA for review.
- e. These requirements shall survive expiration or termination of the Agreement.

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Contractor shall furnish VVTA with all certificate(s) 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 Agreement and before work commences.** Upon request of VVTA, Contractor shall immediately furnish VVTA with a complete copy of any insurance policy required under this Agreement, 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 Agreement.

If at any time during the life of the Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement 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 Agreement. No action taken by VVTA hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

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 Agreement. 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 from 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 Agreement, 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.

2. INDEMNIFICATION

To the furthest extent allowed by law, including California Civil Code section 2782, Contractor shall indemnify, hold harmless and defend VVTA and each of its members, board members, officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by VVTA, Contractor or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Contractor's obligations under the preceding sentence shall apply regardless of whether VVTA or any of its members, board members, officers, officials, employees or agents are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or 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 services to be performed under this Agreement, Contractor shall require each subcontractor to indemnify, hold harmless and defend VVTA and each of its members, board members, officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

Notwithstanding the preceding paragraph, to the extent that Contractor and/or Subcontractor is a "design professional" as defined in Section 2782.8 of the California Civil Code and performing work hereunder as a "design professional" shall, in lieu of the preceding paragraph, indemnify, hold harmless and defend VVTA and each of its

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members, board members, officials, officers, 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), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) to the extent that any loss, liability, fines, penalties, forfeitures, costs, damages, claims, demands or actions in law or equity arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of "design professional," its principals, officers, employees or agents in the performance of this Agreement. In no event shall the cost to defend charged to the design professional exceed the design professional's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the design professional shall meet and confer with other parties regarding unpaid defense costs.

This Section shall survive termination or expiration of this Agreement.