



San Bernardino Associated Governments

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•San Bernardino County Transportation Commission •San Bernardino County Transportation Authority
•San Bernardino County Congestion Management Agency •Service Authority for Freeway Emergencies

DATE: September 3, 2009

TO: Consultants

FROM: Garry Cohoe, Director of Freeway Construction

SUBJECT: **REQUEST FOR QUALIFICATIONS (RFQ) CONTRACT C10027 FOR ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES**

Attached with this cover memorandum is our Request for Qualifications (RFQ) for **ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES**. The purpose of this RFQ is to solicit proposals from all qualified firms to provide on-call right of way related services for the delivery of the San Bernardino County Transportation Authority (AUTHORITY) Measure I Program and other Federally Funded Programs under the direction of the Director of Freeway Construction.

SANBAG intends to select one consultant team to provide these comprehensive services. SANBAG reserves the right to execute two (2) separate contracts with the single selected on-call consultant in order to contractually implement and adhere to unique State and/or Federal requirements, including the DBE program requirements. The estimated contract term is approximately 3 years, with two 1 year options at SANBAG's discretion to extend the contract. The contract will be awarded without discrimination based on race, religion, color, age, sex, or national origin.

Those firms or individuals intending to submit Support Services proposals should note the schedule contained in Section XI of the attached document. It is our intention, subject to Board approval, to have the selected firm under contract by December 2009.

Individuals and firms submitting SOQ's for this project will be evaluated based on qualifications and experience on recent similar and relevant projects. Emphasis will be placed on the capabilities of key project individuals.

Also attached for your reference are the anticipated Scope of Services, a sample contract, and AUTHORITY's Contracting Policy. These items are available on the AUTHORITY's internet website: www.sanbag.ca.gov under "Bids, RFPs and RFQ". Please check the website periodically for any additional information and updates.

Eight (8) copies of the SOQ must be submitted to AUTHORITY's San Bernardino office by **2:00 P.M., Tuesday, September 29, 2009.**

Statement of Qualifications and correspondence shall be directed to:

Mr. Garry Cohoe
Director of Freeway Construction
San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor
San Bernardino, California 92410-1715

All questions and comments (email is preferred) regarding this Request for Qualifications or the project shall be directed to:

Mr. Chad Costello, P.E.
Project Manager
ccostello@sanbag.ca.gov
(909) 884-8276

GC:cc

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY/
SAN BERNARDINO ASSOCIATED GOVERNMENTS (SANBAG)**

REQUEST FOR QUALIFICATIONS

FOR

**ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS, RIGHT OF
WAY ENGINEERING, SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES**

For

Various Projects in San Bernardino County

Contract Number: C10027

Issued:

September 3, 2009

Key RFQ Dates:

Issue Request for Qualifications	September 3, 2009
Pre SOQ Meeting (Non Mandatory)	September 10, 2009
Statement of Qualifications Due	September 29, 2009
Shortlist and Notify Consultants (Anticipated)	October 12, 2009
Interview Shortlisted Consultants (Anticipated)	October 20, 2009
Select Consultant (Anticipated)	October 20, 2009
SANBAG Board Approval (Anticipated)	December 2, 2009
Notice to Proceed (Anticipated)	December 15, 2009

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY/
SAN BERNARDINO ASSOCIATED GOVERNMENTS (SANBAG)**

REQUEST FOR QUALIFICATIONS

FOR

**ON-CALL RIGHT OF WAY ACQUISITION SERVICES
INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND OTHER
SPECIALTY PROFESSIONAL SERVICES**

I. INTRODUCTION

The San Bernardino Associated Governments (SANBAG), acting as the San Bernardino County Transportation Authority, is soliciting proposals from all qualified firms to provide **ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES** to support the delivery of the Measure I Program and other Federally Funded Programs under the direction of the Director of Freeway Construction.

SANBAG intends to select one consultant team to provide these comprehensive services and the estimated contract term is approximately 3 years, with two 1 year options at SANBAG's discretion to extend the contract. However, this contract does not guarantee any amount of work for either the primary consultant or any subconsultants from the selected team. The contract will be awarded without discrimination based on race, religion, color, age, sex, or national origin.

II. SERVICES

The services required for this contract include on-call right of way acquisition services including appraisals, right of way engineering, surveying and other specialty services on an on-call basis to assist SANBAG in delivering the Measure I Program and other Federally Funded Programs. These services are anticipated to include a variety of right of way engineering and surveying services that may include but not be limited to, right of way mapping, right of way engineering, boundary surveys/maps, monumentation maps, survey control maps, records of survey, parcel or appraisal maps, lot line adjustment/subdivision maps, legal descriptions, and marking the right of way for appraisal and utility potholing, plat exhibits, property acquisitions, appraisals, negotiations, right of way coordination/meeting with owners, legal representation or agents for the SANBAG Measure I Program and other Federally Funded Programs.

Consultants shall utilize appropriate land surveying and land title practices as needed to establish property and easement boundaries, perform site reconnaissance and monument recovery, and file Records of Survey. All contract work shall be performed in accordance with all applicable local, state and federal regulations.

See scope of work within Attachment A for a detailed description of the services anticipated within this contract. SANBAG will provide overall direction and task assignments to deliver the Measure I Program and other Federally Funded Programs and may assign its own staff for supplemental support to perform specific job responsibilities as well.

III. MATERIALS FURNISHED BY SANBAG

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

IV. CONTRACT TYPE

A specific rate of compensation contract, with a total not to exceed amount, will be issued for this contract. SANBAG will utilize this on-call contract to identify specific task orders (assignments) for the selected Consultant to provide a project-specific scope, schedule and budget. Any services provided by the Consultant which are not specifically covered by the Contract assignments will not be reimbursed. It is the Consultant's responsibility to recognize and notify SANBAG when services not covered under the Contract have been requested.

SANBAG reserves the right to execute two (2) separate contracts with the single selected on-call consultant in order to contractually implement and adhere to any unique State and/or Federal requirements, including the DBE program requirements.

The terms of the Contract assignments will have specific schedules and budgets defined, subject to the budget constraints and duration of the overall on-call contract.

V. DISADVANTAGED BUSINESS ENTERPRISE (DBE)-(Federally Funded Program Requirements Only)

This contract is subject to Title 49 CFR 26.13(b). If projects and/or task orders have no federal funding, these DBE federal funding requirements do not apply.

The UDBE Contract goal is ____%. (Goals will be calculated, as applicable, on a specific project and/or task order and tracked on a monthly basis with each invoice submittal.)

Bidders are advised that, as required by federal law, SANBAG has implemented Disadvantaged Business Enterprise requirements for Underutilized Disadvantaged Business Enterprises (UDBE). Sections A thru F below of this Request for Qualifications cover the UDBE requirements.

It is the policy of San Bernardino Associated Governments (SANBAG) that Disadvantaged Business Enterprises (DBEs) as defined in Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION (DOT) FINANCIAL ASSISTANCE PROGRAMS", have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
2. To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
3. To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.

4. To ensure that only firms that fully meet 49 CFR 26 eligibility standards are permitted to participate as DBEs.
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts.
6. To assist with the development of firms that can compete successfully in the market place outside the DBE Program.

SANBAG will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, SANBAG will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishments of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

Consultants must give consideration to DBE firms as specified in 23 CFR 172.5(b), 49 CFR Part 26, and in Exhibit 10-I "*Notice to Bidders/Proposers Disadvantaged Business Enterprise Information*." If the contract has an under-utilized DBE (UDBE) goal, the consultant must meet the UDBE goal by using UDBEs as subconsultants or document a good faith effort to meet the goal. If a UDBE subconsultant is unable to perform, the consultant must make a good faith effort to replace him/her with another UDBE subconsultant if the goal is not otherwise met.

A pre-SOQ meeting is scheduled for 2:00 P.M., September 10, 2009, at SANBAG's offices, 1170 W. Third Street, San Bernardino, CA 92410. The meeting will be held in the Super Chief Conference Room. This meeting is to inform consulting firms of project requirements and subconsulting opportunities. Bidder's attendance at this meeting will **NOT** be mandatory.

A. Local Agency and Consultant DBE/UDBE Commitment

The CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

The CONSULTANT must take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26). It is the consultant's responsibility to make work available to DBEs/UDBEs and select work parts or materials needed consistent with available DBEs/UDBEs, to meet the contract goal for UDBE participation in this Request for Qualifications or to provide information to establish that, prior to SOQ submittal, the consultant made adequate good faith efforts.

To ensure there is equal participation of the DBE groups specified in 49 CFR 26.5, the Agency specifies a ____% goal (On federally funded projects/tasks, goals will be calculated on each specific project and/or task order and tracked on a monthly basis with each invoice submittal.)for Underutilized Disadvantaged Business Enterprises (UDBEs).

UDBE is a firm that meets the definition of DBE and is a member of one of the following groups:

1. Black Americans
2. Native Americans
3. Asian-Pacific Americans
4. Women

The CONSULTANT must verify that the UDBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program (CUCP), go to: http://www.dot.ca.gov/hq/bep/find_certified.htm. The CUCP database includes DBEs certified from all certifying agencies participating in the CUCP. If a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.

References to DBEs include UDBEs, but references to UDBEs do not include all DBEs.

Only UDBE participation will count towards the UDBE goal. DBE participation will count towards the Agency's Annual Anticipated DBE Participation Level and the California statewide goal.

B. UDBE Commitment Submittal

Submit UDBE information on the "Local Agency Proposer-UDBE Commitment (Consultant Contracts)," Exhibit 10-O(1), form with the Statement of Qualifications (SOQ). It is the Contractors responsibility to use the most current forms available. All forms can be obtained from the California Department of Transportation website at:

<http://www.dot.ca.gov/hq/LocalPrograms/DBE/forms/forms.htm>

Submit written confirmation from each UDBE stating that it is participating in the contract. Include confirmation with the UDBE Commitment form. A copy of a UDBE's quote will serve as written confirmation that the UDBE is participating in the contract.

If you purchase materials or supplies (for example, printing services) from UDBE firms, you may credit these purchases towards the goal in the following manner:

1. 100 percent counts if the materials or supplies are obtained from a UDBE manufacturer.
2. 60 percent counts if the materials or supplies are obtained from a UDBE regular dealer.
3. Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a UDBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

C. Good Faith Efforts Submittal

If you have not met the UDBE goal, complete and submit the "UDBE Information - Good Faith Efforts," Exhibit 15-H, form with the SOQ showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by UDBEs will be considered.

If your UDBE Commitment form shows that you have met the UDBE goal or if you are required to submit the UDBE Commitment form, you must also submit good faith efforts documentation

with the SOQ to protect your eligibility for award of the contract in the event the Agency finds that the UDBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to UDBE firms. Identify those items of work you might otherwise perform with its own forces and those items that have been broken down into economically feasible units to facilitate UDBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to UDBE firms.
2. Names of certified UDBEs and dates on which they were solicited to participate on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the UDBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified UDBEs through all reasonable and available means and provide sufficient time to allow UDBEs to respond.
3. Name of selected firm and its status as a UDBE for each item of work made available. Include name, address, and telephone number of each UDBE that was contacted prior to submission of the SOQ. If the firm selected for the item is not a UDBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested UDBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using UDBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested UDBEs with adequate information about the requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the UDBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested UDBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the UDBE subconsultant purchases or leases from the prime consultants or its affiliate. If such assistance is provided by you, identify the name of the UDBE assisted, nature of the assistance offered, and date. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.

A "Local Agency Proposer-DBE Information (Consultant Contracts), Exhibit 10-O(2)" form is available on the California Department of Transportation website referenced in Section VI(B) above, and is to be executed by the successful consulting firm. The purpose of the form is to collect data required under 49 CFR 26. Even if no DBE participation will be reported, the successful firm must execute and return the form.

The successful firm's "Local Agency Proposer-DBE Information (Consultant Contracts), Exhibit 10-O(2)" form should include the names, addresses and phone numbers of DBE firms that will participate, with a complete description of work or supplies to be provided by each, and the dollar value of each DBE transaction. When 100 percent of a contract item of work is not to be performed or furnished by a DBE, a description of the exact portion of that work to be performed

or furnished by that DBE should be included in the DBE information, including the planned location of that work. A successful consulting firm certified as a DBE should describe the work it has committed to performing with its own forces as well as any other work that it has committed to be performed by DBE subconsultants.

The successful firm is encouraged to provide written confirmation from each DBE that the DBE is participating in the contract. A copy of a DBE's scope of work proposal will serve as written confirmation that the DBE is participating in the contract. If a DBE is participating as a joint venture partner, the successful firm is encouraged to submit a copy of the joint venture agreement.

The "Local Agency Proposer-DBE Information (Consultant Contracts), Exhibit 10-O(2)" form shall be completed and returned to the Agency by the successful firm with the executed contract.

D. Subconsultant and DBE Records

The Consultant shall maintain records showing the name and business address of each first-tier subconsultant. The records shall also show the name and business address of every DBE subconsultant, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all of these firms. DBE prime consultants shall also show the date of work performed by their own firm along with the corresponding dollar value of the work.

Upon completion of the contract, a summary of these records shall be prepared on "Final Report of Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors" Exhibit 17-F, and certified correct by the Consultant or the Consultant's authorized representative, and shall be furnished to SANBAG. The form shall be furnished to SANBAG within 90 days from the date of completion of the professional services contract. The amount of \$10,000 will be withheld from the final invoice(s) payment until a satisfactory form is submitted.

E. DBE Certification Status

If a DBE subconsultant is decertified during the life of the project, the decertified subconsultant shall notify the prime consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the project, the subconsultant shall notify the prime consultant in writing with the date of certification. The prime consultant shall furnish the written documentation to SANBAG.

Upon completion of the professional services contract, "Disadvantaged Business Enterprises (DBE) Certification Status Change" Form CEM-2403(F) indicating the DBEs' existing certification status shall be signed and certified correct by the prime consultant. The certified form shall be furnished to SANBAG within 90 days from the date of completion of the contract.

F. Performance of Subconsultants

The subconsultants listed by the prime consultant shall perform the work or services for which they are listed, unless the prime consultant has received prior written authorization to perform the work with other resources. The prime consultant should notify SANBAG in writing of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

The subconsultants listed by you in the Statement of Qualifications (SOQ) shall list therein the name and address of each of their subcontractors to whom the subconsultant proposes to subcontract portions of the work in an amount in excess of one-half of one percent of the total bid or \$10,000, whichever is greater, in accordance with California Public Contract Code Section 4100-4114, known as the "Subletting and Subcontracting Fair Practices Act". The bidder's attention is invited to other provisions of the Act related to the imposition of penalties for a failure to observe its provisions by using unauthorized subcontractors or by making unauthorized substitutions.

UDBEs must perform the work as listed in the "Local Agency Bidder - UDBE Commitment" form specified in the Contract. Do not terminate a UDBE listed subconsultant for convenience and perform the work with your own resources without prior written authorization from the Agency.

The Agency grants authorization to use other resources for requests that show any of the following justifications:

1. Listed UDBE fails or refuses to execute a written contract based on their submitted written scope of work to the prime consultant for preparing the SOQ.
2. Work requires a professional license and listed UDBE does not have a valid license under the Board of Consumer Affairs.
3. Listed UDBE fails or refuses to perform the work.
4. Listed UDBE's work is unsatisfactory and not in compliance with the contract.
5. Listed UDBE delays or disrupts the progress of the work.
6. Listed UDBE becomes bankrupt or insolvent.

If a listed UDBE subconsultant is terminated, you must make good faith efforts to find another UDBE subconsultant to substitute for the original UDBE. The substitute UDBE must perform at least the same amount of work as the original UDBE under the contract to the extent needed to meet the UDBE goal. The substitute UDBE must be certified as a DBE at the time of request for substitution.

SANBAG does not pay for work unless it is performed or supplied by the listed UDBE, unless the UDBE is terminated in accordance with this section.

VI. STATEMENT OF QUALIFICATIONS INSTRUCTIONS

Statement of Qualifications (SOQ) will be accepted until **2:00 PM, Tuesday, September 29, 2009**. Eight (8) copies are required. Any late submittals shall be considered nonresponsive.

SOQs shall be delivered to: Mr. Garry Cohoe
Director of Freeway Construction
San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor
San Bernardino, California 92410-1715

Proposals shall be submitted in a sealed package, addressed as shown above, clearly marked as follows:

"ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES"

SOQs must contain the information listed below and must be compiled in the following format:

A. Cover Letter

Provide the following information:

- A statement requesting SANBAG to evaluate the submitted proposal based upon the Scope of Services for the subject RFQ.
- Summary and description of the work anticipated to be performed by firm and each subconsultant firm proposed for the project
- Indicate the location of the office from which the proposed project team will be managed.
- In accordance with SANBAG Policy No. 11000-R10, Sect. 7.A.2.f, provide a response to the following question: Has your firm ever been terminated from a contract? If the answer is yes, see item B below.
- A memorandum from a principal from each subconsultant firm describing their specific roles and the services they will be performing.

B. Contract Termination Circumstances:

If consultant has ever been terminated from a contract, either for convenience and/or cause, describe the facts and circumstances in detail, on a separate sheet. See policy for details.

C. Technical Proposal Content:

1. Qualifications, Related Experience, and References

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

- a. Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees.
- b. Provide a general description of the firm's financial condition, identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede ability to complete the project.
- c. Describe the firm's experience in performing work of a similar nature to that solicited in this RFQ, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- d. Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFQ. Please include specialized experience and professional competence in areas directly related to this RFQ.

- e. Provide a list of past joint work by the firm and each subcontractor, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- f. A minimum of three (3) references should be given. Furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. References may also be supplied from other work not cited in this section as related experience.

2. Proposed Staffing and Project Organization

This section of the proposal should establish the method that will be used to manage the project as well as identify key personnel assigned. Specifically:

- a. Provide education, experience and applicable professional credentials of project staff.
- b. Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel.
- c. Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment, and how long each person has been with the firm.
- d. Include a project organization chart that clearly delineates communication/reporting relationships among the project staff, including subconsultants.
- e. Include a statement that key personnel will be available to the extent proposed for the duration of the project assignments, acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of SANBAG.

3. Work Plan

This section of the proposal shall provide a narrative that addresses the Scope of Services and shows understanding of the project needs and requirements. Specifically:

- a. Describe the approach and work plan for completing the anticipated tasks specified in the Scope of Services attached. The work plan shall be of such detail to demonstrate ability to efficiently accomplish the anticipated project objectives.
- b. Outline sequentially the typical activities that would be undertaken in completing the tasks and specify who in the firm would perform them.
- c. Identify methods that will be used to ensure quality control as well as budget and schedule control for the project.
- d. Identify any special issues or problems that are likely to be encountered during this project and how they will be addressed.

- e. Consultants are encouraged to propose enhancements or procedural or technical innovations to the Scope of Services that do not materially deviate from the objectives or required content of the project.

4. Appendices

Information considered as pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Consultants are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials; appendices should only be included if relevant and brief.

D. Contract Comments:

Provide a written discussion of any objections or concerns relative to the Terms and Conditions of SANBAG's standard contract attached. Please note that SANBAG reserves the right to disqualify any consultant that does not provide a complete written discussion of its contractual objections or to disqualify any consultant based on objections that SANBAG considers non-negotiable. SANBAG does not anticipate making substantive changes to its Terms and Conditions.

E. Entire Proposal:

The Consultant's proposal package is limited to 50 (8 ½" x 11") pages single-sided. Charts and schedules may be included in 11" x 17" format. Proposals shall not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. The page limit does not include the outside cover, section dividers, cover letters and subconsultant commitment memorandum, charts, schedules or appendices. Proposals that do not contain the required information or do not contain the required number of copies (eight) will not be accepted.

F. Changes:

During the selection process, any changes in key consultant or subconsultant personnel proposed in the SOQ must be brought to the attention of SANBAG immediately.

VII. ACCEPTANCE OF PROPOSALS

SANBAG reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals. SANBAG reserves the right to withdraw or cancel this RFQ at any time without prior notice and SANBAG makes no representation that any contract will be awarded to any firm responding to this RFQ. SANBAG reserves the right to re-issue a new RFQ for the same or similar services. SANBAG reserves the right to postpone proposal openings for its own convenience. Proposals received by SANBAG are public information and must be made available to any person upon request. Submitted proposals are not to be copyrighted.

VIII. CONSULTANT SELECTION

The primary objective of SANBAG is to select highly qualified firms to perform necessary professional services for SANBAG at a fair and reasonable cost. Consultants may obtain a copy of the consultant selection policy by accessing the SANBAG website.

In addition, SANBAG has established the following criteria for the selection process:

- A. The selection process shall be fair, open, and competitive.
- B. The selection of the consultant firms will be based on clearly stated objectives.
- C. Selection of private consultants/firms shall be based upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required services at a fair and reasonable price to SANBAG, rather than competitive bidding process.
- D. Upon review of the SOQs, a shortlist of firms will be invited to prepare for an interview. The pending contract will be awarded to the responsible, responsive firm best conforming to the RFQ, and is in the opinion of SANBAG, most advantageous to SANBAG. SANBAG reserves the right to reject any and all SOQs and to negotiate with any responsible, responsive firm. SANBAG is under no obligation to issue contracts for the subject services.

IX. NEGOTIATIONS AND ENGAGEMENT

The final contract and Scope of Services will be negotiated. Consultants are encouraged to include in their SOQ any comments relating to the Scope of Services and/or the terms and conditions of SANBAG's standard contract. In addition, Consultants are reminded that *any* comments regarding the Terms and Conditions of SANBAG's standard contract must be noted in the SOQ. SANBAG reserves the right to disqualify any firm that does not provide written discussions of any disagreements it has relative to SANBAG's Terms and Conditions. SANBAG does not anticipate making any substantive changes to its Terms and Conditions.

The consultant's attention is directed to the provisions in the Sample Contract for the requirements and conditions concerning award and execution of contract, a copy of which is attached.

The award of the contract, if it be awarded, will be to the most qualified consultant whose SOQ complies with the requirements prescribed herein. The contract shall be executed and returned to SANBAG within 10 days after the consultant has received the contract for execution, not including Saturdays, Sundays, and legal holidays. The executed contract documents shall be delivered to the following address:

San Bernardino Associated Governments
1170 W. Third Street, 2nd Floor
San Bernardino, CA 92410
ATTENTION: Mr. Garry Cohoe, Director of Freeway Construction

X. CONFLICT OF INTEREST

The selected consultant will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time. The determination of a conflict of interest, direct or incidental, shall be at the sole discretion of SANBAG.

XI. SCHEDULE FOR CONSULTANT SELECTION

Issue Request for Qualifications	September 3, 2009
Pre SOQ Meeting (Non Mandatory)	September 10, 2009
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SANBAG Board Approval (Anticipated)	December 2, 2009
Notice to Proceed (Anticipated)	December 15, 2009

Dates are subject to change. Additional information and schedule updates will be posted on SANBAG's internet website: www.sanbag.ca.gov under "Bids, RFPs and RFQs".

Contact List:

Appointment/Document Requests:	Nessa Williams	(909) 884-8276
Questions/Comments:	Chad Costello, P.E.	(909) 884-8276

ATTACHMENT "A"

Scope of Services

To provide

**ON-CALL RIGHT OF WAY ACQUISITION SERVICES
INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING,
SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES**

For

Various Projects in San Bernardino County

Contract Number: C10027

SCOPE OF WORK

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for CONSULTANT to provide **ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND OTHER SPECIALTY PROFESSIONAL SERVICES** for a period of three (3) years with two one-year options for extension, to be exercised at the sole discretion of SANBAG, on an On-Call/as needed basis in support of current and future SANBAG Projects.

Such services may include, but are not limited to, the following work program:

A. PROJECT MANAGEMENT

This task covers typical project management services including the requirements for meetings, schedules, progress reports, and administration of the CONSULTANT work. Depending on the specific project assignment, SANBAG may require additional Project Management services to be performed by CONSULTANT but typical services anticipated at this time include, but are not limited to the following:

1. Coordination/Administration

1.1 Coordination and Meetings

CONSULTANT shall meet with the relevant parties to discuss issues pertinent to the project assignments. The CONSULTANT team shall participate in project meetings (i.e. Project Development Team (PDT) meetings, Agency coordination meetings, workshops) and be prepared to discuss project status, issues, policy, or procedural issues. The team shall bring progress plans as appropriate and assist in developing meeting notices, agenda, minutes and/or handouts as needed.

1.2 Administration

Administration shall include the following elements of the work:

- Supervise, coordinate, and monitor work for conformance with the appropriate standards and policies;
- Apply for and/or assist to obtain City approvals and permits as required;

- Prepare, circulate, and file correspondence and memoranda as appropriate;
- Maintain project files using the CALTRANS Uniform File System, unless otherwise directed by SANBAG.

2. Schedule and Progress Reports

The CONSULTANT team shall submit an initial Project Schedule for each task order assignment. As directed by SANBAG, the schedule shall be tailored for project specific activities as appropriate to track right of way acquisition and project clearance activities from the initial appraisal phase through property possession. Following approval by SANBAG, this schedule will become the Baseline Project Schedule and will be tracked throughout the duration of the project.

As directed by SANBAG, schedule updates will be part of a monthly Progress Report prepared by CONSULTANT that describes the project status, outstanding action items, and/or issues for SANBAG approval. If appropriate and requested by SANBAG, the schedule and/or Progress Report may require updating more frequently.

3. Quality Assurance/Quality Control (QA/QC) Plan

The CONSULTANT team shall maintain a Quality Assurance/Quality Control Plan throughout performance of the services for this contract. The QA/QC Plan is intended to ensure that the appraisals, maps, reports, plans, studies, estimates, and other documents submitted under this Scope of Services are complete, accurate, checked, and proofread to meet professional standard practices in effect at the time of execution of the Contract.

Upon receipt of the Notice to Proceed, CONSULTANT shall discuss and explain their plan to provide a reasonable quality control check system and quality assurance program for the contract services described herein follow the applicable standard practices in effect that the time of execution of the Contract. Within twenty (20) days of receiving the Notice to Proceed, CONSULTANT shall submit a draft copy of the QA/QC Plan for review and approval by SANBAG. If requested by SANBAG, CONSULTANT shall modify and/or revise the QA/QC Plan as needed to appropriately control the project quality program for the contract.

B. RIGHT OF WAY ENGINEERING AND SURVEYING SERVICES

Such services may include, but are not limited to, the following work program:

1. Consultants shall provide right of way engineering and field surveying services including, but not limited to: preparing Boundary Maps, Monumentation Maps, Survey control maps, Records of Survey, Lot Line Adjustments, Subdivision maps, Parcel Maps, Appraisal maps, utility potholing information maps, Legal Descriptions & Plats, Certificates of Compliance, as described in the California Government Code under section 66499.35, and other right of way engineering services as directed by SANBAG.
2. Consultants shall prepare Boundary, Monumentation and Survey Control maps showing all parcels and easement boundaries and their relationship to the land net monuments used to define them. In cases where SANBAG is working in conjunction with the California Department of Transportation (Caltrans), these maps shall conform to the State's manuals as follows: PLANS PREPARATION MANUAL, the RIGHT OF WAY MANUAL, SURVEYS MANUAL and the DRAFTING MANUAL in regard to content and appearance of said right of way engineering and field surveying products.
3. Consultants shall utilize appropriate land surveying and land title practices to:
 - Establish all property and easement boundaries within and overlapping the project area.
 - Perform site reconnaissance and monument recovery.
 - Establish or reestablish all monumentation required by State law and local regulations.
 - File a Record of Survey, or Corner Recorder as necessary, to comply with the Land Surveyors Act.
 - The preparation, filing and associated fees will be the responsibility of Consultants.

All data, maps and documents produced by Consultants shall be subject to approval and acceptance by SANBAG's Project Manager. In the event of non-acceptance due to errors or omissions, Consultants shall have seven calendar days to make corrections and return maps and documents to SANBAG. Final acceptance will occur only after the work product has been determined to conform to this documents scope of work and requirements.

4. All surveying and mapping work affecting the State of California Right of Way at any location, or along any route, shall be in accordance with State law and local regulation and the procedures and instructions contained in the Caltrans Right of Way Manual and the Caltrans Surveys Manual (Manual). Additionally, all such work shall be in accordance with the procedures and instructions contained in the Caltrans district 8 Right of Way engineering Requirements for the Preparation Documents and Maps (Requirements). In the event of conflict, the Requirements shall be controlling. All Right of Way acquisitions by SANBAG with the intent to ultimately convey such acquisitions to the State, are considered State right of way acquisitions.
5. Consultants shall appoint a Survey Manager who is a Licensed Land Surveyor or Licensed Civil Engineer, authorized to practice land surveying by the State of California. The Survey Manager will be responsible for all survey related work to be performed by Consultants for SANBAG.
6. Deliverables shall consist of three (3) originals to including special reports performed by agencies other than Consultant. All electronic files shall be provided on Compact Disc, "CD-R", or DVD, "DVD-R" formatted for the Microsoft Windows operating system. Any required electronic mapping, Base map, (Hardcopy), Monumentation map, Appraisal maps, etc. shall be in a format consistent with Microstation File (.DGN). Electronic documents shall be in ASCII text; Microsoft Word 2000 or 2003. Completed Record of Survey, (filed with the County Recorder) shall be formatted at full size for Adobe Acrobat professional (.PDF). A Mylar copy shall also be provided. All survey field notes shall also be in an Adobe Acrobat professional format.
7. If any legal issues exist during the course of an assignment, Consultant shall coordinate and request legal opinion. All legal opinions shall be rendered by SANBAG's legal counsel.
8. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.

C. RIGHT OF WAY ACQUISITION AND RELOCATION, REAL PROPERTY SEARCHES, IDENTIFICATION AND FEASIBILITY STUDIES FOR REPLACEMENT AND MITIGATION SITES, COST ESTIMATES and UTILITIES RELOCATION SERVICES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide Right of Way Acquisition and Relocation, Real Property Searches, Identification and Feasibility Studies for Replacement and Mitigation Sites, Cost Estimates, and Utilities Relocation services in conjunction with current and future SANBAG Projects.

Consultant services may include, but are not limited to, the following work program:

1. All Consultant work shall comply with applicable Federal, State and local statutes and regulations, including but not limited to, the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the California Government Code; the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq.); the California Code of Civil Procedure; the Uniform Standards for Federal Land Acquisition Act; the California Public Utilities Code; and the California Streets and Highways Code.
2. Consultant deliverables shall typically consist of three (3) originals, together with specialist's reports which may be performed by someone other than Consultant.
3. Consultant may be required to meet and coordinate their efforts with SANBAG staff, SANBAG legal counsel, and other consultants or Caltrans staff; participate in office or project meetings.
4. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.

5. Consultant may be required to take direction from SANBAG's legal counsel in the delivery of services, and to provide testimony in any Administrative or Judicial proceeding related to services rendered by Consultant to SANBAG.
6. If any legal issues exist during the course of Consultant's performance of services required by SANBAG, Consultant shall request legal opinion. All legal opinions shall be rendered by SANBAG's legal counsel.
7. Consultant may be required to review right of way acquisition and relocation files of current and past SANBAG projects to ensure compliance with applicable state and/or federal regulations.
8. Consultant's Acquisition/Negotiation Agents must provide evidence of proper real estate license in the State of California.
9. Consultant must demonstrate knowledge and experience in working with the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the California Department of Transportation (Caltrans), railroad entities and major utility owners.
10. Consultant shall provide a Project Manager, an Acquisition/Negotiation Manager, a Relocation Assistance Manager, and a Utilities Relocation Coordinator who may not be replaced without the written consent of SANBAG.

D. RIGHT OF WAY APPRAISAL SERVICES FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND AGRICULTURAL PROPERTIES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide right of way appraisal services for developed or undeveloped residential, commercial, industrial and agricultural properties. CONSULTANT may be required to produce appraisal reports for full or partial acquisitions, easements, temporary construction easements, leased or licensed properties, and sale or disposition of excess/surplus properties.

Such appraisal services may include, but are not limited to, the following work program:

1. Consultant shall prepare appraisals in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part

24; the State of California Government Code, the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq.), the California Code of Civil Procedure, the Uniform Standards of Professional Appraisal Practice (USPAP), and in some cases, the Uniform Appraisal Standards for Federal Land Acquisition Act. Consultant must be licensed by the State of California.

2. Consultant must be qualified to provide expert witness testimony and defend the conclusions reached in the appraisal at any Administrative or Judicial proceeding.
3. Deliverables shall typically consist of three (3) originals of the completed appraisal report, specialty reports and component valuations which may be performed by someone other than Consultant, and incorporated into the overall fair market valuation.
4. Consultant may be required to meet with and coordinate their efforts with SANBAG staff, SANBAG legal counsel, and other consultants or Caltrans staff; participate in office or project site meetings.
5. Appraisal reports may be reviewed for acceptance and independent approval by the review appraisers. Revisions may be required by reason of this review process. Consultants may be requested to complete and deliver revised and/or updated appraisals. In the event of non-acceptance due to errors or omissions, Consultant shall have fifteen (15) calendar days to make corrections and return the revised appraisals to the review appraiser.
6. For proposed acquisitions, the owner of the real property or a designated representative will be invited by the Appraiser to accompany the Appraiser during the inspection of the property. This invitation must be in the form of a letter entitled "Notice to Appraise" written by the Appraiser to the owner. A copy of the invitation will be included in the appraisal report.
7. It is the Appraiser's responsibility to contact SANBAG's project engineers for discussion and/or clarification of any project design matters. This is critical in the appraisal of partial acquisitions and easements where the Appraiser may need cross sections or other project engineering data to complete the report.
8. The highest and best use for the property in the before condition must be determined and supported. If a partial acquisition is involved, the highest and best use of the property in

the after condition must be determined and supported. If the existing use is not the premise on which the valuation is based, the appraisal will contain an explanation justifying the determination that the property is available and adaptable for a different highest and best use and there is demand for that use in the market.

9. Where the acquisition involves only a part (or portion) of the property, the Appraiser will estimate any severance damages and special benefits to the remainder, including reasoning and market data to support the conclusion. The Appraiser will indicate if the remainder constitutes an economic or uneconomic unit in the market and/or to the present owner.
10. The California Eminent Domain Law will be followed in partial acquisitions. Special benefits are to be offset only against damages to the remainder in accordance with the law.
11. Appraisal for easement acquisitions will reflect the restrictive elements of the easement to be acquired and the potential effect of such elements on the utility of the property considering its highest and best use. Full details with respect to any interference with the highest and best use of the property affected must be explained and supported.
12. The Appraiser must estimate and support the economic rent, state the contract rent and the remaining term of the lease as of the date of value. Include lessor and lessee responsibilities for paying major expenses, e.g. taxes, insurance and maintenance.
13. Appraiser shall itemize in detail the "improvements pertaining to realty" (Eminent Domain Law-CCP Section 1263.205) showing their replacement cost new, depreciated value in place, salvage value if any, and relocation estimate. To the extent possible, determine the ownership claims of the Improvements Pertaining to the Realty.
14. In cases where the Appraisal Assignment requires a Specialty Appraisal (Furniture, Fixtures, Machinery and Equipment) and/or Specialists Reports (title, survey, soils, and engineering), Appraiser may be required to coordinate with SANBAG staff and/or consultants for such services as directed by SANBAG. Fees charged by SANBAG staff and/or consultants for Specialty Appraisal and/or Specialists Reports shall be paid directly by SANBAG.
15. It is the Appraiser's responsibility to thoroughly review the Specialty Appraisal for adoption (with adjustments or not, as appropriate) and inclusion in the overall appraisal.

The estimated values that the specialty items actually contribute to the overall value of the real estate will be separately stated but included in the total value of the property.

16. If any legal issues exist during the course of the appraisal assignment, Appraiser shall request legal opinion. All legal opinions shall be rendered by SANBAG's legal counsel.
17. It is the Appraiser's responsibility to contact SANBAG's legal counsel for discussion and/or clarification in identifying personal or real property.
18. If hazardous waste is discovered on the property, Appraiser shall seek further direction from SANBAG.
19. Additional Qualifications:
 - a. Consultant shall have a minimum five years experience as full time appraiser
 - b. Consultant shall be a member of a professionally recognized appraisal society or institute, such as the Appraisal Institute.
 - c. Consultant shall have completed a minimum ten appraisal assignments in California involving potential acquisition pursuant to the laws of eminent domain.
 - d. Consultant shall certify that Consultant has not been disciplined in the last five years as an appraiser by any government or professional association.

E. APPRAISAL REVIEW SERVICES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide independent appraisal review services for developed or undeveloped residential, commercial, industrial and agricultural properties. Review appraisal shall be completed by a unique, independent appraisal company. CONSULTANT may be required to produce review appraisal reports for full or partial acquisitions, easements, temporary construction easements, leased or licensed properties, and sale or disposition of excess/surplus properties.

Such review appraisal services may include, but are not limited to, the following work programs:

1. When required by SANBAG, Review Appraiser shall examine appraisals prepared by the Residential, Commercial, Industrial, Agricultural and/or Furniture, Fixtures, Machinery and Equipment appraisers.

2. Review Appraiser shall provide Review Appraisal Services based on nationally recognized appraisal standards and techniques, including those established by the Uniform Standards of Professional Appraisal Practice (USPAP), the Uniform Appraisal Standards for Federal Land Acquisition; ensure compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the State of California Government Code, the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations CH 6, Art 1, Section 6000 et seq.), and the California Code of Civil Procedure. Comply with the requirements of the Caltrans Right of Way Manual, when applicable. Appraiser must be licensed by the State of California.
3. Review Appraiser must be qualified to provide expert witness testimony and defend the conclusions at any Administrative or Judicial proceeding.
4. Review Appraiser may be required to meet with and coordinate their efforts with SANBAG staff, SANBAG legal counsel, and other consultants or Caltrans staff; participate in office or project site meetings.
5. It is the Review Appraiser's responsibility to contact SANBAG's project engineers for discussion and/or clarification of any project design matters. This is critical in reviewing appraisals of partial acquisitions and easements where engineering data have to be verified.
6. Review Appraiser shall examine appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.
7. If the Review Appraiser is unable to recommend approval of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain additional appraisal, Review Appraiser may develop appraisal documentation to recommend value.
8. The Review Appraiser and the Appraiser should discuss the appraisal assignment as soon work is assigned. The Review Appraiser and, if practical, the Appraiser should hold at least one field review in order to identify any legal issues that may exist. If any legal issues exist, the Review Appraiser shall request legal opinion.
9. All legal opinions shall be rendered by SANBAG's legal counsel and the appraisal prepared in accordance therewith.

10. The Review Appraiser's certification of the recommended value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation. Any damages or benefits to any remaining property shall also be identified in the statement.
11. All reports and deliverables shall typically consist of three originals, including specialty reports which may be prepared by other consultants.
12. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.
13. Additional Qualifications:
 - a. Consultant shall have a minimum five years experience as full time appraiser
 - b. Consultant shall be a member of a professionally recognized appraisal society or institute, such as the Appraisal Institute.
 - c. Consultant shall have completed a minimum ten appraisal assignments in California involving potential acquisition pursuant to the laws of eminent domain.
 - d. Consultant shall certify that Consultant has not been disciplined in the last five years as an appraiser by any government or professional association.

F. GOODWILL APPRAISAL SERVICES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide Goodwill Appraisal Services in support of SANBAG's right of way acquisition activities for current and future SANBAG Projects.

Such appraisal services may include, but are not limited to, the following work programs;

1. Appraiser shall prepare Goodwill Valuations in accordance with the California Code of Civil Procedure, and the Uniform Standards of Professional Appraisal Practice (USPAP). Appraiser must be licensed by the State of California.
2. Appraiser must be qualified to provide expert witness testimony and defend the conclusions reached in the appraisal at any Administrative or Judicial proceeding.

3. Deliverables shall typically consist of three (3) originals of the completed appraisal report.
4. Appraiser may be required to meet with and coordinate their efforts with SANBAG staff, SANBAG legal counsel, or other consultants or Caltrans staff; participate in office or project site meetings.
5. In valuing the loss of goodwill to a business, Appraiser shall rely upon the definition of fair market value found in Section 1263.320 of the California Code of Civil Procedure, and compensation for loss of goodwill as outlined in Section 1263.510 of the California Code of Civil Procedure.
6. It is the Appraiser's responsibility to contact SANBAG's staff for discussion and/or clarification of any project design matters as well as relocation sites for the business.
7. Appraiser shall work with and take direction from SANBAG legal counsel in the delivery of their reports.
8. If any legal issues exist during the course of the appraisal assignment, Appraiser shall request legal opinion. All legal opinions shall be rendered by SANBAG's legal counsel.
9. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.
10. Additional Qualifications:
 - a. Consultant shall have a minimum of five years experience as a full time Goodwill appraiser.
 - b. Consultant shall be a member of a professionally recognized appraisal society or institute, such as the Appraisal Institute.
 - c. Consultant shall have completed a minimum ten Goodwill Valuation assignments in California involving potential acquisition pursuant to the laws of eminent domain.
 - d. Consultant shall certify that Consultant has not been disciplined in the last five years as a Goodwill Appraiser by any government body or professional association.

G. FURNITURE, FIXTURES, MACHINERY AND EQUIPMENT APPRAISAL SERVICES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide Furniture, Fixtures, Machinery and Equipment (F F & E) Appraisal Services in support of SANBAG's right of way acquisition activities for current and future SANBAG Projects.

Such appraisal services may include, but are not limited to, the following work program:

1. Appraiser shall prepare appraisals in accordance with the California Code of Civil Procedure, the Uniform Standards of Appraisal Practice (USPAP), the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the State of California Government Code; the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq.). Appraiser must be licensed by the State of California.
2. Appraiser must be qualified to provide expert witness testimony and defend the conclusions reached in the appraisal at any Administrative or Judicial proceeding.
3. Deliverables shall typically consist of three (3) originals of the completed appraisal report.
4. Consultants may be required to meet with and coordinate their efforts with SANBAG staff, SANBAG legal counsel, or other consultants or Caltrans staff; participate in office or project site meetings.
5. It is the Appraiser's responsibility to contact SANBAG's project engineers for discussion and/or clarification of any project design matters.
6. It is the Appraiser's responsibility to contact SANBAG's legal counsel for discussion and/or clarification in identifying personal or real property.
7. If any legal issues exist during the course of the appraisal assignment, Appraiser shall request legal opinion. All legal opinions shall be rendered by SANBAG's legal counsel.
8. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work required for the effective delivery of the

Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.

9. Additional Qualifications:

- a. Consultant shall have a minimum five years experience as full time F F & E appraiser
- b. Consultant shall be a member of a professionally recognized appraisal society or institute, such as the Appraisal Institute.
- c. Consultant shall have completed a minimum ten F F & E appraisal assignments in California involving potential acquisition pursuant to the laws of eminent domain.
- d. Consultant shall certify that Consultant has not been disciplined in the last five years as an appraiser by any government or professional association.

H. TITLE AND ESCROW SERVICES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide Title and Escrow services on an On-Call/as needed basis in support of current and future SANBAG Projects.

Title and Escrow Services conducted by the Consultants on behalf of SANBAG may include, but are not limited to, the following work program:

1. At the initiation of the work program, the Consultants shall meet with SANBAG staff regarding SANBAG's requirements for specific title work and escrow services assignments.
2. Consultant shall provide Preliminary Title Reports and Litigation Guaranties on all Fee Simple and less than Fee Simple property and property interests as requested by SANBAG.
3. Consultant shall ensure that all Preliminary Title Reports are accurate and complete.
4. Consultant shall provide all additional legal documents required by SANBAG, such as, copies of conveyance deed, deed restrictions, liens and encumbrances, title chains and the like.

5. Consultant staff shall prepare and review all legal documents necessary to ensure that SANBAG is acquiring good title to the property or property interests to be purchased, free from liens and encumbrances.
6. Consultant shall provide all necessary assistance to SANBAG to clear all exceptions stated in the Preliminary Title Reports, unless waived by SANBAG in writing.
7. Consultant shall ensure that all conditions precedent and conditions subsequent provided for in Purchase and Sales Agreements are met and satisfied prior to Close of Escrow.
8. Consultant shall prepare, subject to review and approval by SANBAG's Legal Counsel, Escrow Instructions for execution by SANBAG and the grantor(s) or grantee(s).
Consultant shall ensure that all legal requirements are satisfied prior to Close of Escrow.
9. Consultant shall provide efficient Escrow Services to SANBAG and property owners involved in SANBAG related transactions.
10. Consultant shall prepare all necessary conveyance documents; demand and release of lien/encumbrance documents and submit the same for approval by SANBAG Legal Counsel prior to close of escrow.
11. Consultant shall obtain grantor(s) Tax Identification Number, Social Security Number, Employer Identification Number or Federal Employer Identification Number prior to Close of Escrow and provide the same to SANBAG.
12. Consultant shall record all documents necessary for the acquisition of property/property rights, release of liens and encumbrances with the proper State, County and City recorder's office.
13. Consultant shall prepare an Escrow Closing Schedule in accordance with written instructions from SANBAG and property owners.
14. Consultant shall meet and coordinate its work with other right of way consultants as directed by SANBAG.
15. Immediately prior to Close of Escrow, Consultant shall order and provide SANBAG with an Updated Preliminary Title Report to ensure that no new liens and/or encumbrances are recorded on the property/property interests to be acquired by SANBAG.
16. At Close of Escrow, Consultant shall prepare and submit an Escrow Closing Statement to SANBAG and other parties to the transaction, together with copies of all documents

conveying title to SANBAG, copies of releases of liens and encumbrances, receipt for payments made on behalf of SANBAG and the other parties to the transaction.

17. At Close of Escrow, the Consultant shall issue a Standard Owner's Policy of Title Insurance effectively insuring SANBAG's interest and ownership of the property or property rights acquired, unless an ALTA Policy of Title Insurance is requested by SANBAG.
18. Consultant shall provide multi-lingual services as needed for efficient closing of SANBAG transactions.
19. As requested by SANBAG, Consultant may be required to testify in any administrative or judicial proceeding.
20. Consultant shall perform any other normal procedures and processes necessary to implement the assignment or work program and shall provide any other supporting information and/or correspondence required by SANBAG.
21. Consultant shall assign a Project Manager, a Title Office and an Escrow Officer to this procurement, which may not be replaced without the written consent of SANBAG.
22. If legal issues exist during Consultant's performance of services required by SANBAG, Consultant shall request legal opinion. All legal opinions shall be rendered or concurred to by SANBAG's legal counsel.
23. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.

I. PROPERTY MANAGEMENT, HAZARDOUS MATERIAL REMOVAL, DEMOLITION AND CLEARANCE SERVICES

San Bernardino Associated Governments (SANBAG) is issuing this Request for Qualifications for a CONSULTANT to provide Property Management, Hazardous Material Removal, Demolition and/or Clearance services on an On-Call/as needed basis in support of current and future SANBAG Projects.

If deemed necessary by SANBAG, Consultant shall provide these services to SANBAG for all currently owned or acquired property, until the property is turned over to the contractor of SANBAG highway projects for construction, or as otherwise directed by SANBAG. All work will be performed in accordance with SANBAG's policies and procedures, and federal, state and local regulations. Services, at a minimum, may include, but not be limited to the following:

A. General Property Management Services

1. Maintain a Certified Property Manager (CPM) on staff during the full term of the agreement and/or task order as necessary.
2. In cases where occupants need to remain in the property prior to relocation, administer temporary lease agreements, which includes rent collection, ensure payment of utility bills and that occupants can maintain decent living conditions. Prepare, maintain and submit a monthly Rent Collection and Receivables Aging Report.
3. Prepare and maintain a monthly Property Inventory Report.
4. After occupants have been relocated and properties are vacant, consultant shall coordinate with SANBAG to appropriately fence and secure properties and prevent trespassers, intruders and vandals from gaining entry to properties.
5. As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work (i.e. perform soil testing, environmental clean-up) required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.

B. Hazardous Material Removal, Demolition and Clearance

1. Surveys of buildings, Containers, Etc.
The Consultant may be required to provide survey activities. Survey activities may include the surveying and testing, as applicable, of buildings, structures, stored materials, tank contents and containers to determine whether hazardous waste or materials are present. The Consultant may also be required to perform environmental site assessment work to confirm that the properties are free and

clear of hazardous materials, potentially requiring the on call team to assist with required environmental assessment and/or site remediation work as directed by SANBAG.

Typical surveys or assessments may include, but not be limited to inspections for:

- Asbestos containing materials (ACM) in buildings and pipelines
- PCB containing materials in transformers, equipment, containers
- Fuels and other chemicals in tanks, barrels and storage containers
- Review of buildings or structures to determine whether hazardous materials are being used or stored
- The presence of lead paint
- Environmental Assessment (i.e Phase 1, Phase 2)

Only when requested will a Certified Industrial Hygienist (CIH) be utilized for survey plans and work. Requests for a CIH will be through the project or task order process. When surveys are included in a task order, survey activities as well as results shall be included as a report or as part of the Site Investigation Report.

2. Removal and Disposal of Asbestos and Lead Paint

This work shall consist of identifying, quantifying, removing and disposing of materials containing friable and/or non-friable asbestos prior to the demolition of improvements and obtaining all necessary licenses, permits, certification and other documents needed for the work. No grinding equipment that may expose asbestos containing materials may be used.

Consultant shall prepare a plan presenting the methods for removing, handling, transporting and disposing of friable or non-friable asbestos. Prior to submittal to the Project Manager, the local Air Quality Management District must approve the plans for friable asbestos. The submittal of these plans to the Southern California Air Quality Management District (SCAQMD) must occur 14 days prior to the start of work. This plan shall include identification of all Environmental

Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) licenses, permits and certifications required for asbestos abatement work, removal, handling and transport.

All asbestos work and lead paint removal shall conform to federal, state and local laws governing the identification, preparation, workers, equipment, safety, monitoring, signing, fencing, removing, and hauling of friable and non-friable asbestos and shall supply copies or information on all applicable licenses, permits, and notifications required by applicable laws and regulations.

In cleaning sites that involve asbestos removal, Consultant must be properly licensed for such work. Consultant shall be responsible for maintaining, monitoring, securing, and posting the site in accordance with all laws, regulations and permits required for asbestos abatement work. The Consultant shall be provided with an asbestos report prior to starting the job, and will be required to provide the SANBAG manager with copies of all documents required for abatement and certification at the conclusion of the removal and disposal of asbestos.

Consultant shall use a California Uniform Hazardous Waste Manifest, which will be signed by the Project Manager or his designee. Project Manager will supply the EPA Generator number for the Consultant if necessary.

Consultant shall use hazardous waste haulers having current registration with the California Department of Health Services (CDOHS), and shall have a U. S. EPA Identification Number (US EPA ID Number). All vehicles used to transport hazardous waste shall have a valid Certificate of Compliance affixed to the vehicle.

Asbestos containerized for transportation to a disposal site shall be appropriately labeled. Consultant shall pay any disposal site charges.

Non-friable asbestos containing material is to be considered hazardous waste. Consultant shall take precautions during removal that it remains wet, breakage is minimized, minimal visual emissions are allowed and it is not physically altered or powdered to result in the release of free asbestos fibers.

If the Consultant discovers any asbestos containing material or other hazardous waste not noted in the port provided by SANBAG, the Consultant must stop work. The consultant must call the Project Manager and should give an estimate of cost for this unforeseen work. Said materials will be removed only after approval in writing by the Project Manager. The removal of unforeseen asbestos will comply with the requirements pertaining to removal and disposal of asbestos.

3. Hazardous and/or Toxic Waste or Materials

Consultant shall immediately notify the Project Manager upon encountering any type of hazardous and/or toxic wastes or materials during the demolition and removal process. Project Manager will request an immediate site investigation by SANBAG's designated consultant.

Should it become necessary to terminate the demolition and removal process, Consultant shall be compensated only for work in progress or actually completed. The amount of such compensation is to be determined by the Project Manager. No payment shall be made for delay or lost profits anticipated for uncompleted work.

Failure of the Consultant to notify SANBAG of the presence of hazardous and/or toxic wastes or materials may result in legal liability to the Consultant for all actual damages resulting to SANBAG.

4. Demolition and Clearance

Consultant may be required to provide related demolition and clearance services, including but not limited to, demolition and clearance, removal of walls, fences,

trees and shrubs, asbestos and lead based paint removal and disposal, site remediation of hazardous materials, and fencing or securing within 24 hours of Task Order execution. Consultant shall furnish all labor, tools, materials and equipment necessary to provide routine and/or emergency demolition and clearance services for residential, commercial and industrial properties. In the performance of this task, Consultant shall at all times comply with all applicable laws, decisions, ordinances, statutes, rules, and regulations of the U. S. Government, the state of California, and any political subdivision or public authority thereof, including without limitation, tax, labor, prevailing wage, safety, security and social security laws and regulations. In addition, Consultant shall perform the services there under in a manner so as not to endanger the safety or any person and property.

Consultant shall procure all permits and licenses, pay all charges and fees, and give all notices necessary for the due and lawful performance of work. Consultant shall comply with the provisions of said statutes in obtaining such permits, licenses and other authorizations, and they shall be obtained in sufficient time to prevent delays to the work.

Consultant shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract.

Consultant shall protect from damage all existing improvements and utilities near the work site, and on adjacent property owned by a third party, the locations of which are made known to or should be known by the Consultant. Consultant shall repair any damage, at its own cost or expense, to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Consultant fails or refused to repair the damage

promptly, SANBAG may have the necessary work performed and charge the cost to the Consultant.

5. Demolition and Clearance Special Provisions

All materials resulting from provision of demolition and clearance services shall become the property of the Consultant and shall be removed from the premises. Hazardous materials shall be disposed of in accordance with appropriate laws and regulations including OSHA Construction Standard (29 CFR 1926.1101) and EPA National Emission Standards for Hazardous Air Pollutants (NESHAP 40 CFR subpart M).

Sewer capping shall be the first order of work. Consultant shall disconnect and cap sewer lines at the property line or back of sidewalk. All sewer capping shall be subject to inspection by the responsible agency. Consultant shall notify the responsible agency a minimum of 24 hours prior to capping the sewer. The excavation resulting from the sewer cap operation shall be covered until inspection by the responsible agency and immediately backfilled after inspection. Consultant or his representative shall be on the site at the time the responsible agency inspects the sewer cap.

Prior to starting demolition operations, Consultant shall contact utility companies to verify the location of their service lines to be protected in place and/or verify removal of their service lines.

Prior to starting demolition operations adjacent to any public way, Consultant shall erect a protection fence. A protection fence will not be necessary when the distance from the improvement to the public way is more than one-half the height of the improvement being demolished.

Where a protection fence is erected on a public sidewalk, a pedestrian walkway shall be provided. The walkway and sidewalk shall meet the Code requirements

established by the City where the project is located. The required width of the walkway shall be unobstructed.

No structural member in any level shall be demolished or removed until the level next above is completely removed, excepting Class "A" masonry and/or concrete improvements, subject to the approval of the responsible agency.

The cleaning of brick on the site is prohibited. Consultant shall break the floor of and fill all basements, pits, and sumps and backfill all excavations resulting from the removal operations.

Consultant shall not proceed from one item of work to the next until the previous item is in non-hazardous condition and all combustible material has been removed.

Consultant shall clear and grub all trees, shrubs and vegetation unless otherwise specified in a task order. Tree removal shall include removing the major root ball and backfilling the resulting excavations.

Consultant shall not remove fencing adjoining improved property unless instructed to do so by the Project Manager.

Unless specifically stated otherwise in these provisions, SANBAG assumes no responsibility for conditions not evident at the time of bid openings or for subsequent change or damage of any nature to the improvements not within the control of the Agencies.

The Project Manager reserves the right to remove such items from the improvements as deemed suitable before directing Consultant to begin demolition operations.

6. Workmanship

The workmanship shall be in conformance with the building codes of the state, county, and city in which the work is being done. Consultant shall conduct operations in such a manner to cause the least obstruction and/or inconvenience to the surrounding tenants and/or property owners.

It is the Consultant's responsibility to notify the Project Manager to have all work inspected within 24 hours of work completion for final inspection of work. Consultant shall leave each work site in a clean and neat condition, and shall haul away and legally discard any materials or debris caused by work actions from the job site, at no additional cost.

7. Coordination of Work with Other SANBAG Consultants

As directed by SANBAG, CONSULTANT shall coordinate with other SANBAG staff and/or consultants for supplemental work (i.e. perform soil testing, environmental clean-up) required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SANBAG staff and/or consultants shall be paid directly by SANBAG.

8. Estimated Time of Completion

Precise time frame for completion of work will be specified in the task order to be issued upon award of work. The exact time frame will depend on the volume and type of work, typically within 45 calendar days, including Southern California Air Quality management District (SCAQMD) notification.

9. Deliverables

Deliverables will be identified in the specific task order.

San Bernardino Associated Governments	Policy	11000
Adopted by the Board of Directors January 3, 1997	Revised	12/3/08
Contracting and Procurement Policy	Revision No.	11

Important Notice: A hardcopy of this document may not be the document currently in effect. The current version is always the version on the SANBAG Intranet.

Table of Contents
Purpose References Policy Contract Types Standard Procedures Public Works Contracts Supplies and Services Contracts Leasing of Real Property Amendments to Contracts Standard of Ethics Revision History

I. PURPOSE

This policy establishes contracting and procurement standards to guide the selection of the most qualified firms to perform services to the best advantage of the Agency. It provides guidance to SANBAG staff with respect to policy considerations adopted by the SANBAG Board of Directors.

II. REFERENCES

Policy 10025, Guidelines for Agenda Materials

III. POLICY

All contracts, including contracts for construction projects, leases of real property, professional services, and service and maintenance contracts, shall be processed according to the following policies.

IV. CONTRACT TYPES

SANBAG may enter into a variety of contract types, each of which may be subject to different rules as a function of state and/or federal law and SANBAG policy. The different contract types and rules affecting them are specified in this policy.

A. Professional Services Contracts

1. SANBAG may, from time to time, enter into agreements with private firms or other agencies to perform ongoing services. Such contracts are geared toward the performance of specific functions on a continuing or as-needed basis, as opposed to the completion of a clearly specific scope of work or preparation of a discrete work product. Examples of professional services contracts are for legislative advocacy, legal counsel, program management, and construction management.
2. When selecting private firms to perform such services, this type of contract must be awarded on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services at a fair and reasonable price to SANBAG. Such selection shall take into consideration prior experience of the firm and/or representatives, understanding of work to be completed, knowledge of the working environment, and particular skills and expertise of the firm and/or representatives proposed for the function.

B. Product Specific Professional and Technical Services Consultants

1. SANBAG may enter into contracts for the preparation of specific designs, studies, reports, or work products. These contracts are defined by very specific scopes of work and discrete work products, set periods of performance, and negotiated costs. Examples of product specific professional services contracts are for architectural reports, historic surveys, engineering reports and feasibility studies.
2. When selecting private firms to perform such services, this type of contract must be awarded based on demonstrated competence and on the professional qualifications necessary for the satisfactory

performance of the services at a fair and reasonable price to SANBAG. Such selection shall take into consideration prior experience of the firm and project managers, organization of the project tasks, understanding of tasks to be completed, understanding of project goals, knowledge of the working environment, and particular skills and expertise of the firm and/or managers proposed for the project.

C. Public Works/Construction Contracts

SANBAG may enter into contracts for public works or specific construction. These contracts are subject to the California Public Contracts Code and must be awarded to the lowest responsible bidder. Examples of this type contract are for roadways, bridges, signals, and other public works projects.

D. Leases of Real Property

SANBAG may, from time to time, enter into contracts for the leasing of real property belonging to SANBAG or leased for use by SANBAG. Examples of this type contract are for office space occupied by SANBAG staff, lease of rail rights-of-way owned by SANBAG not immediately required for rail operations; or other short-term project specific leases.

E. Purchase Orders

1. The purchase order procedures are developed for efficiency in processing transactions where services and supplies are clearly specified and provide for expedient delivery of products and services. Purchase orders are binding documents that establish a vendor's acceptance of the offer and mutually agreed upon terms and conditions, expected performance, and consideration for performance.
 2. Products and services for amounts less than \$25,000 in any one-year period, other than purchase and lease of real property and employment contracts, may be purchased using purchase order procedures.
 3. The Executive Director, or his designee, is authorized to approve Purchase Orders up to an amount of \$50,000. Purchase Orders over \$50,000 or exceeding a cumulative amount of \$50,000 in any fiscal year must be approved by the Board of Directors.
 4. All procurements for supplies and services approved by the Executive Director, or his designee, in excess of \$5,000 shall be routinely reported to the Board of Directors.
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V. STANDARD PROCEDURES

The SANBAG standard practice shall be that:

- A. Contracts shall be required for construction projects, roadwork, purchase or lease of real property and all employment contracts.
- B. All contracts shall be reviewed by legal counsel prior to presentation to the Board for approval.
- C. All contracts shall specify a period of performance, description of the function to be performed, total contract amount, and appropriate performance standards.
- D. All contracts shall contain a standard non-discrimination clause.
- E. When utilizing state and federal funds requiring more rigorous or different standards than applied by these policies, such standards will prevail. SANBAG is responsible for ensuring that such standards are met and/or are included in appropriate contracts.
- F. The maximum term for standard SANBAG contracts, unless otherwise authorized by the Board of Directors, shall be for three years.
- G. Special consideration is required in the instances of a formal competitive process resulting in only one bidder. In those instances, SANBAG staff shall evaluate factors relative to the competitive process, including adequacy of notification to qualified competitors, requirements of the RFQ/RFP, the amount of time provided to respond to the RFQ/RFP, adequacy of the one proposal received, and urgency. After such an analysis, the Executive Director shall make a recommendation to either accept or reject the proposal. Each circumstance will require consideration of facts relevant to the specific solicitation and work to be performed.
- H. All contracts, contract amendments, and memoranda of understanding must be approved by the Board of Directors, unless otherwise authorized by the Board of Directors. In order to prevent delays that would result in negative impacts to SANBAG projects and/or programs, SANBAG staff will provide

sufficient time for SANBAG Policy Committees and the Board of Directors to appropriately review and consider staff recommendations for approval of contracts and contract amendments. Refer to Policy 10025.

- I. In the event of significant time constraints, extenuating circumstances, or emergencies when approval is required, either the Administrative Committee or the Plans and Programs Committee is authorized to approve contracts in excess of \$25,000, subject to Board of Directors ratification. Ratification shall be obtained at the next regularly scheduled meeting of the Board of Directors following such approval.
- J. The SANBAG President is the officer designated to sign contracts on behalf of the organization, unless otherwise authorized by the Board of Directors. In the absence of the SANBAG President, the SANBAG Vice President is authorized to sign contracts on behalf of the organization.

VI. PUBLIC WORKS CONTRACTS

Public Works Contracts over \$6,500 shall be awarded based upon a competitive process as governed by California Public Contracts Code.

VII. SUPPLIES AND SERVICES CONTRACTS

SANBAG shall maintain a listing of vendors who have expressed an interest in doing business with the Agency. The listing shall include the vendor's primary contact for competitive processes and the vendor's field of expertise as stated by the vendor.

A. Supplies and Services Competitive Processes

1. Informal Competitive Procurement: Informal competitive procurement procedures will generally be used for purchases in excess of \$5,000, but not exceeding \$25,000. The following general procedures, depending upon the type of purchase, should be used for informal competitive procurement:
 - a. A telephone survey for quotations will generally be taken for purchases of goods and services. In such cases, the buyer specifically identifies the item being purchased. Award of a purchase order will be to the lowest responsive responsible bidder whose bid conforms to the requirements.
 - b. Informal Requests for Quotes or letters may be required if the goods or services being requested require bidders to have more detail. SANBAG will issue a Request for Quotation to a limited number of firms/individuals. Award of a purchase order will be to the responsible bidder whose bid conforms to the requirements and is most advantageous to SANBAG as to price and other factors considered.
 - c. Use of electronic quotation systems operating within San Bernardino County is authorized.
 - d. SANBAG will document results of all such informal procurement actions.
2. Formal Competitive Procurements - Request for Proposal/Request for Qualifications: The formal Request for Proposal (RFP)/Request for Qualifications (RFQ) process is used to solicit proposals for services in excess of \$25,000 and for solicitation of proposals less than \$25,000 in instances where this process is deemed appropriate.
 - a. The RFP/RFQ process is a competitive procurement process that requires evaluation of offeror's proposal and qualifications. This competitive procurement process does not require award to the lowest bidder.
 - b. This process applies to professional services contracts and product specific professional and technical consulting contracts, including engineering, environmental, surveying, construction management, and architectural services. These contracts shall be awarded based upon demonstrated competence and on the professional qualifications and capabilities necessary for the performance of services required at a fair and reasonable price to SANBAG.
 - c. SANBAG will provide complete RFP packages to vendors identified as providing the specific services being requested in the RFP/RFQ either by mail or other methods.
 - d. SANBAG will maintain a control record as RFP packets are distributed indicating the date and time of distribution. The record shall contain the names and addresses of offerors receiving the proposal invitations and attendance at pre-proposal conferences, if held. The control record shall be used as

a mailing list for the issuance of addendums and as a verification record in the case of vendor protests.

e. Pre-proposal conferences will be held, when appropriate, to discuss the basic requirements such as instructions to the offerors, funding, contract type, evaluation criteria, and specific points that should be addressed in each proposal.

f. Included in the RFP/RFQ, will be the question if their firm was ever terminated from a contract. If so, the firm will be required to describe the facts and circumstances in detail.

3. Formal Competitive Procurements - Request for Bids

a. The competitive sealed bid method of procurement is used for purchases in excess of \$25,000:

- 1). When a complete, adequate and realistic specification or purchase description is available;
- 2). Two or more responsible suppliers are willing and able to compete effectively; and
- 3). The procurement lends itself to a firm-fixed price contract and the election of the successful bidder can be made on the basis of price.

b. A control record will be maintained as invitations for bids are distributed indicating the date, time, and/or place of distribution or notice. The record shall contain the names and addresses of offerors receiving the proposal invitations or posting of the notice. The control record shall be used as a mailing list for the issuance of notices relative to the request for bids and as a verification record in the case of vendor protests.

c. Award of a contract shall be made to the responsive, responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

B. Consultant Selection Process

1. Authorization to circulate Request for Proposals (RFP)/Request for Qualifications (RFQ). Staff will obtain Board of Directors approval prior to circulation of any RFP/RFQ.

2. Preparation and distribution of RFP/RFQ. SANBAG staff and/or contract staff will prepare the scopes of work and the RFP/RFQ.

3. Appointment of Selection Team. The Board of Directors, Policy Committees and/or SANBAG staff shall appoint a selection team. A representative of SANBAG member jurisdictions or representatives of SANBAG counterpart agencies shall be invited to participate in the selection of contractors and consultants, when appropriate. In the instance of SANBAG Major Projects contracts, the selection team shall consist of 2 Caltrans representatives and 3 representatives from member or counterpart agencies, or members of the Board of Directors or their designees. Members of the selection team shall be appointed with reference to the discipline involved and the location of the project. When possible, SANBAG staff shall participate in the entire selection process.

4. SANBAG Staff. As used in this policy, the term "SANBAG staff" refers to full-time employees of SANBAG.

5. Responses to Queries. Numerous inquiries are typically received during the circulation period for any RFP/RFQ. Relevant information will be provided, and pre-proposal conferences will be held, when appropriate, to discuss the basic requirements such as instructions to offerors, funding, contract type, evaluation criteria, terms, scope, and the selection process. The names of the selection team are often requested. Relevant technical information will be provided, but names of the selection team shall not be made available prior to formal interviews.

6. Short-listing. Short-listing is the most important part of the process. Narrowing the list to a small set of qualified firms greatly reduces the likelihood of making a poor selection. Ensuring an adequate short-list is therefore very important. Members of the selection team shall review and evaluate all responses to establish a short-list of the most highly qualified firms in preparation for formal interviews.

For SANBAG Major Projects contracts, SANBAG staff and/or contract staff shall review all the statements of qualifications and prepare a single qualitative evaluation for each firm's response to the RFP/RFQ that includes evaluative comments and rationale. Besides the normal criteria, the evaluative comments will focus especially on the following points:

- Understanding of the project.
- Management structure of the project team.

- Project approach.

This summary evaluation will then be forwarded to the actual selection team for their reference and use. The summary evaluations will be advisory only, and will not provide a ranking or numeric scoring of submittals. Each member of the team must then perform an independent review of the responses. The Director of Freeway Construction will then convene the selection team to prepare the short-list.

7. Interviews. The selection team shall convene to interview the short-listed firms. For SANBAG Major Projects contracts, one contract staff member shall be designed as ex officio member to participate during the interview process in questioning and discussion, but shall have no vote, and will not attempt to influence the decision. This will ensure adequate technical expertise and perspective from SANBAG's program interests.

8. Debriefing. An essential part of the selection process is the debriefing of firms that were either not short-listed or not selected. Members of the selection team shall designate one member to meet with unsuccessful proposers to explain the selections that have been made and to offer recommendations for improving future proposals. Contract staff will not participate in the debriefing.

These procedures are intended to ensure that only highly qualified firms matching SANBAG's needs will be selected.

C. Major Projects Negotiating Guidelines

The SANBAG Major Projects Task Force adopted guidelines on May 3, 1995, relative to Major Projects Negotiating Guidelines. Those guidelines shall provide guidance to SANBAG staff in negotiating professional services and product specific professional and technical services consultants. After following those guidelines, where staff, after diligent effort, cannot recommend a contract with the highest ranking firm due to an inability to negotiate a fair and reasonable price, negotiations will be initiated with the second highest ranking firm and proceed to a contract recommendation.

D. Sole Source Process

In those specific instances when it may be necessary or prudent to enter into sole source contracts, specific approval shall be required.

1. All sole source contracts shall be governed by the following guidelines:
 - a. Sole source contracts may be recommended for approval upon a finding of appropriateness and that it is in the best interest of the agency to do so.
 - b. Contracts may be recommended for approval on a sole source selection based upon a requirement for unique qualifications, the existence of significant time constraints, and/or in certain instances of demonstrated experience.
 - c. Any recommendation for approval of a contract for which a competitive process has not been completed shall contain justification for the lack of competition.
 - d. Any recommendation to the Board of Directors for sole source procurement must be specifically called out in the agenda item and shall be placed on the discussion calendar.
2. The Executive Director, or his designee, shall approve sole source procurements up to \$25,000, using the guidelines outlined in this section. Such sole source procurements shall be routinely reported to the Board of Directors.

VIII. LEASING OF REAL PROPERTY

- A. The SANBAG Board of Directors shall approve all lease agreements resulting from a call for bids.
- B. The call for bids shall be posted in at least three public places for not less than 15 days and published for not less than two weeks in a newspaper of general circulation. The highest proposal for the proposed lease submitted in response to a call for bids shall be accepted, or all bids shall be rejected.
- C. Leases for a period not exceeding ten years and having an estimated monthly rental of not more than \$5,000 may be excluded from the bidding procedure specified in the preceding paragraph 11000.8.B above. Leases excluded from the bidding procedure specified in paragraph 11000.8.B shall be subject to the following requirements.
 1. Notices requesting offers to lease SANBAG property shall be posted in the SANBAG offices. Notices shall also be mailed or delivered at least 15 days prior to accepting offers to lease to any

person who has filed written request for notice with SANBAG. Such requests to receive notices shall be renewed annually. Notice shall be published as provided in Government Code Section 6061.

2. Notices requesting offers to lease SANBAG property shall describe the property proposed to be leased, the terms of the lease, the location where offers to lease the property will be accepted, the location where leases will be executed, and any SANBAG officer authorized to execute the lease.
 3. The Executive Officer, or his designee, is authorized to approve and execute leases exempted from the bidding procedures specified in the preceding paragraph 11000.8.B.
 4. Leases exempt from the bidding procedures specified in the preceding paragraph 11000.8.B are not renewable except by approval of the Board of Directors after a competitive process.
- D. The SANBAG Board of Directors' approval is required on all leases of real property for use by SANBAG, except that the Executive Director, or his designee, is authorized to lease real property for a term not to exceed three years and for a rental not to exceed \$2,500 per month. The Executive Director, or his designee, is authorized to amend real property leases for improvements or alterations with a total cost not to exceed \$2,500, provided that the amendment does not extend the term of the lease and that no more than two amendments, not exceeding \$2,500 each, are made within a 12-month period.
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IX. AMENDMENTS TO CONTRACTS

From time to time, it may be necessary or convenient to amend contracts. All contract amendments shall be approved by the Board of Directors unless otherwise provided by action of the Board of Directors. Amendments may relate to all contract components of the various contract types: terms and conditions, period of performance, compensation and fee, scope of work, or functional responsibility.

A. Professional Services Contracts

1. In those instances where it has been determined that professional services are required beyond the term of the existing contract, the standard practice shall be for the contract to be reviewed prior to the end of the contracted performance period and assessed relative to (1) the scope and continued need for the function performed, (2) the adequacy of performance under the contract, and (3) other terms and conditions of the agreement.

In certain instances, SANBAG professional services contractors are required to work closely with other public agency partners and SANBAG member jurisdictions. When such a professional services contract is being considered for revised scope or extension, SANBAG will solicit input from the representatives of those public agencies on the performance, demeanor, and timely implementation of work performed by the contractor.

2. Based upon the demonstrated competence and on the professional qualifications of the contractor and upon the particular project needs, professional services contracts may be recommended for extension or be recommended for re-competition.
3. Re-competition for professional services contractors serves to assess the competitive market conditions relative to expertise and pricing for services and may be prudent on a periodic basis. However, where professional services relate to specific on-going projects or levels of unique qualifications, skills, and experience, it may be appropriate to extend such contracts without re-competition. Staff shall analyze each contract based upon the specific project needs and include justification for such recommendation to the Board of Directors.
4. In those instances where it may be prudent for SANBAG staff to recommend against a renewed competitive process, the decision for lack of renewed competitive process may include the following instances:
 - a. When the amendments are the result of an increase in the scope of work for the same project, wherein the qualifications and experience required to perform the new tasks were clearly examined as part of the prior competitive process.
 - b. When, on the basis of a specific finding or competitive process prior to approval of the original contract, the contractor was determined to be the most qualified and responsive to undertake the work addressed by the contract amendment.

- c. Where the contractor, based upon findings presented to the Board, of (1) specific qualifications, (2) unique knowledge of the project, or (3) unique knowledge of the work required, is found to be preeminently positioned to perform the work.

B. Product Specific Professional and Technical Services Consultant Contracts

1. The Board of Directors may periodically approve amendments to product specific professional and technical services consulting contracts contingent upon contractor performance and negotiation. Amendments may address all contract components, but typically relate to increased cost, the period of performance to accomplish the project, or adjustments to the scope of work.
2. Amendments to increase the cost and/or period of performance of an established scope of work are approved as a matter of prudence and necessity. These result from increased difficulty or range of work effort to accomplish the defined scope. Examples requiring such amendments include actions in response to review comments, the imposition of new state or federal regulations, various design complications, and other factors generally beyond the consultant's control and not anticipated during the initial cost proposal.

C. Public Works/Construction Contracts

1. Amendments and change orders to Public Works/Construction contracts shall comply with the California Public Contracts Code.
2. The Director of Freeway Construction is authorized to approve Construction Change Orders on all SANBAG Construction Contracts up to the authorized contract contingency amount and subject to the limitations imposed by Section 20142 of Public Contract Code. Change orders approved by the Director of Freeway Construction will be presented monthly for review and ratification by the Major Projects Committee. In the event that the \$150,000 limitation of Public Contract Code Section 20142 must be exceeded, prior approval of the SANBAG President will be obtained.

X. STANDARD OF ETHICS

- A. No SANBAG employee shall solicit, demand or accept from any person anything of a monetary value for or because of any action taken, or to be taken, in the performance of his or her duties. An employee failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by SANBAG, including possible dismissal.
- B. No SANBAG employee shall use confidential information for his or her actual or anticipated personal gain, or the actual or anticipated personal gain of any other person related to such SANBAG employee by blood, marriage, or by common commercial or financial interest. An employee failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by SANBAG, including possible dismissal.

XI. REVISION HISTORY

Revision No.	Revisions	Adopted
0	New Policy. Adopted by the Board of Directors	01/03/97
1	Modified Para. 11000.10	01/07/98
2	Modified Para. 11000.7.2	01/07/98
3	Deleted & replaced Para. 11000.7.3	01/07/98
4	Added Para. 11000.10 B	03/04/98
5	Modified Para. 11000.10	06/03/99
6	-Added Para. 11000.7.2.f -Modified Para. 11000.7.3.5.B -Modified Para. 11000.9.3.2	09/01/99
7	-Added new Para. 11000.5.G -Re-identified Para. 11000.5.H (was Para. 11000.5.G) and revised to add "...or the Plans and Programs Committee . . ." -Re-identified Para. 11000.5.I (was Para. 11000.5.H) -Moved Para. 11000.7.5.3 to new paragraph 11000.7.5.1.d and added "...and shall be placed on the discussion calendar." -Added Para 11000.12 REVISION HISTORY	07/05/00

8	-Revised Par. 11000.2 DEFINITIONS to REFERENCES and added Policy 10025, Guidelines for Agenda Materials. -Revised Paragraphs 11000.5.H and 11000.5.I -Re-numbered original Par. 11000.5.I to 11000.5.J -Deleted Par. 11000.10 POLICY GOVERNING DISADVANTAGED BUSINESS ENTERPRISES; re-numbered original Paragraphs 11000.11 and 11000.12 to 11000.10. and 11000.11.	01/09/02
9	Par. IX.A.1: Added additional paragraph "In certain instances, SANBAG professional services contractors are required to work closely with other public agency partners...". Re-formatted paragraph numbering to match current policy format, e.g., 11000.1 PURPOSE changed to I. PURPOSE.	07/02/03
10	Eliminated the Local Preference Policy – Paragraph VII.C; subsequent paragraphs VII.D and E renumbered to VII.C and D.	11/07/07
11	Par. IV.E.3: Increased the Executive Director's authority for approving Purchase Orders from \$25,000 to \$50,000.	12/03/08

SANBAG Contract No. C10027
by and between
San Bernardino County Transportation Authority
and
TBD
for

**ON-CALL RIGHT OF WAY ACQUISITION SERVICES INCLUDING APPRAISALS,
RIGHT OF WAY ENGINEERING, SURVEYING AND OTHER SPECIALTY
PROFESSIONAL SERVICES**

FOR ACCOUNTING PURPOSES ONLY				
☒ Payable ☐ Receivable	Vendor Contract # <u>TBD</u> Vendor ID <u>TBD</u>	Retention: ☐ Yes ____ % ☒ No	☒ Original ☐ Amendment	
Notes:				
Original Contract: \$ <u>TBD</u> Contingency Amount: \$ <u>TBD</u>	Previous Amendments Total: \$ ____ Previous Amendments Contingency Total: \$ ____ Current Amendment: \$ ____ Current Amendment Contingency: \$ ____ Contingency Amount requires specific authorization by Task Manager prior to release.			
Contract TOTAL →				\$ <u>TBD</u>
↓ Please include funding allocation for the original contract or the amendment.				
<u>Task</u>	<u>Cost Code</u>	<u>Funding Sources</u>	<u>Grant ID</u>	<u>Amounts</u>
<u>0</u>	<u>0</u>			\$ <u>TBD</u>
<u>0</u>	<u>0</u>			\$ <u>TBD</u>
_____	_____			\$ _____
Original Board Approved Contract Date: <u>TBD</u> Contract Start: <u>TBD</u> Contract End: <u>TBD</u> New Amend. Approval (Board) Date: _____ Amend. Start: _____ Amend. End: _____				
If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:				
Approved Budget Authority →	Fiscal Year: \$ <u>TBD</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ <u>TBD</u>	
Is this consistent with the adopted budget? ☐ Yes ☐ No If yes, which Task includes budget authority? _____ If no, has the budget amendment been submitted? ☐ Yes ☐ No				
CONTRACT MANAGEMENT				
Please mark an "X" next to all that apply:				
☐ Intergovernmental ☐ Private ☐ Non-Local ☐ Local ☐ Partly Local				
Disadvantaged Business Enterprise: No ☐ Yes ____%				
Task Manager: Garry Cohoe			Contract Manager:	

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

CONTRACT NO: C10027

EFFECTIVE DATE: TBD

by and between

**San Bernardino
County Transportation Authority**

and

TBD

to provide

**ON-CALL RIGHT OF WAY ACQUISITION SERVICES
INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING,
SURVEYING, AND OTHER SPECIALTY PROFESSIONAL
SERVICES**

for

THE MEASURE I PROGRAM and other Federally Funded Programs

In San Bernardino County, California

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CONTRACT
FOR
ON-CALL RIGHT OF WAY ACQUISITION SERVICES
INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING, AND
OTHER SPECIALTY PROFESSIONAL SERVICES

This Contract, entered into this ____th day of _____ 2009, by the firm of _____ (hereinafter called CONSULTANT) whose address is:

and San Bernardino County Transportation Authority (hereinafter called AUTHORITY) whose address is:

1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715

Whereas, AUTHORITY desires CONSULTANT to perform certain professional and technical Services as hereinafter described and CONSULTANT desires to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

Article 1 Description of Services

CONSULTANT agrees to perform Services set forth in Attachment "A", Scope of Services, which is incorporated herein by reference, in accordance with high professional standards generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined therein. The word "Services," as used herein, includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT hereunder; and the Services performed hereunder shall be completed to the satisfaction of AUTHORITY, with their satisfaction being based on prevailing professional engineering and other specialty profession services standards.

Article 2 Performance Schedule

2.1 The Period of Performance by CONSULTANT under this Contract shall commence on _____, 2009 and shall continue in effect for 36 months, with two 1 year extension options, until work is completed, or otherwise terminated, cancelled or extended as hereinafter provided. This contract does not guarantee any amount of work for either the primary consultant or any subconsultants from the selected team.

Article 3 Contract Price and Cost Principles

- 3.1 Full compensation to CONSULTANT for full and complete performance of all Services, compliance with all the terms and conditions of this Contract, payment by CONSULTANT of all obligations incurred in, or application to, CONSULTANT's performance of Services, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by AUTHORITY), shall not exceed the amounts set forth in 3.2 below.
- 3.2 The total cost for Services to the project shall not exceed \$_____. Services to be provided under terms of this Contract are to be provided on an as needed basis and compensated for as set forth in Attachment "B" which is incorporated herein by reference. CONSULTANT's fee for services is included in the total estimated contract cost and shall be a fixed percentage fee, as agreed upon, and noted in Attachment "B".
- 3.3 CONSULTANT's overhead rates will be fixed, as set forth in Attachment "B" for the duration of this Contract. The fixed overhead rate will not be subject to adjustment. Any percentage increase over the direct labor rate in Attachment "B" is not permitted without prior authorization from AUTHORITY.
- 3.4 Not used.
- 3.5 The cost principles set forth in Part 31, Contract Cost Principles and Procedures, in Title 48, Federal Acquisition Regulations System of the Code of Federal Regulations (CFR) as constituted on the effective date of this Contract shall be utilized to determine allowableness of costs under this Contract and may be modified from time to time by amendment of the Contract.
- 3.5.1 The CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 3.5.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Part 31, Contract Cost Principles and Procedures, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments shall be repaid by CONSULTANT to AUTHORITY.

3.5.3 Any subcontract, entered into as a result of this Contract shall contain all of the provisions of this Section 3.5.

3.6 Any Services provided by the CONSULTANT not specifically covered by the Scope of Services (Attachment "A") shall not be compensated without prior written authorization from AUTHORITY. It shall be CONSULTANT's responsibility to recognize and notify AUTHORITY when services not covered by the Scope of Services have been requested or are required. All changes and/or modifications to the Scope of Services shall be made in accordance with Article 12, Changes.

Article 4 Availability of Funds

This Contract is awarded on the contingency of availability of funds. The obligation of AUTHORITY is conditioned upon the availability of funds that are allocated and available for the payment of such an obligation. If funds are not allocated and available for the continuance of Services performed by CONSULTANT, Services directly or indirectly involved may be suspended or terminated by AUTHORITY at the end of the period for which funds are available. When AUTHORITY becomes aware that any portion of Services that will or may be affected by a shortage of funds, it will immediately so notify CONSULTANT. Nothing herein shall relieve AUTHORITY from its obligation to compensate CONSULTANT for Services actually performed pursuant to this Contract prior to such notification. No penalty shall accrue to AUTHORITY in the event this provision is exercised.

Article 5 Taxes, Duties, Fees

CONSULTANT shall pay when due, and the compensations set forth in Article 3, Contract Price and Cost Principles, shall be inclusive of all; a) local, municipal, state, and federal sales and use taxes, b) excise taxes, c) taxes on personal property owned by CONSULTANT, and d) all other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

Article 6 Invoicing and Payments

6.1 The compensation of CONSULTANT as provided herein shall be payable in 4 week billing period payments, forty-five (45) calendar days after receipt by AUTHORITY of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Services.

6.2 CONSULTANT shall prepare all invoices in a form satisfactory to and approved by AUTHORITY and it shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will

be for a 4 week billing period and will be marked with AUTHORITY's project name, contract number, and task order number. Invoices shall be submitted within fifteen (15) calendar days for the period covered by the invoice. Invoices shall include request for payment for Services (including additional Services authorized by AUTHORITY) completed by CONSULTANT during each billing period. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT's sole expense.

- 6.3 CONSULTANT shall furnish evidence, satisfactory to AUTHORITY, that all labor and materials furnished and equipment used during the period covered by the invoice have been incurred. AUTHORITY shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such evidence. Upon furnishing such evidence, satisfactory to AUTHORITY, AUTHORITY shall pay CONSULTANT the full amount of the invoice less disputed amounts.
- 6.4 CONSULTANT shall include a statement and release with each invoice, satisfactory to AUTHORITY, that CONSULTANT has fully performed the Services invoiced pursuant to this Contract for the period covered, and that all claims of CONSULTANT and its subcontractors for Services during the period will be satisfied upon the making of such payment. AUTHORITY shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.
- 6.5 CONSULTANT shall forfeit the fixed fee portion of the progress payment for any billing period that CONSULTANT fails to submit an invoice within sixty (60) calendar days after the cutoff date for the billing period.
- 6.6 Appearance at Hearings – If and when required by AUTHORITY, CONSULTANT shall render assistance at hearings as may be necessary for the performance of the services.

Article 7 Documentation and Right of Audit

- 7.1 CONSULTANT shall keep and maintain all books, papers, records, accounting records including but not limited to all direct and indirect costs allocated to Services, files, accounts, reports, cost proposals with backup data, and all other material relating to Services. CONSULTANT shall upon request, make all such materials available to AUTHORITY or its designee at any reasonable time during the term of the Contract and for three (3) years from the date of final payment to CONSULTANT, for auditing, inspection and copying. CONSULTANT shall insert in each of

its subcontracts the above requirement.

- 7.2 The Cost Proposal for this project is subject to a post award audit. After any post award audit recommendations are received the Cost Proposal shall be adjusted by the Consultant and approved by the Contract Manager to conform to the audit recommendations. The Consultant agrees that individual items of cost identified in the audit report may be incorporated into the Agreement (Project Contract) at SANBAG's sole discretion. Refusal by the Consultant to incorporate the audit or post award recommendations will be considered a breach of the Agreement terms and cause for termination of the Contract.

Article 8 Responsibility of the Program/Project Manager

- 8.1 The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all deliverables and other Services furnished by the CONSULTANT under terms of this Contract.
- 8.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, the CONSULTANT shall, as an integral part of its Services, employ quality control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality, and safety of the program and projects and the Services performed by CONSULTANT within the areas of CONSULTANT Services and expertise. At any time during performance of the contracted Scope of Services, should the CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk and uncertainties, CONSULTANT shall immediately document such matters and notify AUTHORITY of said circumstances and related concerns. CONSULTANT shall also similarly notify AUTHORITY in regard to the possibility of any natural catastrophe, potential failure, or any situation that exceeds environmental, design, and/or construction assumptions and could precipitate a failure. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable AUTHORITY to understand and evaluate the magnitude and effect of the risk and uncertainties involved.

Article 9 Reporting Requirements/Deliverables

All Reports and deliverables shall be submitted in accordance with Attachment "A", Scope of Services.

Article 10 Permits and Licenses

CONSULTANT shall (without additional compensation) keep current all governmental permits, certificates and licenses (including professional licenses)

necessary for CONSULTANT to perform Services.

Article 11 Technical Direction

11.1 Performance of Services under this Contract shall be subject to the technical direction of the AUTHORITY Director of Freeway Construction, or his designee, as identified in Attachment "A", Scope of Services, attached to this Contract. The AUTHORITY Contract Manager will identify his designee, in writing to CONSULTANT, with the notice to proceed and subsequently with any changes during the Contract period. The term "Technical Direction" is defined to include, without limitation:

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

11.1.2 Provision of written information to the CONSULTANT which assists in the interpretation of drawings, reports, or technical portions of Service description.

11.1.3 Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by the CONSULTANT to AUTHORITY or Caltrans under the Contract.

11.2 Technical direction must be within the Scope of Services in the Contract. The AUTHORITY Director of Freeway Construction or designee does not have the authority to, and may not, issue any technical direction which:

11.2.1 Constitutes an assignment of additional Services outside the Scope of Services;

11.2.2 Constitutes a change as defined in the Contract clause entitled "Changes";

11.2.3 In any manner causes an increase or decrease in the Contract's estimated cost or price or the time required for Contract performance;

11.2.4 Changes any of the expressed terms, conditions or specifications of the Contract; or

11.2.5 Interferes with the CONSULTANT's right to perform the terms and conditions of the Contract.

- 11.2.6 A failure of the CONSULTANT and AUTHORITY Contract Manager to agree that the technical direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken with respect thereto shall be subject to the provisions of Article 30, Disputes.
- 11.3 All technical directions shall be issued in writing by the AUTHORITY Contract Manager or his designee.
- 11.4 The CONSULTANT shall proceed promptly with the performance of technical directions duly issued by the AUTHORITY Contract Manager or his designee, in the manner prescribed by this article and within his authority under the provisions of this clause. If, in the opinion of the CONSULTANT, any instruction or direction by the AUTHORITY Contract Manager or his designee, falls within one of the categories defined in 11.2.1 through 11.2.5 above, the CONSULTANT shall not proceed but shall notify the Contract Manager in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contract Manager to modify the Contract accordingly. Upon receiving the notification from the CONSULTANT, the Contract Manager shall:
- 11.4.1 Advise the CONSULTANT in writing within thirty (30) days after receipt of the CONSULTANT's letter that the technical direction is or is not within the scope of Article 12, Changes;
- 11.4.2 Advise the CONSULTANT within a reasonable time that AUTHORITY will or will not issue a written change order.

Article 12 Changes

- 12.1 The Services shall be subject to changes by additions, deletions, or revisions thereto by AUTHORITY. CONSULTANT will be advised of any such changes by written notification from AUTHORITY describing the change.
- 12.2 Promptly after such written notification of change is given to CONSULTANT by AUTHORITY, CONSULTANT and AUTHORITY will attempt to negotiate a mutually agreeable change in compensation or time of performance and amend the Contract accordingly.

Article 13 Federal and State Mandatory Provisions

NOTE: This language will be included in the contract for Federally Funded Projects as the requirements of this section are only applicable if the Project

Task Order is for federally funded projects. If the Project Task Order is issued under the contract for State, Local or Measure I Funded Projects, there is no UDBE goal and there is no follow-up required by the CONSULTANT.

13.1 During the performance of this Agreement, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter collectively referred to as THE CONSULTANT), agrees as follows:

13.1.1 Compliance with Regulations. The CONSULTANT shall comply with all REGULATIONS which are herein incorporated by reference and made a part of this agreement.

13.1.2 Nondiscrimination. The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

13.1.3 Solicitations for Sub-agreements including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by The CONSULTANT for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligation under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

13.1.4 Information and Reports. The CONSULTANT shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to the CONSULTANT'S books, records, accounts, other sources of information, and its facilities as may be determined by AUTHORITY to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information. The CONSULTANT shall so certify to AUTHORITY, as appropriate, and shall set forth what efforts the CONSULTANT has made to obtain the

information.

13.1.5 Sanctions for Noncompliance. In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this agreement, AUTHORITY shall impose such agreement sanctions as it may determine to be appropriate, including, but not limited to:

(a) withholding of payments to The CONSULTANT under the Agreement until the CONSULTANT complies; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

13.1.6 The CONSULTANT shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding, a notice advising the labor union or workers representative of the CONSULTANT's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

13.1.7 The CONSULTANT shall comply with all provisions of Executive Order No 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60), and shall permit access to its books, records, and accounts by AUTHORITY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

13.1.8 In the event of the CONSULTANT's noncompliance with the Equal Opportunity clause of this Contract or any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and the CONSULTANT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

13.1.9 The CONSULTANT shall include the provisions of paragraphs (13.1.1) through (13.1.8) of this Article in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 as amended by Executive

Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60), so that such provisions will be binding upon each subcontract or vendor. The CONSULTANT shall take such action with respect to any subcontract or purchase order as AUTHORITY may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by AUTHORITY, the CONSULTANT may request AUTHORITY to enter into such litigation to protect the interests of AUTHORITY.

13.2 Handicapped Workers

13.2.1 The CONSULTANT will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONSULTANT agrees to take action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

13.3 Disadvantaged Business Enterprises (DBE)

13.3.1 DBE/UDBE Requirement. AUTHORITY has established a contract goal for Underutilized Disadvantaged Business Enterprise (UDBE) participation of ____%.

13.3.2 Bidders are advised that, as required by federal law, AUTHORITY has implemented new Disadvantaged Business Enterprise requirements for Underutilized Disadvantaged Business Enterprises (UDBE), as defined by Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS", have an equal opportunity to receive and participate in DOT-assisted contracts.

13.3.3 AUTHORITY will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against

anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, AUTHORITY will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impaired accomplishments of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

- 13.3.4 Consultants must give consideration to DBE firms as specified in 23 CFR 172.5(b) 49 cfr Part 26, and in Exhibit 10-I "Notice to Bidders/Proposers Disadvantaged Business Enterprise Information." As the contract has an UDBE goal, the consultant must meet the UDBE goal by using UDBEs as subconsultants or document a good faith effort to meet the goal. If a UDBE subconsultant is unable to perform, the consultant must make a good faith effort to replace him/her with another UDBE subconsultant if the goal is not otherwise met.
- 13.3.5 If you have not met the UDBE goal, complete and submit the "UDBE Information – Good Faith Efforts", Exhibit 15-H, form with the project task order showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed toward obtaining participation by UDBEs will be considered.
- 13.3.6 Submit UDBE information on the "Local Agency Proposer – UDBE Commitment (Consultant Contracts)," Exhibit 10-0(1) form with each Task Order.
- 13.3.7 Submit "Local Agency Proposer – DBE Information (Consultant Contracts)," Exhibit 10-O(2) form with each Task Order.
- 13.3.8 Submit written confirmation from each UDBE stating that it is participating in the contract and include confirmation with the UDBE commitment form. A copy of a UDBEs quote will serve as written communication that the UDBE is participating in the contract.
- 13.3.9 Upon completion of the contract, a summary of these records shall be prepared on "Final Report of Utilization of Disadvantaged Business Enterprise (DBE), First Tier Subcontractors" Exhibit 17-F, and certified correct by the Consultant or the Consultant's authorized representative, and shall be furnished to AUTHORITY. The form shall be furnished to AUTHORITY within 90 days from the date of completion of the professional services contract. The

amount of \$10,000 will be withheld from the final invoice(s) payment until a satisfactory form is submitted.

13.3.10 If a DBE/UDBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify the prime consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the project, the subconsultant shall notify the prime consultant in writing with the date of certification. The prime consultant shall furnish the document "Disadvantaged Business Enterprises (DBE) Certification Status Change" Form CEM 2403(F) to AUTHORITY.

13.3.11 UDBEs must perform the work as listed in the "Local Agency Bidder – UDBE Commitment" form submitted with each Task Order. Do not terminate a UDBE listed subconsultant for convenience and perform the work with your own resources without prior written authorization from the Agency.

13.3.12 If a UDBE subconsultant is terminated, you must make good faith efforts to find another UDBE subconsultant to substitute for the original UDBE. The substitute UDBE must perform at least the same amount of work as the original UDBE under the contract to the extent needed to meet the UDBE goal. The substitute UDBE must be certified as a DBE at the time of request for substitution.

13.3.13 AUTHORITY does not pay for work unless it is performed or supplied by the listed UDBE, unless the UDBE is terminated in accordance with this section.

13.3.14 It is the Consultant's responsibility to use the most recent current form available. All forms can be obtained from the California Department of Transportation website at: <http://www.dot.ca.gov/hq/LocalPrograms/DBE/forms/forms.htm>.

Article 14 Conflict of Interest

14.1 The CONSULTANT agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required to be performed under this Contract. The CONSULTANT further agrees that in the performance of this Contract, no person having any such interest shall be employed.

- 14.2 No portion of the funds received by the CONSULTANT under this Contract shall be used for political activity or to further the election or defeat of any candidate for public office.

Article 15 Key Personnel

- 15.1 Key personnel as defined by SANBAG are considered to be essential to Services being performed hereunder. Prior to diverting any of the specified individuals to other projects, or reallocation of tasks and hours of Services that are the responsibility of key personnel to other personnel, the CONSULTANT shall notify AUTHORITY reasonably in advance and shall submit justifications (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the project. Diversion or reallocation of key personnel shall be subject to written approval by AUTHORITY. AUTHORITY also reserves the right to approve proposed substitutions for key personnel. In the event that AUTHORITY and CONSULTANT cannot agree as to the substitute of key personnel, AUTHORITY shall be entitled to terminate this Agreement.

Article 16 Representations

CONSULTANT agrees with AUTHORITY that Services supplied by CONSULTANT in performance of this Contract shall be supplied by personnel who are careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that it is supplying professional Services, findings, and/or recommendations in the performance of this Contract and agrees with AUTHORITY that the same shall conform to high professional engineering and environmental principles and standards that are generally accepted in the State of California.

Article 17 Proprietary Rights/Confidentiality

- 17.1 If, as a part of the Contract, CONSULTANT is required to produce materials, documents, data or information ("Products"), then CONSULTANT, if requested by AUTHORITY, shall deliver to AUTHORITY the original of all such Products which shall become the property of AUTHORITY.
- 17.2 All materials, documents, data or information obtained from AUTHORITY's data files or any AUTHORITY medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of AUTHORITY. Such data or information may not be used or copied for direct or indirect use outside of these services by CONSULTANT without the express written consent of AUTHORITY.

- 17.3 Except as reasonably necessary for the performance of Services, CONSULTANT and its employees and agents shall hold in confidence the materials and information referred to in this Article 17, Proprietary Rights/Confidentiality, which are produced by CONSULTANT for AUTHORITY in the performance and completion of CONSULTANT's Services under the Contract, until released in writing by AUTHORITY, except to the extent such materials and information become a part of public domain information through no fault of CONSULTANT, or its employees or agents.
- 17.4 CONSULTANT shall not use AUTHORITY's name or photographs of the Project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of AUTHORITY.
- 17.5 All press releases relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by AUTHORITY unless otherwise agreed to by CONSULTANT and AUTHORITY.
- 17.6 CONSULTANT agrees that it, and its employees, agents, and subcontractors will hold confidential and not divulge to third parties without the prior written consent of AUTHORITY, any information obtained by CONSULTANT from or through AUTHORITY in connection with CONSULTANT's performance of this Contract, unless (a) the information was known to CONSULTANT prior to obtaining same from AUTHORITY pursuant to a prior Contract; or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subcontractors, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from AUTHORITY and who had, to CONSULTANT's knowledge and belief, the right to disclose the same.

Article 18 Terminations

- 18.1 Termination for Convenience. AUTHORITY shall have the right at any time, with or without cause, to terminate further performance of Services by written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall discontinue performance of Services and shall preserve work in progress and completed work ("Work"), pending AUTHORITY'S instruction, and shall turn over such Work in accordance with AUTHORITY's instructions.

- 18.1.1 CONSULTANT shall deliver to AUTHORITY, in accordance with AUTHORITY'S instructions, all Products prepared by CONSULTANT or its subcontracts or furnished to CONSULTANT by AUTHORITY. Upon such delivery, CONSULTANT may then invoice AUTHORITY for payment in accordance with the terms hereof.
- 18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from AUTHORITY as complete and full settlement for such termination a pro rata share of the Contract cost and a pro rata share of any fixed fee, for such Services satisfactorily executed to the date of termination.
- 18.1.3 CONSULTANT shall be entitled to receive the actual cost incurred by CONSULTANT to return CONSULTANT's field tools and equipment, if any, to it or its suppliers' premises, or to turn over Work and Products in accordance with AUTHORITY's instructions plus the actual cost necessarily incurred in effecting the termination.
- 18.2 Termination for Cause. In the event CONSULTANT shall file a petition in bankruptcy, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy shall be filed against CONSULTANT or a receiver shall be appointed on account of its solvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice thereof, AUTHORITY may, without prejudice to any other rights or remedies AUTHORITY may have, (a) hold in abeyance further payments to CONSULTANT; (b) stop any Services of CONSULTANT or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by AUTHORITY, AUTHORITY may take possession of the Products and finish Services by whatever method AUTHORITY may deem expedient. A waiver by AUTHORITY of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, nor be deemed to waive, amend, or modify any term of this Contract.
- 18.2.1 In the event of termination CONSULTANT shall deliver to AUTHORITY all finished and unfinished Products prepared by CONSULTANT or its subcontractors or furnished to

CONSULTANT by AUTHORITY.

- 18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to AUTHORITY, satisfactory in form and content to AUTHORITY and verified by AUTHORITY. In no event shall CONSULTANT be entitled to any prospective profits or any damages because of such termination.
- 18.4 The Authority's Director of Freeway Construction shall have the full authority and discretion to exercise Authority's rights under this Article 18, Terminations.

Article 19 Stop Work Orders

Upon failure of CONSULTANT or its subcontractors to comply with any of the requirements of this Contract, AUTHORITY shall have the authority to stop any Services of CONSULTANT or its subcontractors affected by such failure until such failure is remedied or to terminate this Contract in accordance with Article 18, Termination.

Article 20 Claims

AUTHORITY shall not be bound to any adjustments in the Contract amount or scheduled time for CONSULTANT's claim unless expressly agreed to by AUTHORITY in writing and any such adjustments in the Contract amount so agreed to in writing shall be paid to CONSULTANT by AUTHORITY. No claim hereunder by CONSULTANT shall be allowed if asserted after final payments under this Contract.

Article 21 Insurance

In order to accomplish the indemnification herein provided for, but without limiting the indemnification, CONSULTANT shall secure and maintain throughout the term of the Contract the following types of insurance with limits as shown:

- 21.1 Professional Liability Insurance coverage with limits of not less than \$1,000,000, per claim or occurrence and \$2,000,000 in the aggregate. CONSULTANT shall secure and maintain this insurance or "tail" coverage provided throughout the term of this Contract and for a minimum of three (3) years after contract completion.
- 21.2 Workers' Compensation Insurance or state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with \$250,000 limits, covering all persons including volunteers providing

Services on behalf of CONSULTANT and all risks to such persons under this Agreement.

- 21.3 Comprehensive General Liability Insurance or Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Broad-Form Property Damage and Independent Contractors' Liability, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and \$3,000,000 in the aggregate written on an occurrence form.

For products and completed operations a \$2,000,000.00 aggregate shall be provided.

- 21.4 Comprehensive Automobile Liability Coverage, including owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and in the aggregate written on an occurrence form.

- 21.5 Proof of Coverage. CONSULTANT shall immediately furnish certificates of insurance to AUTHORITY evidencing the insurance coverage required above, prior to the commencement of performance of Services hereunder, and such certificates shall include San Bernardino Associated Governments/San Bernardino County Transportation Authority and Fluor Corporation (project administration consultant) as additional insured on Comprehensive General Liability Insurance or Commercial General Liability Insurance and auto insurance. The certificates shall provide that such insurance shall not be terminated without thirty (30) days written notice to AUTHORITY, and CONSULTANT shall maintain such insurance from the time CONSULTANT commences performance of Services hereunder until the completion of such Services.

- 21.6 Additional Insured. All policies, except for Workers' Compensation and Professional Liability policies, shall contain endorsements naming AUTHORITY and its officers, employees, agents, and volunteers as additional insureds with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for AUTHORITY to vicarious liability but shall allow coverage for AUTHORITY to the full extent provided by the policy.

- 21.7 Waiver of Subrogation Rights. The CONSULTANT shall require the carriers of required coverages to waive all rights of subrogation against AUTHORITY, its officers, employees, agents, volunteers, contractors, and subcontractors. All general auto liability insurance coverage provided shall not prohibit CONSULTANT or CONSULTANT's employees or

agents from waiving the right of subrogation prior to a loss or claim. CONSULTANT hereby waives all rights of subrogation against AUTHORITY.

- 21.8 All policies required herein are to be primary and non-contributory with any insurance carried or administered by AUTHORITY.
- 21.9 Insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".
- 21.10 The AUTHORITY's contract with its general contractor for each project is to require such contractor to obtain a Builder's Risk or Course of Construction Insurance, insuring on an "All Risks" basis with a limit of not less than the full insurable replacement cost of the project subject to deductible amounts as selected by AUTHORITY, and covering the project and all materials and equipment to be incorporated therein, including property in transit or elsewhere and insuring the interests of AUTHORITY, CONSULTANT and its related entities, contractors and subcontractors of all tiers. The construction contract shall require that such insurance be primary, and shall include coverage for physical damage resulting from the Services and shall include an insurer's waiver of subrogation or right of recourse in favor of each party insured thereunder. Furthermore, the construction contract shall require that such insurance shall remain in effect until the applicable project is completed and accepted by the AUTHORITY. The CONSULTANT, in its role as Project Manager, shall ensure that the requirements of this section are met.

Article 22 Indemnity

CONSULTANT agrees to indemnify, hold harmless, and defend, with counsel approved by AUTHORITY, AUTHORITY, and their officers, employees (past and present), agents, and representatives from and against:

- 22.1 Any claim, cause of action, liability, loss, cost or expense arising from infringement or improper appropriation or use by AUTHORITY of trade secrets, proprietary information, know-how, copyright rights or inventions, arising out of the use of methods, processes, designs, information, or other items furnished or communicated to AUTHORITY by CONSULTANT in connection with performance of Services; and

- 22.2 Any and all claims, causes of action, liabilities, losses, costs or expenses, that arises out of, pertains to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT or its subcontractors, employees, or agents, in the performance of Services, and includes any and all expenses, including attorneys' fees, incurred by AUTHORITY for legal action to enforce CONSULTANT's indemnification obligations hereunder.

Article 23 Damages due to Errors and Omissions

- 23.1 Architects, Engineers, Land Surveyors and all other related Consultants shall be responsible for the professional quality, technical accuracy, and coordination of all services required under this Agreement. A CONSULTANT may be liable for AUTHORITY costs resulting from errors or deficiencies in services furnished under its Agreement.
- 23.2 When a modification to a construction contract is required because of an error or deficiency in the services provided under this Agreement, the contracting officer (with the advice of technical personnel and legal counsel) shall consider the extent to which the Consultant may be reasonably liable.
- 23.3 AUTHORITY's contracting officer shall enforce the liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in the AUTHORITY's interest. The contracting officer shall include in the Agreement file a written statement of the reasons for the decision to recover or not to recover the costs from the CONSULTANT.

Article 24 Ownership of Drawings and Data

All drawings, specifications reports and other data developed by CONSULTANT under this Contract shall become the property of AUTHORITY when prepared, whether delivered to AUTHORITY or not.

Article 25 Subcontracts

- 25.1 CONSULTANT shall not subcontract performance of all or any portion of Services under this Contract, excepting to subcontractors listed in the CONSULTANT's proposal, without first notifying AUTHORITY of the intended subcontracting and obtaining AUTHORITY's Project Manager's approval in writing of the subcontracting and the subcontractor. The definition of subcontractor and the requirements for subcontractors hereunder shall include all lower-tier subcontracts.

- 25.2 CONSULTANT agrees that any and all subcontractors of CONSULTANT will comply with the terms of this Contract applicable to the portion of Services performed by them. If requested by AUTHORITY, CONSULTANT shall furnish AUTHORITY a copy of the proposed subcontract for AUTHORITY's approval of the terms and conditions thereof and shall not execute such subcontract until AUTHORITY has approved such terms and conditions. AUTHORITY approval shall not be unreasonably withheld.
- 25.3 Approval by AUTHORITY of any Services to be subcontracted and the subcontractor to perform said Services will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Services.
- 25.4 Any substitution of subcontractors must be approved in writing by AUTHORITY's Contract Manager.

Article 26 Inspection and Access

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

Article 27 Independent Contractor

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Services provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. AUTHORITY shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Services or as to the manner, means and methods by which Services are performed. All workers furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subcontractor(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of AUTHORITY.

Article 28 Precedence

- 28.1 The Contract documents consist of these General Terms and Conditions and Attachment "A", Scope of Services, Attachment "B", Billing Rate Schedule, CONSULTANT's Statement of Qualifications and

AUTHORITY's Request for Qualifications which are incorporated herein by reference.

28.2 The following order of precedence shall apply:

- 28.2.1 This Contract, its General Terms and Conditions, and Attachments
- 28.2.2 CONSULTANT's Statement of Qualifications
- 28.2.3 AUTHORITY's Request for Qualifications

28.3 In the event of an express conflict between the documents listed in Article 28.2, or between any other documents which are a part of the Contract, CONSULTANT shall notify AUTHORITY immediately and shall comply with AUTHORITY's resolution of the conflict.

Article 29 Communications and Notices

29.1 Any and all notices permitted or required to be given hereunder shall be deemed duly given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier. Each such notice shall be sent to the respective party at the address indicated below or to any other address as the respective parties may designate from time to time by a notice given in accordance with this Article. A change in address may be made by notifying the other party in writing.

For CONSULTANT:

Name:
Address:

Attn:
Phone:
Fax:

For AUTHORITY:

Name: San Bernardino Associated Governments
Address: 1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715
Attn: Mr. Garry Cohoe
Phone: (909) 884-8276
Fax: (909) 885-4407

29.2 All communications pursuant to or in connection with this Contract shall

be marked with AUTHORITY's Contract and job numbers.

Article 30 Disputes

- 30.1 In the event any dispute arises between the parties hereto under or in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Services to be performed, Scope of Services and/or time of performance), the dispute shall be decided by the Contract Manager of AUTHORITY or his duly authorized representative within thirty (30) calendar days after notice thereof in writing which shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have thirty (30) calendar days after receipt of the decision in which to file a written appeal thereto with the Executive Director of AUTHORITY. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such appeal shall be decided by a court of competent jurisdiction.
- 30.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

Article 31 Gratuities

CONSULTANT, its employees, agents, or representatives shall not offer or give to an officer, official, or employee of AUTHORITY, gifts, entertainment, payments, loans, or other gratuities to influence the award of a Contract or obtain favorable treatment under a Contract.

Article 32 Review and Acceptance

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

Article 33 Safety

CONSULTANT shall comply strictly with all local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Services hereunder.

Article 34 Assignment

CONSULTANT shall not assign this Contract wholly or in Part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of AUTHORITY. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the parties hereto.

Article 35 Amendments

This Contract may only be changed by an amendment duly executed by CONSULTANT and AUTHORITY except, that changes to the Contract to implement administrative changes such as approved changes in key personnel may be made by administrative amendment signed by CONSULTANT and AUTHORITY's Contracts Manager or other duly authorized representative.

Article 36 Governing Law and Venue

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

Article 37 Prevailing Wages

The CONSULTANT is alerted to the requirements of California Labor Code Section 1770 et seq. and agrees to defend, indemnify, and hold harmless AUTHORITY and its officers, employees, consultant, and agents from any claim or liability including, without limitation, attorneys' fees, arising from any failure or alleged failure to comply with California Labor Code Section 1770 et seq.

Article 38 Contingent Fee

The CONSULTANT warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, AUTHORITY has the right to annul this Contract without liability, pay only for

the value of Services actually performed, or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Article 39 Location of Performance

NOT USED

Article 40 Entire Document

- 40.1 This Contract and its attachments constitute the sole and only agreement governing Services and supersedes any prior understandings, written or oral, between the parties respecting the within subject matter. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been incorporated into this Contract.
- 40.2 No agent, employee or representative of AUTHORITY has any authority to bind AUTHORITY to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.
- 40.3 As this Contract was jointly prepared by both parties, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either party.

Article 41 Attorney's Fees

If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Article 22, Indemnity.

ON-CALL RIGHT OF WAY ACQUISITION SERVICES
INCLUDING APPRAISALS, RIGHT OF WAY ENGINEERING, SURVEYING,
AND OTHER SPECIALTY PROFESSIONAL SERVICES
Contract No. C10027

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year below written, but effective as of the day and year first set forth above.

By: _____
Principal

Date: _____

San Bernardino Associated Governments

By: _____
Paul M. Eaton, President
SANBAG Board of Directors

Date: _____

APPROVED AS TO LEGAL FORM:

By: _____
Jean-Rene Basle
SANBAG Counsel