

**NOTICE
SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)
REQUEST FOR PROPOSALS**

Contract Number(s): 5001572

RFP SUMMARY

Service Requested:	Investment Grade Traffic and Revenue Study
Contract Type:	Project Specific, Task Order Based
Number of Contracts:	One
Amount:	Up to \$1,000,000 for Phase 1 and up to \$1,050,000 for Optional Phase 2
Duration:	One (1) year with up to three (3) one (1) year options for a total of up to four (4) years
UDBE Goal:	3.88%
Payment Method:	Firm Fixed-Price per Task Order negotiated on the basis of a fee schedule
Deadline for Questions Regarding this RFP:	June 3, 2011
Pre-Proposal Meeting:	May 26, 2011

RFPs DUE:

12 noon

June 14, 2011

*****WARNING*****

PROPOSERS WILL BE DEEMED NONRESPONSIVE AND WILL BE DISQUALIFIED FROM FURTHER CONSIDERATION IF THEY FAIL TO TURN IN REQUIRED DBE DOCUMENTATION SHOWING THE PROPOSER HAS EITHER MET/EXCEEDED THE DBE GOAL AND/OR MADE A GOOD FAITH EFFORT TO DO SO.



401 B Street, Suite 800 • San Diego, CA 92101-4231 • (619) 699-1900

SANDAG
CONSULTANT/CONTRACTOR INFORMATION FORM
(PROPOSER TO COMPLETE AND RETURN FORM WITH PROPOSAL)

Company Name

Address

Company Name (i.e., Sole Proprietorship, Partnership, Corporation)

Federal Tax I.D. Number

Identification of Person Authorized to Execute Agreement

Contact Name / Title

()

()

Phone

Fax

E-mail

Consultant Point of Contact for SANDAG Project Manager

Contact Name / Title

()

()

Phone

Fax

E-mail

Is your firm a Certified Disadvantaged Business Enterprise (DBE)?

☐ No

☐ Yes

Will your firm be utilizing certified Disadvantaged Business Enterprise (DBE) firm(s) under this agreement?

☐ No

☐ Yes (if yes, check all that apply)

☐ Hispanic Male

☐ Subcontinent Asian Male

☐ African American

☐ Asian Pacific American

☐ Native American

☐ Women

REQUEST FOR PROPOSALS FOR INVESTMENT GRADE TRAFFIC AND REVENUE STUDY

I. INTRODUCTION

Thank you for your interest in contracting opportunities with the San Diego Association of Governments (SANDAG). SANDAG, in collaboration with Secretaría de Comunicaciones y Transportes (SCT), is seeking a qualified and experienced firm(s) to conduct a unique binational investment grade traffic and revenue study (T&RS) for the new State Route 11 (SR 11) and Otay Mesa East-Mesa de Otay II Port of Entry (POE). At this time SANDAG is soliciting proposals for one final binational T&RS from one prime consultant/team. Mexico may solicit at a later date their own RFP for the same coordinated T&RS. This RFP describes SANDAG's Project, the required scope of services, the consultant selection process, and the minimum information that must be included in the proposal. Failure to submit information in accordance with the SANDAGs requirements and procedures shall be cause for disqualification.

SANDAG and SCT will evaluate and jointly select one consultant for one consolidated binational T&RS that serves the requirements of both agencies. While the scope of work involves coordination with agencies in both the US and Mexico, the investment grade T&RS is for all purposes to be developed as ONE study that serves both SANDAG and SCT.

II. BACKGROUND

SANDAG is a legislatively created regional government agency that serves as a technical and informational resource for the area's 18 incorporated cities and the county government, who collectively are the "Association of Governments." SANDAG also serves as the federally designated metropolitan planning organization and Regional Transportation Commission for the region. Through SANDAG, local governments work together to solve current problems and plan for the future. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, and provides information on a broad range of topics pertinent to the San Diego region's quality of life.

SANDAG is governed by a board of directors composed of mayors, councilmembers, and two county supervisors representing the region's 19 local governments. Current members include all the incorporated cities in the region – Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista – and the County of San Diego.

Supplementing the voting members are advisory representatives from Imperial County, the California Department of Transportation (Caltrans), the Metropolitan Transit System (MTS), the North County Transit District (NCTD), the U.S. Department of Defense, the San Diego Unified Port District, the San Diego County Water Authority, Tribal Governments, and Baja California, Mexico.

SANDAG conducts regional planning on matters such as growth management, transportation, environmental management, housing, open space, air quality, energy, fiscal management, economic development, and criminal justice. In addition, SANDAG is authorized to operate the FasTrak managed lanes system on Interstate 15 and collect a half cent transactions and use tax in San Diego County known as *TransNet*, which is used to construct highway, transit, and other types of transportation projects.

III. PROJECT SUMMARY

A. Project Background

SANDAG, in cooperation with SCT is requesting proposals from qualified firms to conduct a **Binational Investment Grade Traffic and Revenue Study (T&RS)** for a proposed border crossing between the United States and Mexico located in San Diego County and Baja California. This proposal and consultant selection process also will be used to fulfill any additional Traffic and Revenue Study or similar services that SANDAG may have in the general Project area. These additional T&RS services should be considered an optional set of tasks or additional phase that may be activated if the need arises.

The San Diego region is home to the United States' seventh largest city and is situated at the southwestern-most tip of the continental United States bounded to the south by an international border with Mexico. SANDAG and the California Department of Transportation (Caltrans), in cooperation with the U.S. General Services Administration (GSA) and other Project stakeholders, are proposing to develop the new **Otay Mesa East** POE and, on the U.S. side, the associated transportation facility, SR 11, while the Mexico side will include two access roads, one for heavy vehicles and another for passenger vehicles. The proposed cross-border facility will be located approximately two miles east of the existing Otay Mesa POE and will create a third border crossing along the San Diego region's border with Tijuana.

On the U.S. side of the border, the proposed Project, hereinafter referred to as the "U.S. Project" includes SR 11, a new POE at the U.S.-Mexico border, and a new California Vehicle Enforcement Facility (CVEF) located in the community of East Otay Mesa in the County of San Diego. Proposed SR 11 would be a four-lane highway connecting to SR-905 via two ramp connections. The highway extends east and then south from the proposed SR-125/SR-905 interchange for approximately 2.1 miles, ultimately connecting to the Otay Mesa East POE and CVEF at the international border. The new POE and CVEF will be on a portion of a 120-acre site with room to expand as demand grows, and new technology and innovative security measures are introduced.

South of the border in Mexico, the Project bears the name of "*Mesa de Otay II*" and, for the purposes of this Scope of Work, it will be hereinafter referred to as the "Mexico Project". It is located to the east of the existing Mesa de Otay (Otay I) POE on the outskirts of Tijuana. The Mexico POE Project consists of:

- i. 27 northbound passenger/commercial vehicle toll lanes:
 - 18 Single Occupancy Vehicle (SOV) toll booths, located on the north end, near the border with the U.S.

- 9 northbound commercial vehicle toll booths, located on the north end, near the border with the U.S.
- ii. 8 southbound lanes:
 - 2 southbound commercial vehicle toll lanes, located on the north end, near the border with the U.S.
 - 6 southbound SOV lanes, located on the north end, near the border with the U.S.

The access road for SOV vehicles shall be *Boulevard Las Torres*, and is currently planned to consist of six center lanes (three each way) divided by an eight-meter-wide median; as well as two side lanes (one each way) with the following specifications:

Table 1. SOV Vehicle Access Road Specifications

CONCEPT	ROAD SPECIFICATIONS
Access Road Length	1.0 Km
Center Lane Width	3.5 m
Side Lane Width	6.0 m
Crown Width	10.5 m
Sidewalk Width	1.5 m

The specifications for the heavy vehicle access road appear below:

Table 2. Heavy Vehicle Access Road Specifications

PROJECT SPECIFICATIONS	
CONCEPT	ROAD SPECIFICATIONS
Length	2.75 km
Roadway Type	A4
Crown Width	16.8 m
Number of Lanes	4
Lane Width	3.75 m
Center Divider Width	1.8 m
Sidewalk Width	0.80 and 1.20 m

Both roadways will include their associated connectors to the Tijuana-Tecate Highway.

For the purposes of the binational traffic and revenue study, the term “Project” will refer to the entire cross-border facility consisting of both the U.S. and Mexican Projects. The above Project descriptions are preliminary and it is the goal of SANDAG and SCT that the T&RS

provide information that will help to guide the more detailed design of the Project as deemed appropriate by SANDAG and SCT.

The two existing ports of entry, San Ysidro and Otay Mesa, stand out compared to the other United States-Mexico border crossings. The San Ysidro-Puerta Mexico POE is the busiest international land crossing along the U.S.-Mexico border, and one of the busiest international crossings in the world. The Otay Mesa-Mesa de Otay POE continues to accommodate the third-highest dollar value of trade among all southern border POEs. The volume of cross-border vehicle and pedestrian crossings and associated border delays has been increasing rapidly for more than a decade, especially in the northbound direction.

Steady growth in global and regional economic integration squeezes ever more people and goods through border infrastructure that was sized for a much smaller and significantly less security-conscious economy. Northbound peak wait times at existing facilities can routinely last for more than two hours for passenger vehicles, and commercial truck drivers have often logged four hours in line. According to the SANDAG-Caltrans study, *2007 Update: Economic Impacts of Border Wait Times in the San Diego-Baja California Border Region*, <http://www.sandag.org/index.asp?projectid=253&fuseaction=projects.detail>, the border traffic congestion and delays cost the U.S. and Mexican economies an estimated \$7.2 billion in gross output (value of goods and services produced) and more than 62,000 jobs in 2007. A third border crossing at East Otay Mesa could reduce delays caused by traffic congestion, better accommodate projected trade and travel demand, and increase economic growth and job opportunities on both sides of the border without sacrificing border safety and security.

The Great Recession has taken a toll on international trade and traffic. Recent traffic counts at the San Diego-Tijuana POE were down 20 to 30 percent, although wait times remain closer to prerecession levels. Over the past year (the recession ended more than one and a half years ago) both the national and local economies have started to grow, creating new job opportunities and rising consumer consumption which is supporting an increase in cross-border traffic, including truck traffic carrying imports from Mexico and exports to Mexico. This same import/export volume increase is also taking place at the major west coast water POE located in Los Angeles and Long Beach. As the San Diego and Tijuana economies continue to rebound from the recession, cross-border traffic is expected to increase and surpass pre-recession levels.

A third border crossing at East Otay Mesa could reduce delays caused by traffic congestion, better accommodate projected trade and travel demand, and increase economic growth and job opportunities on both sides of the border without sacrificing border safety and security.

Proposed plans on each side of the border include a new roadway to connect the POE's to the existing transportation system. North of the border the U.S. Project includes SR 11/Otay Mesa East POE; south of the border the Mexico Project is referred to as Mesa de Otay Dos. The proposed cross-border facility will become part of a seamless Mexico connection to the Tijuana-Rosarito Corridor, with links to the Tijuana-Tecate and the Tijuana-Ensenada toll roads in Baja California, Mexico. On the U.S. side, SR 11 will become part of the region's 2050 vision for 95 miles of tolled facilities and high-occupancy toll (HOT) lanes in San Diego County.

Because toll collections are expected to pay for most of the Project costs on both sides of the border, the **T&RS** will need to be coordinated by the successful consultant team with the appropriate representatives from Mexico. The **T&RS** will be expected to provide an estimate of the toll revenue generating capacity of the entire cross-border Project over a specified period under a variety of toll-pricing and collection scenarios (An evaluation of the options to operate the cross-border facility, including toll collection, will be addressed in a separate Intelligent Transportation System Study, and incorporated into this T&RS.). Although there are two Projects, (one on each side of the border) it is necessary to produce one T&RS for the Project, or complete cross-border facility. To accomplish this objective, SANDAG is partnering with the Mexican government to procure a single traffic and revenue consultant team. The successful consultant team must show that they can meet the procurement and contract requirements by coordinating with all necessary parties on **both sides** of the border, as well as produce a single investment grade T&RS that meets the needs of the Mexican government (represented by SCT) and SANDAG.

Because SANDAG and SCT are partnering in the procurement and delivery of the T&RS, it must be assumed that all information, including confidential information, disclosed to one party will be shared with but held in confidence by the other.

The binational **T&RS** is a key ingredient to a broader effort to design, construct, connect, operate, maintain and finance a new POE. The report will be used for SANDAG and SCT's planning purposes and to assess the economic feasibility of the Project, as well as to assist in the planning and configuration of the Project. The T&RS will be a key component of the financing process with respect to the Project, and will be reviewed by rating agencies, governmental financing programs and potential investors. The consultant also should assume that the binational T&RS will be included in a publicly-available bond offering document, and be prepared to execute appropriate waiver agreements to allow the report to be relied on by appropriate financing parties and investors.

In summary, the key goals of the new Otay East POE include: reducing delays caused by traffic congestion, accommodating projected trade and travel demand, increasing economic growth and job opportunities on both sides of the border, implementing improved border safety and security, and ensuring sufficient revenue generation to support the Project financing.

B. Fee Estimate

The estimated range of the fee for the completion of the Project for Phase 1 is up to \$1,000,000. Optional Phase 2 of the Project is not currently budgeted, but should funding become available, SANDAG estimates the fee for optional Phase 2 to be up to \$1,050,000. If Phase 1 and the optional Phase 2 are executed, the total contract value will be up to \$2,050,000. EXECUTION OF THE OPTIONAL PHASE 2 IS AT THE SOLE DISCRETION OF SANDAG, BASED ON CONSULTANT PERFORMANCE, FUNDING AVAILABILITY AND OTHER FACTORS.

C. Duration of Agreement

The proposer who is awarded the contract for this Project will be authorized to perform work pursuant to individually negotiated Task Orders issued and in accordance with the terms of SANDAG's Standard Services Agreement – RFP Attachment 20. The contract awarded will consist of the base period of one (1) year with up to three (3) one (1) year options at the sole discretion of SANDAG for up to a maximum term of four (4) years based upon satisfactory performance, availability of funds, and other factors within SANDAG's sole discretion.

D. Payment

The selected consultant will be paid by the following method: firm fixed-price per Task Order on the basis of a fee schedule.

IV. SCOPE OF REQUIRED SERVICES

A. Project Description

A detailed Scope of Work is included in RFP Attachment 2.

B. Project Schedule

A detailed Project schedule for SANDAG is included in the RFP Attachment 2; however the proposer is to provide, as part of its proposal, a proposed Project schedule for the deliverable of one binational investment grade T&RS.

V. SPECIAL CONSIDERATIONS

A. [Reserved]

Given the special binational and cross-border aspects of this Project, the selected consultant will need to be able to perform all communications in English and in Spanish and cross the international border with Mexico as needed. As part of the coordination with federal stakeholders and security of the border, consultant staff performing work in this area may need to attain and possess, throughout the term of this Agreement, security clearance by Customs and Border Protection.

In addition, the selected consultant will need to remain in compliance with applicable procedures and regulations contained in Homeland Security Presidential Directive-12: Policy for a Common Identification Standard for Federal Employees and Contractors (HSPD-12; http://www.dhs.gov/xabout/laws/gc_1217616624097.shtm#1), particularly for review of Customs and Border Protection protocols and for access to the POE(s) as well as all other applicable regulations relating to POE access.

B. Pre-Award Audit and/or Post-Award Audit

This Project will be funded in whole or in part with state or federal funds and the amount of the contract, with possible amendments, is likely to exceed \$250,000. Therefore, the proposer selected for contract negotiations will be subject to a pre-award and/or post-award

audit by Caltrans or SANDAG, which must be successfully completed before and/or after the contract documents are signed and the proposer is issued a notice to proceed. During the pre-award and/or post-award audit, Caltrans or SANDAG will examine the proposer's accounting, administrative, and estimating systems; proposed costs; quantities; and financial condition. The audit will be broad in scope and could be time-consuming. A copy of Caltrans' Accounting and Auditing Guidelines, which will be used as a basis for the audit, is available on the Caltrans Web site at:

www.dot.ca.gov/hq/LocalPrograms/lpp/LPP00-05.pdf

Consistent with 49 U.S.C. 5325(b)(3)(A)(B), any contract or subcontract awarded under this section must be performed and audited pursuant to Federal Acquisition Regulations. SANDAG will accept proposer's indirect cost rates, established in accordance with Federal Acquisition Regulations' cost principles, for one (1)-year applicable accounting periods by a cognizant federal or state government if those rates are not currently under dispute.

Amendments to a contract that are in excess of \$250,000 will be subject to the audit requirement. Also, any amendment that causes a contract that did not originally exceed \$250,000 to go over the \$250,000 threshold will be subject to audit.

VI. GENERAL PROPOSAL REQUIREMENTS

A. General

1. The technical proposal should be concise, well organized, and demonstrate the proposer's qualifications and experience applicable to this binational Project. The technical proposal for SANDAG shall be limited to one 3" binder (paper 8.5" x 11"), inclusive of resumes, graphics, forms, pictures, photographs, dividers, front and back covers, cover letter, letters of commitment from subconsultants and Disadvantaged Business Enterprise documentation, etc. Type size (minimum of 9 point) and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing. The 3" binder must include the technical proposal both in English and in Spanish. The first section of the binder shall contain the English translation of the technical proposal. The second section of the binder shall contain the Spanish translation of the same technical proposal separated by a tab/divider. In the event of any inconsistencies between the English and Spanish version of the technical proposals, the English version will prevail.
2. The technical proposal must include a complete response to the RFP requirements, as described in the Scope of Work. The goal of the technical proposal is to show your firms' grasp of a unified U.S. and Mexico POE Project that will be received by the financial community as a unified view of the binational traffic flows for Otay Mesa East-Mesa de Otay II POE. Additionally, the technical proposal is a key opportunity for the consultant to illustrate their understanding of SANDAG's requirements for the Project, and how the Scope of Work should be accomplished for best value and highest quality product serving both agencies. SANDAG does not want the consultant to simply restate task elements. The result of the technical proposal should be a detailed and compelling preliminary work plan which will become the framework for conducting the integrated

binationaT T&RS. **All cost and pricing data, including documents showing indirect costs and direct labor rates, must be placed in a separate sealed envelope. Cost and pricing data need not be translated in Spanish.**

3. The proposer will be evaluated based upon the information submitted in accordance with Proposal Content Requirements in Section [VII], Evaluation Criteria in Section [XI], and compliance with the requirements of this RFP.

VII. PROPOSAL CONTENT REQUIREMENTS

A. Contents

Proposals submitted in response to this RFP shall be in the following order and shall include:

1. *Executive Summary*

Include a 1-2 page overview of the entire proposal describing the most important elements of the proposal.

2. *Identification of the Proposer and Establishment of Proposer's Fiscal Responsibility*

Please provide the following information:

- a. Legal name and address of proposer's company.
- b. Number of years proposer's company has been in business.
- c. Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required within this section for each member. If a corporation, certify that the corporation is in good standing with the Secretary of State.
- d. If company is wholly-owned subsidiary of a "parent company," provide the legal name and form of the parent company.
- e. Tax Identification Number.
- f. Address(es) of office(s) that will work on this Project.
- g. If DBE certified, identify certifying agency, as well as gender and ethnicity.
- h. Name, title, address, e-mail address, and telephone number of the person to contact concerning the proposal.
- i. State whether the proposer has filed bankruptcy in the last ten (10) years and provide any other relevant information concerning whether the proposer is financially capable of completing this Project.

- j. Provide all license numbers for licenses relevant to or required for this Project, the names of the holders of those licenses, and the names of the agencies issuing those licenses.
- k. SANDAG is only permitted to award contracts to responsible and responsive proposers. Final determination of a proposer's responsibility will be made upon the basis of initial information submitted in the proposal, any information submitted upon request by SANDAG, information submitted in a best and final offer and information resulting from SANDAG's inquiry of proposer's references and its own knowledge of the proposer. Proposer's integrity and reputation, as well as its fiscal responsibility will be taken into account as part of the responsibility determination.

3. *Experience and Technical Competence*

Describe the proposer's experience in completing similar consulting efforts. List three (3) successfully completed projects of a similar nature. For each completed project, provide the name of the company and Project Manager the proposer performed work for, telephone numbers, e-mail addresses, type of work performed, and dollar value of the contracts. A project currently being performed may be submitted for consideration as one of the references.

4. *Proposed Method to Accomplish the Work*

Describe the proposer's technical and management approach to the Project including a discussion of the special considerations in Section V and how the proposer will plan for and accommodate each into the Project effort. Provide a proposed Project schedule. Discuss how and what lines of communication to SANDAG and SCT in Mexico City will be implemented to maintain the Project schedule. The goal is to show your firms' grasp of a unified U.S. and Mexico POE Project that will be received by the financial community as a unified view of the binational traffic flows for Otay Mesa East/Mesa de Otay II. Additionally, the consultant shall illustrate their understanding of the requirements for the Project, how the Scope of Work should be accomplished for best value and highest quality product serving both agencies. SANDAG does not want the consultant to simply restate Scope of Work elements, but rather the consultant should bring their professional vision and value added approach to the Project. A detailed and compelling preliminary work plan will become the framework for conducting the binational T&RS. Boilerplate proposals that do not include discussion specific to SANDAG structure, policies, business methods, and Project requirements will receive lower scores. Demonstrated understanding of SANDAG and the Project, with the inclusion of innovative approaches and articulate analyses, will receive higher scores.

5. *Knowledge and Understanding of San Diego Border Region and Relevant Laws or Policy Issues*

Describe the proposer's experience working in the San Diego region and proposed local presence for interfacing with SANDAG's Project Manager and staff. This includes

but is not limited to: knowledge of city, county, Mexico, Baja California, Tijuana, and other local agencies' regulations and policies, politics and political issues; this also includes knowledge of GSA, Customs and Border Protection, U.S. Department of Transportation, and other federal partner agencies' regulations and policies and activities. Describe proposer's experience with and knowledge of relevant state and federal laws.

6. *Project Organization and Key Personnel*

- a. Describe proposed Project team organization, including identification and responsibilities of key personnel. Indicate role and responsibility of prime consultants and all subconsultants, including Disadvantaged Business Enterprises (DBE) and Underutilized Disadvantaged Business Enterprises (UDBE) subconsultants. If applicable, indicate how local firms are being utilized to ensure a strong understanding of state and local laws, ordinances, regulations, policies, requirements, and permitting. Indicate the extent of the commitment of key personnel for the duration of the Project and furnish resumes of key personnel. Provide an indication of the staffing level for the Project. SANDAG's evaluation of the proposal will consider the proposer's entire team; therefore, no changes in the team composition will be allowed without prior written approval of SANDAG. **Subconsultant letters of commitment are required and must be submitted with the proposal.**
- b. Describe the experience of the proposer's Project team in detail, including the team's Project Manager, and other key staff members, on Projects of similar size, capacity, and dollar value. For each similar Project, include the client's name and telephone number. It is SANDAG's policy to interview proposers' references as well as references identified by SANDAG.

7. *Previous Contracts with SANDAG*

The proposer shall submit a list which indicates all prime contracts and/or amendments awarded to the proposer by SANDAG for the last three (3) years. The list shall include a short description of the project, the project Scope of Work, award date, completion date, name of SANDAG's assigned Project Manager, and contract value.

8. *Exceptions to this Request for Proposals*

The proposer shall state whether or not it takes exception(s) to this RFP, including but not limited to SANDAG's Standard Services Agreement – [RFP Attachment 20](#). If the proposer does take exception(s) to any portion of the RFP or contract, the specific portion to which exception(s) is taken must be identified by section number and explained. Requests for changes or additions to sections of SANDAG's Standard Services Agreement must be shown by requesting deletion of specific words and/or by providing new requested contract language in a strikeout/redline format. Requests for complete replacement of the SANDAG Standard Services Agreement for another contract will not be granted. Failure to make exceptions to the RFP or Standard

Services Agreement within the proposal will be deemed a waiver of any objection. Exceptions will be considered during the proposal evaluation process.

9. *Addenda to this Request for Proposals*

The proposer shall confirm in its proposal the receipt of all addenda issued to this RFP.

10. *Required Certifications*

See List of Submittals Required with Proposal (RFP Checklist) – RFP Attachment 1.

11. *Statement of Impartiality and Disclosure Regarding Investigations or Litigation*

The nature of this Project requires an impartial unbiased approach on the part of the proposer team. This proposal shall include a statement declaring that the proposers and subconsultants are not currently, and will not, during the performance of these services, participate in any other similar work involving a third-party with interests currently in conflict or likely to be conflict with SANDAG's interests. Additionally, proposer is required to disclose any pending or active investigations or litigation that may affect the reputation or ability of the proposer to carry out the Project.

Proposers must provide an affirmative statement in their proposals that a conflicts check for the following entities has been processed and that no conflict of interest exists that could disqualify the proposer/firm from performing marketing services for SANDAG, MTS, NCTD, the Federal Transit Administration (FTA), the Federal Highway Administration, the County of San Diego, and all of the cities within the County of San Diego. Proposers who represent clients who are involved in a conflict or litigation with one of these entities may be disqualified if the conflict is not disclosed or cannot be sufficiently mitigated.

12. *Notice of Potential for Organizational and Financial Conflicts of Interest*

SANDAG has established a policy concerning potential conflict of interest in program management, design, and construction. This policy applies to all proposers and their proposed subconsultants. See Standard Services Agreement – [RFP Attachment 20](#) for additional information and required certifications by proposers and their subconsultants.

All SANDAG procurements must be conducted within ethical standards approved by the SANDAG Board of Directors. These standards can be found in SANDAG Board Policies 4 and 16 at www.sandag.org/legal. In addition, for all purchases for SANDAG, any practices which might result in unlawful activity are prohibited including, but not limited to, rebates, kickbacks or other unlawful considerations. SANDAG staff are specifically prohibited from participating in the selection process when those staff have a close personal relationship, family relationship, or past (within the last twelve (12) months), present, or potential business or employment relationship with a person or business entity seeking a contract. It is unlawful for any contract to be made by SANDAG if any individual Board member or staff has a prohibited financial interest in the contract.

Consultants, contractors, vendors and agents thereof currently doing business with or planning to seek contract awards from SANDAG are strongly discouraged from giving gifts to SANDAG officers, employees, agents or Board members who have taken or may in the future take part in contracting decisions for SANDAG. SANDAG's officers, employees, agents, and Board members shall not solicit or accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements that could bias their decision-making. This prohibition applies to any gift, gratuity, favor, entertainment, or loan, and includes such items as liquor, lodging, travel, food, and tickets to public functions such as sports events, theater, etc. If a person has any reason to believe a financial or organizational conflict of interest exists with regard to a particular procurement, he/she should notify the SANDAG Office of General Counsel immediately.

A proposer is eligible for award of service contracts by SANDAG so long as the contract in question does not create an actual, potential, or apparent financial or organizational conflict of interest. A prohibited organizational conflict of interest exists when a firm is or may be unable to render impartial, objective assistance or advice to SANDAG or where a firm would receive an unfair competitive advantage. Examples of situations that could create such a conflict of interest are listed in Board Policy 16. Proposers that have a conflict of interest due to performing work for SANDAG are ineligible to submit a proposal. A process for determining whether a proposer has a conflict is set forth in Board Policy 4. Ineligible firms include the prime proposer, its subconsultants and affiliates of either. An affiliate is a firm that is subject to the control of the same persons through joint ownership or otherwise.

13. Detailed Cost Estimate

- a. Provide an estimate of the total direct and indirect costs to complete all tasks identified in the Scope of Work. Even if the method of payment to proposer will be fixed fee, a detailed cost breakdown shall be provided identifying: (1) the number of staff hours and hourly rates for each professional and administrative staff person who will be committed to this Project, including fringe and overhead costs; (2) an estimate of all other direct costs, such as materials and reproduction costs; and (3) an estimate of subconsultant services, if needed. This information will be used to determine the reasonableness of proposers' estimates and for pre-award audit purposes when appropriate.
- b. All cost and pricing data, including documents showing indirect costs and direct labor rates, must be placed in a separate sealed envelope. Proposers must not include any information regarding their detailed cost estimates in the envelope containing their written proposal. Please see Section VI, General Proposal Requirements, Paragraph A (2), above.
- c. Proposer's will be paid at the same rates set forth in their cost proposal for the entire contract period (up to four (4) years), therefore the proposer's detailed cost estimate must cover the base period of service, one (1) year, plus each additional year the contract will potentially cover if Task Orders are issued for the

entire time period referred to in Section III.C. Even if an escalation clause is negotiated, however, rates will be frozen for a minimum two (2) year period, with annual escalation after that point not to exceed three percent (3%) per-year. If the proposer wants to include a fee escalation clause for projects assigned after the second contract year, the proposed percentage increase requested must be included as an exception to the contract terms pursuant to Section VII A 8 of this RFP.

VIII. SUBMITTAL REQUIREMENTS

Fifteen (15) hardcopies of the proposal (in English and in Spanish separated by a tab/divider), as described in sections VI and VII A above, are required, as well as one (1) complete copy on a disc. Additionally, consultant will submit fifteen (15) hardcopies of a cost proposal and one (1) copy on a **separate disc** as a PDF file of the cost proposal shall be submitted. Proposals submitted by facsimile or e-mail are not acceptable and will not be considered.

The proposal and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer. A list of the documents that must be submitted with the proposal is set forth in List of Submittals Required with Proposal (RFP Checklist) – RFP Attachment 1.

Proposer is responsible for submitting its proposal and any modifications or revisions, so as to reach SANDAG's office as designated in the RFP by the time specified below. Any proposal, modification, or revision received by SANDAG after the exact time specified for receipt of proposals is "late" and will not be considered unless it is received before award is made, and the Chief Deputy Executive Director determines that accepting the late proposal would not unduly delay the acquisition; and:

- (1) It was received before proposals were distributed for evaluation or within 24 hours after the exact time specified for receipt, whichever is earlier; or
- (2) There is acceptable evidence to establish that it was received at the SANDAG location designated for receipt of proposals and was under SANDAG's control prior to the time set for receipt of proposals; or
- (3) It is the only proposal received.

The proposal must be addressed to and received no later than 12 noon, local time, on June 14, 2011, at the office of:

Alexia Fernandez Spivey, Contract Administrator
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101

Postmarks will not be accepted in lieu of this requirement.

Proposals are to be submitted in sealed packages with the following information clearly marked on the outside of each package:

1. Name of proposer
2. Project title
3. Package Number (e.g., 1 of 8, 2 of 8)
4. The original detailed cost estimates shall be submitted in a separate sealed envelope. The name of the proposer, the Project title, and the title "Cost Proposal" shall be clearly written on the sealed envelope.

Failure to comply with any of the requirements of SANDAG's RFP may result in disqualification. SANDAG is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may be deemed nonresponsive or receive a lower score during the evaluation process. SANDAG reserves the right to disqualify a proposal detailed cost estimate with mathematical or clerical errors, inconsistencies, or missing information which prevent SANDAG from fully evaluating the proposal. SANDAG may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of SANDAG.

Proposals and/or modifications received subsequent to the hour and date specified above will not be considered except as specifically provided herein.

SANDAG reserves the right to waive inconsequential irregularities. **Failure to include required DBE documentation as shown on RFP Attachment 1 is not an inconsequential irregularity and will be cause for disqualification of proposer.**

IX. PRE-SUBMITTAL ACTIVITIES

A. Questions Concerning Request for Proposals

All questions relating to the RFP must be received in writing via mail, facsimile, e-mail, or hand delivery no later than 4 p.m., on June 3, 2011, addressed to:

Alexia Fernandez Spivey, Contract Administrator
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101
Fax: 619-699-4889
E-mail: asp@sandag.org

A Web page will be developed, maintained, and devoted to this RFP. It can be accessed from www.sandag.org/contracts.

Responses to all questions received concerning this RFP will be posted on the Web page devoted to this Project (shown above) on an ongoing basis. All responses and all timely questions received concerning this RFP will be posted at least three (3) days prior to the proposal due date or can be obtained by contacting the Contract Administrator. It is the responsibility of proposers to check the Web page for questions and responses related to this RFP.

B. Pre-proposal Meeting

A pre-proposal meeting will be held at SANDAG on May 26, 2011 from 9:00 to 10:15 a.m. in SANDAG's Board Room. The names and phone numbers of potential proposers that signed in and attended the pre-proposal meeting will be posted on the Web page for this procurement to help prime proposers and potential subconsultants locate each other. This posting is not an endorsement by SANDAG of any of the individuals or firms listed.

The pre-proposal meeting is not mandatory. Potential proposers and subcontractors are highly encouraged to attend the pre-proposal meeting. It is an opportunity to learn about the Project, ask questions, and network with firms with whom you may form a team for the Project.

C. Revision to the Request for Proposals

SANDAG reserves the right to revise the RFP prior to the date that proposals are due. Revisions to the RFP shall be posted on the Web page devoted to this RFP at least one (1) full business day prior to the deadline for proposals. It is the responsibility of the proposer to check the Web page for any revisions related to this RFP.

X. SANDAG'S ANNUAL ANTICIPATED DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION LEVEL (AADPL) AND DISCRIMINATION POLICY APPLICABLE TO FEDERALLY FUNDED PROCUREMENTS

A. Proposers are advised that, as required by federal law, SANDAG has established an Annual Anticipated DBE Participation Level (AADPL) and it is required to report on Underutilized Disadvantaged Enterprise and Disadvantaged Business Enterprise (UDBE/DBE) participation for all federal-aid contracts each year so that attainment efforts may be evaluated. The term 'Disadvantaged Business Enterprise' or 'DBE' means a for-profit small business concern as defined in Title 49, Part 26.5, Code of Federal Regulations (C.F.R.). In this Section, the term 'bidder' also means 'proposer' or 'offeror.' The term 'Small Business' or 'SB' is as defined in 49 C.F.R. 26.65 and is not the same thing as a DBE firm.

B. A contract awarded under this RFP will be subject to the following requirements:

- ☒ FHWA Funding Will Be Used – **Additional UDBE/DBE requirements related to this procurement are set forth in detail in the Standard Federal Provisions (FHWA) Non-Construction (Exhibit G to the Standard Services Agreement – RFP Attachment 20).**
- ☐ SANDAG has not established an FHWA Underutilized DBE goal for this RFP, however, proposers are encouraged to obtain DBE participation.
- ☒ The FHWA UDBE Contract Specific Goal for this RFP is 3.88%. Ability to meet or attempt to meet goal must be documented at the time of proposal submission or proposer will be disqualified.

- ☐ FTA Funding Will Be Used – **Additional UDBE/DBE requirements related to this procurement are set forth in detail in the Standard Federal Provisions (FTA) (Exhibit E to the Standard Services Agreement – RFP Attachment 20).**
 - ☐ SANDAG has not established a FTA DBE goal for this RFP, however, proposers are encouraged to obtain DBE participation.
 - ☐ The FTA DBE Contract Specific Goal for this RFP of insert percentage% is to be met using minority-neutral means. No Good Faith Effort (GFE) documentation is required.
- C. DBEs and other small businesses are strongly encouraged to participate in the performance of agreements financed in whole or in part with federal funds (See 49 C.F.R. 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"). The proposer should ensure that DBEs and other SBs have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Proposers also are encouraged to use services offered by financial institutions owned and controlled by DBEs. Please note that the UDBE Contract Specific Goal must be met using UDBE firms. Not all DBE firms qualify as UDBE firms. Small Business Enterprise, Women Business Enterprise, and Minority Business Enterprise designations are not sufficient. Proposer is responsible for ensuring firms listed on Attachments 10 and 11 are UDBE firms that have been certified by the state of California.
- D. It is SANDAG's policy to provide disadvantaged, minority, and women-owned business enterprises, as defined in Part 26, Title 49 C.F.R., an equitable opportunity to participate in all contracting opportunities. SANDAG's agreements with FTA and FHWA regarding its DBE programs, which include minority and women-owned business enterprises, are designed to administer contracts, consultant selection, and all related procurement activities without regard to race, color, religion, disability, political beliefs, age, national origin, gender, veteran status, or cultural background. Accordingly, no firm or individual shall be denied the opportunity to compete for SANDAG contracts by reasons so stated or implied.
- E. SANDAG requires all potential SANDAG consultants to comply with Title VI and Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act, as amended, and all other applicable discrimination laws. SANDAG will not tolerate illegal discrimination or harassment by its consultants.
- F. Submit a Subconsultant List – RFP Attachment 4 with the proposal, which lists all subconsultants actually selected by proposer for this Project, Scope of Work, and approximate percentage of the work (as a percentage of the total award to the prime consultant).
- G. Submit a Bidders List – RFP Attachment 5 with the proposal. SANDAG is required by the Regulations to create and maintain a "Bidders List" of firms for both the prime and subconsultants that are bidding, proposing, offering or quoting on SANDAG's DOT-assisted

contracts, for use in SANDAG's establishment of an AADPL. Therefore, SANDAG will require all proposers (DBEs/UDBEs and non-DBEs) to provide the following information for all firms who submitted a bid, quote or offer/proposal, including firms/subconsultants who were contacted by the proposer but did not respond or declined to participate:

Firm Name;

Firm Address;

Firm DBE Certification Status (if applicable)

Age of the Firm

Type of services provided by the firm; and

Range of annual gross receipts for the last year.

- H.** SANDAG is participating as a Non-Certifying Member in the California Unified Certification Program (CUCP). Therefore, SANDAG will accept DBE certification from the certifying member agencies, which certify eligibility of DBEs in accordance with 49 C.F.R., Part 26, under the CA CUCP. Listings of certifying member agencies is available in the Department of Transportation, Civil Rights, Business Enterprise Program Web site at:

www.dot.ca.gov/hq/bep

- I.** The CUCP database includes the DBEs certified from all certifying agencies participating in the CUCP. If you are looking for a certified DBE firm or want to be sure the firm you plan to subcontract with is certified, you may perform a query in the CUCP database by going to: http://www.dot.ca.gov/hq/bep/find_certified.htm. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Civil Rights Certification Unit at (916) 324-8347 for assistance.
- J.** If you do not have Internet access, you may contact SANDAG's Contracts and Procurement group at (619) 699-1900.
- K.** SANDAG is a subrecipient of Federal Highway Administration (FHWA) funds through the California Department of Transportation (Caltrans). In conformance with Title 49 C.F.R., Part 26, and directives and guidance issued by Caltrans, dated March 4, 2009, SANDAG is required to implement the minority-conscious component of the Disadvantaged Business Enterprise (DBE) program. The four groups referred to below have been deemed Underutilized Disadvantaged Business Enterprises (UDBEs) in accordance with Caltrans directives. The minority-conscious goal established by SANDAG for each contract is based on an analysis of available subcontracting opportunities and the availability of UDBEs within SANDAG's market area. At this time, Hispanic American male owned and Subcontinent Asian American male owned DBE businesses are not included in the minority-conscious portion of the program and as such cannot be credited towards the contract-specific UDBE goal. However, the use of Hispanic American male owned and Subcontinent Asian American male owned businesses does count toward meeting the minority-neutral portion of SANDAG's AADPL.

- L. The term 'Underutilized Disadvantaged Business Enterprises' or 'UDBE' is a certified DBE owned by one (1) of the following four (4) groups: African American, Asian-Pacific American, Native American and Women owned businesses, which were identified in the 2007 Caltrans Availability and Disparity Study.
- M. The use of UDBEs will be counted towards the minority-conscious UDBE Contract Specific Goal. The use of DBE firms that are not UDBE will not count toward the UDBE Contract Specific Goal. The use of UDBEs that exceed the UDBE Contract Specific Goal and/or the use of DBEs owned and controlled by Hispanic Males or Subcontinent Asian Males will be reported and counted toward the minority-neutral portion of SANDAG's AADPL and California statewide goal.

Credit for materials or supplies the proposer purchases from UDBEs counts towards the goal in the following manner:

1. One hundred percent (100%) counts if the materials or supplies are obtained from a UDBE Manufacturer.
 2. Sixty percent (60%) 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 C.F.R. 26.55(e) defines "Manufacturer" and "Regular Dealer."
- N. In the event of any conflicts or inconsistencies between the C.F.R. and SANDAG's DBE Program with respect to DOT-assisted contracts, the C.F.R. shall prevail.
- O. The Local Agency Proposer UDBE Commitment (Consultant Contracts) form – RFP Attachment 10 and the Local Agency Proposer DBE Information (Consultant Contracts) form – RFP Attachment 11 must be completed and submitted with the proposal.
- P. If the proposer does not submit the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form and Local Agency Proposer DBE Information (Consultant Contracts) – RFP Attachment 11 form with its proposal, SANDAG will find the proposal nonresponsive. Proposer must submit written confirmation from each UDBE stating that it is participating in the contract, which shall be included with the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form. A copy of a UDBE's quote will serve as written confirmation that the UDBE is participating in the contract. Even if no DBE participation will be reported, the successful proposer must execute and return the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form with the proposal.
- Q. **Proposers that have not committed to meet the UDBE goal utilizing the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form must complete and submit the UDBE Information-Good Faith Efforts – RFP Attachment 12 form and demonstrate adequate Good Faith Efforts to meet the UDBE goal in order to maintain their eligibility for award.** SANDAG recommends that proposers who have committed to meet the goal additionally submit this form as a means of protecting their

eligibility for award in the event the UDBE firm(s) participation proposed was improperly credited by the proposer. As discussed in the Caltrans Local Assistance Procedures Manual, submittal of the Local Agency Proposer UDBE Commitment (Consultant Contracts) RFP Attachment 10 form may not provide sufficient documentation.

R. GFE 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 your 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 bid 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 provided a quote and their price quote. 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 plans, specifications, and 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 proposer(s) 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 GFE.

- S. For further good faith effort guidance, see the Caltrans' Division of Local Assistance Guidance for Bidders Completing the Good Faith Effort and Appendix A to 49 C.F.R. Part 26 - Guidance Concerning Good Faith Efforts – RFP Attachment 14, which also can be found via the following link:

http://www.dot.ca.gov/hq/LocalPrograms/DBE/GFE_Guidance_mar_3.doc

- T. Only UDBE participation will count towards the UDBE goal. DBE participation by firms who are not Underutilized DBE will count towards SANDAG's Annual Anticipated DBE Participation Level and the California statewide goal, but not toward the required UDBE goal for this specific RFP.
- U. Information regarding SANDAG's Disadvantaged Business Enterprise Minority-Conscious Implementation Agreement is available on its Web site at www.sandag.org/notices. Additionally, interested parties may access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program Web site at:

www.dot.ca.gov/hq/bep

- V. It is the proposer's responsibility to verify that the DBE firm is certified as a DBE at date of proposal submittal. For a list of DBEs certified by the California Unified Certification Program, go to:

www.dot.ca.gov/hq/bep/find_certified.htm

XI. CONSULTANT EVALUATION AND SELECTION PROCESS

- A. Proposals will be evaluated, negotiated, selected and any award made in accordance with the criteria and procedures described below. The approach and procedures are those which are applicable to a competitive negotiated procurement whereby proposals are evaluated to determine which proposals are within a competitive range. Discussions and negotiations may then be carried out with proposer(s) within the competitive range, after which Best and Final Offers (BAFOs) may be requested. However, SANDAG may select a proposal for award without any discussions or negotiations or request for any BAFO(s). Subject to SANDAG's right to reject any or all proposals, the proposer will be selected whose proposal is found to be most advantageous to SANDAG.
- B. Proposals will not be publicly opened. All detailed cost estimates ("cost proposals") and evaluations related to costs will be kept strictly confidential throughout the evaluation, negotiation and selection process. Only the members of the Evaluation Committee and SANDAG and SCT officials, employees and agents having a legitimate interest will be provided access to the cost proposals and cost evaluation results during this period.
- C. Proposals will be evaluated to determine the responsibility of proposers. Any proposals from proposers whom SANDAG finds not to be responsible and finds cannot be made to be responsible within timelines set by SANDAG may not be considered for the competitive range. Final determination of a proposer's responsibility will be made upon the basis of initial information submitted in the proposal, any information submitted upon request by SANDAG, information submitted in a BAFO and information resulting from SANDAG's inquiry of

proposer's references and its own knowledge of the proposer. Proposer's integrity and reputation, as well as its fiscal responsibility will be taken into account as part of the responsibility determination.

- D.** Each proposal will be evaluated for responsiveness. The following are the minimum requirements that must be met for a proposal to be considered for the competitive range. All of these requirements must be met; therefore, they are not listed by any particular order of importance. Any proposal that SANDAG finds not to meet these requirements, and may not be made to meet these requirements within timelines set by SANDAG, may be determined by SANDAG to not be considered for the competitive range. The requirements are as follows:
1. Proposer is initially evaluated as responsible. Final determination of responsibility will be made with final evaluations. Further information regarding proposer responsibility requirements can be found in Board Policy No. 016, which is available at www.sandag.org/legal.
 2. Proposer has followed the instructions of the RFP and included sufficient detail information, such that the proposal can be evaluated. Any deficiencies in this regard must be determined by SANDAG to be either a defect that SANDAG will waive or that the proposal can be sufficiently modified to meet these requirements.
 3. The amount of the cost proposal would not render this procurement financially infeasible, or it is reasonable that such amount might be reduced to render the procurement financially feasible.
- E.** Proposers of any proposals that have been determined by SANDAG as not in the competitive range, and that cannot be reasonably made to be within the competitive range, will be notified in writing that they were not shortlisted.
- F.** Proposers whose proposals are found by SANDAG to be within the competitive range, or may be reasonably made to be within the competitive range, will be notified and any questions and/or requests for clarifications provided to them. Each such proposer may be invited for a private interview(s) and discussions with SANDAG to discuss answers to written or oral questions, clarifications, and any facet of its proposal.
- G.** In the event that a proposal, which has been included in the competitive range, contains conditions, exceptions, reservations or understandings to any Agreement requirements, said conditions, exceptions, reservations or understandings may be negotiated during these meetings. However, SANDAG shall have the right to reject any and all such conditions and/or exceptions, and instruct the proposer to amend its proposal and remove said conditions and/or exceptions; and any proposer failing to do so may cause SANDAG to find such proposal to be outside the competitive range.
- H.** SANDAG reserves the right to conduct visits to proposers' facilities or to inspect the facilities for which proposer has supplied or provided the same or similar equipment or services if appropriate.
- I.** After any interviews have been completed, each of the proposers in the competitive range may be afforded the opportunity to amend its proposal and make its BAFO. SANDAG will

then choose that proposer it finds to be most advantageous to SANDAG based upon the evaluation criteria for work on the Project. SANDAG reserves the right to make an award to a proposer whose proposal it judges to be most advantageous to SANDAG based upon the evaluation criteria, without conducting any written or oral discussions with any proposers or solicitation of any BAFOs.

- J.** SANDAG will establish one or more consultant Evaluation Committee(s) ("Committee(s)") for this Project and will include representatives from SANDAG, and when deemed in SANDAG's best interest, representatives of its member agencies, the general public, or individuals with experience and expertise in the related discipline(s).
- K.** Based upon the written proposal, interview, and reference scores, and other appropriate evaluation factors, the Evaluation Committee(s) will rank the qualified finalists.
- L.** The Committee(s) will recommend the top-ranked proposer(s) to SANDAG's Executive Director and/or designee, and will request authority to enter into negotiations with one or more firms in the competitive range. The Executive Director and/or designee has final authority for making a selection that is in SANDAG's best interest. The proposer(s) selected for negotiations will be sent a Notice of Intent to Award or Notice of Intent to Negotiate. Proposers who are not selected for negotiations will be sent a Notice of Intent to Enter Negotiations With Another Proposer.
- M.** Upon receipt of the Executive Director's and/or designee's authorization to negotiate, SANDAG will establish a negotiating team and enter into negotiations with the firm(s) in the competitive range. The negotiations may cover: Scope of Work, contract schedule, contract terms and conditions, technical specifications, level of effort, and price. If the negotiating team is unable to reach an acceptable agreement with the preferred firm, the negotiating team will recommend to the Executive Director that negotiations be terminated and that negotiations with one or more other firms be initiated. The Executive Director has final authority to terminate negotiations and begin negotiations with another proposer when it is in SANDAG's best interest to do so.
- N.** After completion by Caltrans or SANDAG of a pre-award and/or post-award audit and negotiation of a proposed Agreement that is fair and reasonable, the negotiating team will recommend to the Executive Director and/or designee that SANDAG enter into the proposed Agreement. Final authority to approve the Agreement rests with the Executive Director and/or designee. No work on the Project may commence until after the Agreement has been executed by all of the parties. Any work performed by a proposer prior to execution of the Agreement by SANDAG will be uncompensated.
- O.** Due to concerns regarding confidentiality during the contract negotiation process, consultants will not typically be debriefed until after contract execution.

XII. EVALUATION CRITERIA

- A.** Proposers will be evaluated on the criteria as per attached Consultant Short List Evaluation Form – RFP Attachment 16. If an interview is utilized, proposers will be evaluated per the criteria as defined in attached Consultant Interview Evaluation Form – RFP Attachment 17.

SANDAG reserves the right to independently score the Short List Evaluation and the Interview Evaluation or combine the scores. The criteria in the Short List Evaluation worksheet is the basis for the initial evaluation, scoring and ranking of proposers' proposals to establish a short-list of firms to be interviewed. Each panel member will convert the weighted scores to ranks, with the highest weighted score ranked one, the next highest score ranked two, and so on. All panel members' ranks will be combined and the lowest combined rank score will be the top-ranked firm for the short list and interview evaluations.

- B. SANDAG may or may not conduct interviews. If SANDAG elects to eliminate the interview, the Consultant Short List Evaluation with No Interviews Form – RFP Attachment 18, shall be utilized for final evaluation.
- C. The basis for ranking the cost proposals shall be the information included by the proposer in Cost Estimate Form – RFP Attachment 3. If Task Orders are executed, they will be negotiated on the level of effort based on the rates shown in the proposer's cost proposal.
- D. It is SANDAG's policy to conduct reference interviews for proposers. Reference interview results will be considered during the evaluation and selection process. Only responsible proposers submitting responsive proposals will be considered.
- E. Proposers' detailed cost estimates and/or a determination of which proposal offers the best value to SANDAG will be part of the evaluation process. Proposers' detailed cost estimate will have the value assigned below in the evaluation criteria descriptions. Cost estimates/proposals are a component of the proposal and shall become subject to disclosure as a public record after one or more contracts are executed unless proposer has clearly identified the cost estimate/proposal as confidential trade secret.

XIII. SCHEDULE FOR NOMINATION, SELECTION, AND AWARD

SANDAG anticipates the process for nominating and selecting a proposer and awarding the contract will be according to the following tentative schedule:

- A. Advertise and Issue RFP May 18, 2011
- B. Pre-Proposal Meeting May 26, 2011
- C. Last Day to Submit Questions Regarding RFP..... June 3, 2011
- D. Proposal Due Date June 14, 2011
- E. Short List Meeting June 22, 2011
- F. Oral Interviews (if utilized) July 6, 2011
- G. Selection and Notification of Intent to Award or Intent to Negotiate July 2011
- H. Audit findings from Caltrans following pre-award /and or post-award audit August 2011
- I. Contract Negotiations Complete August 2011
- J. Approval of Agreement August 2011
- K. Notice of Award/Notice to Proceed September 2011

XIV. SPECIAL CONDITIONS

A. Reservations

This RFP does not commit SANDAG to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. SANDAG may reject proposer without providing the reason(s) underlying the declination. A failure to award a contract to the proposer with the lowest cost proposal shall not constitute a valid cause of action against SANDAG.

B. Public Records

All proposals submitted in response to this RFP become the property of SANDAG and public records and, as such, may be subject to public review. Documents protected by law from public disclosure will not be disclosed by SANDAG if clearly marked with the word "confidential" on each applicable page. Trade secrets may be marked as confidential only to the extent they meet the requirements of California Government Code section 6254.7. Only information claimed to be a trade secret at the time of submittal to SANDAG and marked as "confidential" will be treated as a trade secret. Please see SANDAG's Public Records Request Guidelines, which are available at www.sandag/legal, for information regarding SANDAG's treatment of documents designated as confidential.

Consistent with 49 U.S.C. 5325(b)(3)(D), before requesting or using indirect cost rate data, SANDAG shall first notify and obtain written permission from any proposer or firm subject to an indirect cost rates audit. If SANDAG receives a Public Records Act request, for any proposer's or firm's indirect cost rates, pursuant to Government Code Section 6250 et seq., SANDAG also shall take the above-described precautionary steps.

C. Right to Cancel

SANDAG reserves the right to cancel or revise, for any or no reason, in part or in its entirety, this RFP. If SANDAG cancels the RFP prior to the deadline for proposals or revises the RFP, notification will be placed on SANDAG's Web site.

D. Additional Information

SANDAG reserves the right to request additional information and/or clarification from any or all proposers to this RFP, but is under no obligation to do so.

E. Public Information

Proposers who wish to release information to the public regarding consultant selection, contract award, or data provided by SANDAG must receive prior written approval from SANDAG before disclosing such information to the public.

F. Contract for Services

The selected proposers will be required to sign a customized version of the attached Standard Services Agreement – RFP Attachment 20, and to provide the insurance

certificates and all other required documentation within fifteen (15) calendar days of issuance of the Notice of Intent to Award. A sample insurance certificate form can be referenced in the attached Example Certificate of Insurance – RFP Attachment 19. The sample includes standard insurance terms to be used for reference only. The insurance coverage required for this procurement is listed in Section 4 of the Agreement.

G. Insurance Requirements

SANDAG requires consultants doing business with it to obtain insurance, as shown in the attached Standard Services Agreement – RFP Attachment 20. The required insurance certificates must comply with all requirements of the standards as shown in the contract and must be provided within fifteen (15) days of issuance of the Notice of Intent to Award and prior to the commencement of any work on the Project.

XV. PROTESTS

Pursuant to the requirements set forth in FTA Circular 4220.1F, "Third Party Contracting Requirements," when applicable, and SANDAG Board Policies, the following procedures shall be used by SANDAG to fairly and promptly respond to any protests received regarding third-party contracts or the contracting process. SANDAG will consider all protests or objections regarding the contracting process or the award of a contract received by SANDAG by 4 p.m. on the deadlines discussed below. SANDAG will review only protests submitted by an actual or prospective proposer. Protests by prospective subcontractors will be rejected. A protest by any adversely affected proposer must be made in writing and must be mailed or hand delivered to SANDAG. A protest which does not strictly comply with SANDAG's protest procedures will be rejected.

A. Protests Before Bid/Proposal Opening

Protests relating to the content of the solicitation (i.e., RFP, IFB, RFQ), including protests related to DBE/UDBE requirements, must be filed within five (5) business days after the date the solicitation or addendum with the revised content is released to the public by SANDAG. Failure to file a protest concerning the content of the solicitation or addendum prior to this deadline constitutes a waiver of any protest on these grounds.

B. Protests Related to Determination of Responsiveness

In the event the RFP contains a DBE/UDBE goal and SANDAG makes a determination that proposer has not met the goal or good faith effort requirements set forth in this RFP, SANDAG will send the proposer a Notice of Non-Responsiveness. Protests relating to any Notice of Non-Responsiveness must be filed within five (5) business days after the date of such notice. Failure to file a protest concerning the non-responsiveness determination prior to this deadline constitutes a waiver of any protest on these grounds and SANDAG shall not be obligated to send Proposer any further notices.

C. Protests After Bid/Proposal Due Date

After proposers are shortlisted and/or selected for negotiations, notices will be sent to all relevant proposers. Protests relating to failure to make the shortlist must be filed within five (5) business days following protester's receipt of a notice regarding the shortlisting.

Protests relating to the intent to make an award must be filed within five (5) business days following protester's receipt of the notice regarding the intent to negotiate. The date of filing shall be the date SANDAG receives the protest. Untimely protests will be rejected. If deemed necessary, SANDAG shall notify all proposers of record that a protest has been filed and the award has been postponed until further notice. If necessary, proposers will be asked to extend the time for acceptance of their proposal in order to avoid the need for readvertisement of the solicitation.

D. Protest Contents

A letter of protest must set forth detailed grounds for the protest and be fully supported with technical data, documentary evidence, names of witnesses, and other pertinent information related to the subject being protested. The protest also must state the law, rule, regulation, or policy upon which the protest is based. Protests concerning the relative weight of the evaluation criteria or the formula used in assigning points to make an award determination will be rejected. The protester must allege or establish a clear violation of a specific law, rule, regulation, or policy. If the protester considers that the protest contains proprietary material that should be withheld, a statement advising of this fact must be affixed to the front page of the protest document, and alleged proprietary information shall be so identified wherever it appears.

Protests shall be addressed to:

Protest Administrator
SANDAG Contract Solicitation No. 5001572
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101

E. Role Of The SANDAG Office of General Counsel and Protest Administrator

If a protest raises solely a question of law, SANDAG's Office of General Counsel shall serve as the Protest Committee and will prepare a recommendation regarding the protest, in writing, to SANDAG's Chief Deputy Executive Director within ten (10) business days. Upon receipt of an adverse decision, the protester may file a request for protest reconsideration pursuant to subsection I below.

The Protest Administrator shall review each protest to determine if it is in compliance with the deadline, format, content, and notice requirements set forth in this Section of the Agreement. If a protest does not meet such requirements it may be rejected without further consideration. A written notice of such rejection shall be sent to the protester.

If the protest requires resolution of questions of fact, the Protest Administrator, his/her designee will appoint individuals to participate on a Protest Committee from an established list of potential Protest Committee members. The Protest Administrator will endeavor to appoint at least one of the Protest Committee members from an outside agency, and no one may sit on the Protest Committee that has a known and direct connection to the procurement that is the subject of the protest. The Protest Administrator also will appoint a chairperson for

the Protest Committee. The Protest Administrator will gather the documents that the Protest Committee will need for its investigation and prepare a memo to the Protest Committee containing background information regarding the protest. **Any communication regarding the protest between the protester and SANDAG shall be through the Protest Administrator during the protest proceedings. Protesters may not contact anyone at SANDAG other than the Protest Administrator or Office of General Counsel during the protest process.**

F. Protest Committee

The Protest Committee shall ensure the protest was received within the timeline specified and review the protest to determine if it itemizes in appropriate detail each matter contested as well as any factual reason(s) for the requested protest. The Committee chairperson shall schedule the date of the Protest Committee meeting, contact the Committee panel members, and distribute all protest documentation.

G. Reply To Protest

The Protest Committee will review all qualifying protests in a timely manner and may hold an informal hearing if deemed necessary in order to complete its investigation. The Protest Committee will prepare a recommendation regarding the protest, in writing, to SANDAG's Chief Deputy Executive Director within ten (10) business days of the date of receipt of the protest. All materials included with the original protest at time of submittal will be considered. Supplemental materials filed by a protester after the protest deadline will not be considered unless there are extenuating circumstances in the opinion of the Protest Committee. Protest documents will not be withheld from any interested party outside of SANDAG, with the exception that information will be withheld when required by law or regulation. The Chief Deputy Executive Director or his/her designee will either sustain or reject the protest in writing based upon the recommendation of the Protest Committee and the best interests of SANDAG. This decision will be communicated in writing to the protestor and/or the party whose proposal is the subject of the protest.

H. Request For Protest Reconsideration

Upon receipt of an adverse decision by the Protest Administrator or the Chief Deputy Executive Director, the protester may file a request for protest reconsideration. A request for protest reconsideration must be directed to the Executive Director in writing with a copy sent to the Protest Administrator, comply with the content and notice requirements in subparagraph D "Protest Contents" above and be received within five (5) full business days from the date the protester receives the protest decision from SANDAG. The Executive Director will respond to the request for protest reconsideration within ten (10) full business days of its receipt. The decision of the Executive Director will be in writing and final. The decision will be sent to the protestor and/or the party whose proposal is the subject of the protest. No further protests will be heard by SANDAG.

I. Results Of The Protest

If the protest relating to a contract award is sustained, the original Notice of Intent to Award may be withdrawn after the deadline for protest reconsideration has passed. SANDAG then may issue a new Notice of Intent to Award to a different bidder/proposer and a new protest period will commence using the same timelines discussed above. If the protest is rejected, the original Notice of Intent to Award will stand and SANDAG will continue with contract negotiations with the awardee.

XVI. INCORPORATION OF ATTACHMENTS

The following documents are attached and incorporated by reference if the box next to document title is marked. Wherever the word “contractor” appears in the attachments, it should be read as the equivalent to the word “consultant.” Wherever the words “bid” or “bidder” appear in the attachments, they should be read as the equivalent to the words “proposal” or “proposer.”

- ☒ RFP Attachment 1 – List of Submittals Required with Proposal (RFP Checklist)
- ☒ RFP Attachment 2 – Scope of Work
- ☒ RFP Attachment 3 – Cost Estimate Form
- ☒ RFP Attachment 4 – Subconsultant List
- ☒ RFP Attachment 5 – Bidders List
- ☒ RFP Attachment 6 – Public Contract Code Certifications
 - (Part 1) Public Contract Code Section 10162 Questionnaire
 - (Part 2) Public Contract Code Section Statements
- ☐ RFP Attachment 7 – Buy America Certificate (FTA) NOT APPLICABLE
- ☒ RFP Attachment 8 – Buy America Certificate (FHWA)
- ☒ RFP Attachment 9 – Certifications for Federally Funded Contracts
 - (Part 1) Eligibility Certificate for Federally Funded Contracts
 - (Part 2) Noncollusion Affidavit
 - (Part 3) Debarment and Suspension Certificate, Title 49, Code of Federal Regulations, Part 29
 - (Part 4) Subconsultant's Statement of Eligibility
 - (Part 5) Certification of Restrictions on Lobbying (4 pages)
 - (Part 6) Equal Employment Opportunity Certificate
- ☒ RFP Attachment 10 – Local Agency Proposer UDBE Commitment (Consultant Contracts) (2 pages)
- ☒ RFP Attachment 11 – Local Agency Proposer DBE Information (Consultant Contracts) (2 pages)
- ☒ RFP Attachment 12 – UDBE Information – Good Faith Efforts (3 pages) (required of proposers not committing to meeting the contract-specific UDBE goal)
- ☐ RFP Attachment 13 – UDBE Good Faith Efforts Affidavit (1 page) NOT APPLICABLE
- ☒ RFP Attachment 14 – Caltrans' Division of Local Assistance Guidance for Bidders Completing the Good Faith Effort (GFE) and Appendix A to 49 C.F.R. Part 26.
- ☒ RFP Attachment 15 – Notice to Proposers Regarding Disadvantaged Business Enterprise Requirements and Instructions (FWHA)
- ☒ RFP Attachment 16 – Consultant Short List Evaluation Form
- ☒ RFP Attachment 17 – Consultant Interview Evaluation Form
- ☒ RFP Attachment 18 – Consultant Short List Evaluation With No Interviews Form
- ☒ RFP Attachment 19 – Example Certificate of Insurance
- ☒ RFP Attachment 20 – Standard Services Agreement (with Exhibits A through J (as applicable))

LIST OF SUBMITTALS REQUIRED WITH PROPOSAL (RFP CHECKLIST) – RFP ATTACHMENT 1

The documents below marked by a checked box are required as part of your proposal submittal. All of the below referenced documents and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.

- ☒ 15 copies of the technical proposal in English and Spanish
- ☒ One (1) copy of a CD-ROM technical proposal in its entirety, excluding the Cost Proposal
Adobe Acrobat (PDF) format
- ☒ 15 copies of the sealed cost proposal
- ☒ One (1) copy of a **separate** CD-ROM Cost Proposal in its entirety Adobe Acrobat (PDF) format
- ☒ RFP Attachment 3 – Cost Estimate Form
- ☒ RFP Attachment 4 – Subconsultant List
- ☒ RFP Attachment 5 – Bidders List
- ☒ RFP Attachment 6 – Public Contract Code Certifications
 - (Part 1) Public Contract Code Section 10162 Questionnaire
 - (Part 2) Public Contract Code Section Statements
- ☐ RFP Attachment 7 – Buy America Certificates and Information (FTA) NOT APPLICABLE
- ☒ RFP Attachment 8 – Buy America Certificates and Information (FHWA)
- ☒ RFP Attachment 9 – Certifications for Federally-Funded Contracts
 - (Part 1) Eligibility Certificate for Federally Funded Contracts
 - (Part 2) Noncollusion Affidavit
 - (Part 3) Debarment and Suspension Certificate, Title 49, Code of Federal Regulations, Part 29
 - (Part 4) Subconsultant's Statement of Eligibility
 - (Part 5) Certification of Restrictions on Lobbying (4 pages)
 - (Part 6) Equal Employment Opportunity Certificate
- ☒ RFP Attachment 10 – Local Agency Proposer **UDBE** Commitment (Consultant Contracts) (2 pages)
- ☒ RFP Attachment 11 – Local Agency Proposer **DBE** Information (Consultant Contracts) (2 pages)
- ☒ RFP Attachment 12 – UDBE Information – Good Faith Efforts (3 pages)
 - (Required of proposers not committing to meeting the contract-specific UDBE goal)
- ☐ RFP Attachment 13 – UDBE Good Faith Efforts Affidavit (1 page) **NOT APPLICABLE**

SCOPE OF WORK – RFP ATTACHMENT 2

A. PROJECT DESCRIPTION AND BACKGROUND

SANDAG in collaboration with SCT is requesting proposals from qualified firms to conduct a **Binational Investment Grade Traffic and Revenue Study** (T&RS) for a proposed border crossing between the United States and Mexico located in San Diego County and Baja California. This proposal and consultant selection process also will be used to fulfill any additional Traffic and Revenue Study or similar services that SANDAG may have in the general Project area. These additional T&RS services should be considered an optional set of tasks or Additional Phase that may be activated if the need arises.

The San Diego region is home to the United States' seventh largest city and is situated at the southwestern-most tip of the continental United States bounded to the south by an international border with Mexico. SANDAG and the California Department of Transportation (Caltrans), in cooperation with the GSA and other Project stakeholders, are proposing to develop the new **Otay Mesa East** POE and, on the U.S. side, the associated transportation facility, SR 11, while the Mexico side will include two access roads, one for heavy vehicles and another for passenger vehicles. The proposed cross-border facility will be located approximately two miles east of the existing Otay Mesa POE and will create a third border crossing along the San Diego region's border with Tijuana.

On the U.S. side of the border, the proposed Project, hereinafter "U.S. Project" includes SR 11, a new POE at the U.S.-Mexico border, and a new California Vehicle Enforcement Facility (CVEF) located in the community of East Otay Mesa in the County of San Diego. Proposed SR 11 would be a four-lane highway connecting to SR-905 via two ramp connections. The highway extends east and then south from the proposed SR-125/SR-905 interchange for approximately 2.1 miles, ultimately connecting to the Otay Mesa East POE and CVEF at the international border. The new POE and CVEF will be on a portion of a 120-acre site with room to expand as demand grows, and new technology and innovative security measures are introduced.

South of the border in Mexico, the Project bears the name of "*Mesa de Otay II*" and, for the purposes of this Scope of Work, it will be hereinafter referred to as the "Mexico Project". It is located to the east of the existing Mesa de Otay (Otay I) POE on the outskirts of Tijuana. The Mexico POE Project consists of:

- i. 27 northbound passenger/commercial vehicle toll lanes:
 - 18 SOV toll booths, located on the north end, at the border with the U.S.
 - 9 northbound commercial vehicle toll booths, located on the north end, at the border with the U.S.

ii. 8 southbound lanes:

- 2 southbound commercial vehicle toll lanes, located on the north end, at the border with the U.S.
- 6 southbound SOV lanes, located on the north end, at the border with the U.S.

The access road for SOV vehicles shall be *Boulevard Las Torres*, and will consist of six center lanes (three each way) divided by an eight-meter-wide median; as well as two side lanes (one each way) with the following specifications:

Table 1. SOV Vehicle Access Road Specifications

CONCEPT	ROAD SPECIFICATIONS
Access Road Length	1.0 Km
Center Lane Width	3.5 m
Side Lane Width	6.0 m
Crown Width	10.5 m
Sidewalk Width	1.5 m

The specifications for the heavy vehicle access road appear below:

Table 2. Heavy Vehicle Access Road Specifications

PROJECT SPECIFICATIONS	
CONCEPT	ROAD SPECIFICATIONS
Length	2.75 km
Roadway Type	A4
Crown Width	16.8 m
Number of Lanes	4
Lane Width	3.75 m
Center Divider Width	1.8 m
Sidewalk Width	0.80 and 1.20 m

Both roadways will include their associated connectors to the Tijuana-Tecate Highway.

For the purposes of the binational traffic and revenue study, the term “Project” will refer to the entire cross-border facility consisting of both the U.S. and Mexican Projects. The above Project descriptions are preliminary and it is the goal of the contracting agencies that the T&RS provide information that will help to guide the more detailed design of the Project as deemed appropriate by SANDAG and SCT.

The two existing POEs, San Ysidro and Otay Mesa, stand out compared to the other United States-Mexico border crossings. The San Ysidro-Puerta Mexico POE is the busiest international land crossing along the U.S.-Mexico border, and one of the busiest international crossings in the world. The Otay Mesa-Mesa de Otay POE continues to accommodate the third-highest dollar value of trade among all southern border POEs. The volume of cross-border vehicle and pedestrian crossings and associated border delays has been increasing rapidly for more than a decade, especially in the northbound direction.

Steady growth in global and regional economic integration squeezes ever more people and goods through border infrastructure that was sized for a much smaller and significantly less security-conscious economy. Northbound peak wait times at existing facilities can routinely last for more than two hours for passenger vehicles, and commercial truck drivers have often logged four hours in line. According to the SANDAG-Caltrans study, *2007 Update: Economic Impacts of Border Wait Times in the San Diego-Baja California Border Region*, the border traffic congestion and delays cost the U.S. and Mexican economies an estimated \$7.2 billion in gross output (value of goods and services produced) and more than 62,000 jobs in 2007. A third border crossing at East Otay Mesa could reduce delays caused by traffic congestion, better accommodate projected trade and travel demand, and increase economic growth and job opportunities on both sides of the border without sacrificing border safety and security.

The Great Recession has taken a toll on international trade and traffic. Recent traffic counts at the San Diego-Tijuana POEs were down 20 to 30 percent, although wait times remain closer to prerecession levels. Over the past year (the recession ended more than one and a half years ago) both the national and local economies have started to grow, creating new job opportunities and rising consumer consumption which is supporting an increase in cross-border traffic, including truck traffic carrying imports from Mexico and exports to Mexico. This same import /export volume increase is also taking place at the major west coast water POE located in Los Angeles and Long Beach. As the San Diego and Tijuana economies continue to rebound from the recession, cross-border traffic is expected to increase and surpass pre-recession levels.

A third border crossing at East Otay Mesa could reduce delays caused by traffic congestion, better accommodate projected trade and travel demand, and increase economic growth and job opportunities on both sides of the border without sacrificing border safety and security.

Proposed plans on each side of the border include a new roadway to connect the POE's to the existing transportation system. North of the border the U.S. Project includes SR 11/Otay Mesa East POE; south of the border the Mexico Project is referred to as Mesa de Otay Dos. The proposed cross-border facility will become part of a seamless Mexico connection to the Tijuana-Rosarito Corridor, with links to the Tijuana-Tecate and the Tijuana-Ensenada toll roads in Baja California, Mexico. On the U.S. side, SR 11 will become part of the region's 2050 vision for 95 miles of tolled facilities and high-occupancy toll (HOT) lanes in San Diego County.

Because toll collections are expected to pay for most of the Project costs on both sides of the border, the **T&RS** will need to be coordinated with the appropriate representatives from Mexico. The **T&RS** will be expected to provide an estimate of the toll revenue generating capacity of the entire cross-border Project over a specified period under a variety of toll-pricing scenarios (How this cross-border coordination will be accomplished will be addressed in a separate Intelligent Transportation System (ITS) Study. The selected T&RS Consultant will work in consultation with the ITS Consultant to apply the ITS Concept of Operations. Although there are two Projects (one on each side of the border), it is necessary to produce one T&RS for the Project or complete cross-border facility. To accomplish this objective, SANDAG is coordinating with the Mexican government to procure a single traffic and revenue consultant team. The successful consultant team must show that they can meet the procurement and contract requirements as well as produce a single investment grade T&RS that meets the needs of the Mexican government (represented by SCT) and SANDAG.

The binational **T&RS** is a key ingredient to a broader effort to design, construct, connect, operate, maintain and finance a new POE. The report will be used for SANDAG and SCT's planning purposes and to assess the economic feasibility of the Project. The T&RS will be a key component of the financing process with respect to the Project and will be reviewed by rating agencies, governmental financing programs and potential investors. The consultant also should assume that the binational T&RS will be included in a publicly-available bond offering document and be prepared to execute appropriate waiver agreements to allow the report to be relied on by appropriate financing parties and investors.

In summary, the key goals of the new Otay East POE include: reducing delays caused by traffic congestion, accommodating projected trade and travel demand, increasing economic growth and job opportunities on both sides of the border, implementing improved border safety and security, and ensuring sufficient revenue generation to support the Project financing.

B. OUTLINE OF MAJOR TASKS

Below is an outline of the major steps and deliverables that the consultant is expected to undertake and provide to support the Project. All deliverables and communications shall be prepared in both English and in Spanish.

- The Study shall provide all of the traffic and revenue forecasting services required to produce an investment grade traffic and revenue study for use by Barclays Capital in conjunction with their financial underwriting services and, for SANDAG's purposes, in support of a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan.
- Develop traffic and revenue forecasts to be included in the binational T&RS that will be used for SANDAG planning purposes as well as determination of the overall Project scope and tolling regime.
- Address the adequacy of SANDAG's existing transportation models to estimate and forecast cross-border traffic flows both with and without development of the proposed Project; propose a methodology that will address any transportation model shortcomings ensuring that a binational investment grade Traffic & Revenue Study (T&RS) can be produced.

- Produce and apply a uniform methodology or binational transportation model to assess the revenue generating capacity of the cross-border Project under various tolling regimes, configuration scenarios and/or phasing options developed by the Project team.
- Review the 2006 SR 11/East Otay Mesa POE Financial Feasibility Study and 2005 Economic Impacts of Border Wait Times at the San Diego-Baja California Border and evaluate the findings of these studies as they relate to the findings of the T&RS.
- Calculate value of time and demand elasticity with respect to the Project by type of traffic, time of day, time of year and any other unique segments, as appropriate.
- Assess the impact of U.S., Mexican and/or international trade policies and requirements on the operations of the cross-border Project.
- Evaluate the impact of competing facilities and/or freight transportation modalities on the operations of the cross-border Project.
- Capture and incorporate all border issues pertinent to U.S., Mexico, and their respective border inspection and enforcement functions in the T&RS as appropriate.
- Establish and adhere to a schedule that shows when the appropriate information from the T&RS can be ready to be used in conjunction with other work on the Project, including the financial model.
- The winning bidder must work as part of the Project team, be available to other Project team members for technical support and advice and participate in Project team meetings phone conferences, workshops, public meetings, financing-related calls and meetings, and any other meetings as necessary. We envision monthly Project team meetings, participation in up to two (2) workshops, responsibility for at least one (1) workshop, and up to one additional call per week with Project Manager.

C. PROJECT WORK FLOW AND MAJOR PARTNERS

The chart below offers an illustration of the Projects major components, their relationship and the sequence of their integration and use over time. The Environmental Impact Report for the U.S. Project was released December 3, 2010, with a 60 day comment period. The Project team is currently reviewing the seventy-five percent (75%) completed Program Development Study. The ninety percent (90%) completion date for the PDS is the first half of 2011. The Project is expected to be under construction before the end of 2013 and open for customers during 2015.

The Project's major partners are listed below.

U.S. partner agencies:

- California Department of Transportation (Caltrans)
- General Services Administration (GSA)
- Department of Homeland Security (DHS)

- Customs and Border Protection (CBP)
- U.S. Department of Transportation (USDOT)
- Federal Highway Administration (FHWA) California Highway Patrol (CHP)

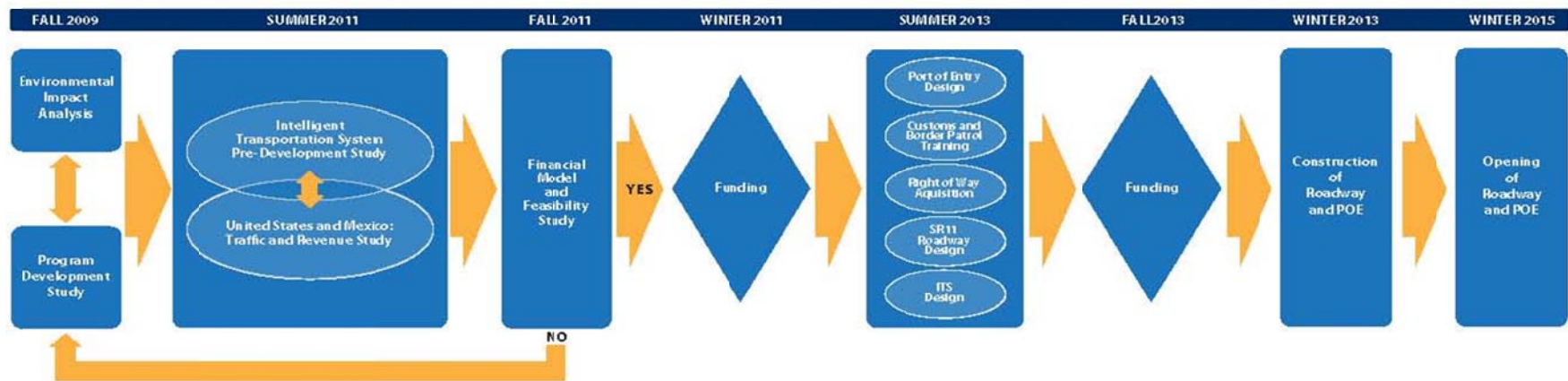
Mexican partner agencies:

- Secretaría de Comunicaciones y Transportes (SCT)
- Secretaría de Relaciones Exteriores (SRE)
- Administración General de Aduanas
- Instituto de Administración y Avalúos de Bienes Nacionales (INDAABIN)
- Gobierno del Estado de Baja California
- Municipio de Tijuana



SR11/Otay Mesa East/Mesa de Otay II Port of Entry (POE) and Connecting Roads

Work Flow - Concept to Completion



Project Area



D. SCOPE OF WORK AND DELIVERABLES

This contract is for consulting services for conducting and completing an investment grade traffic and revenue study for the cross-border facility within the timeframe set by the RFP and the Project's requirements. Also, the Agreement between the Consultant and SANDAG will include an optional additional phase for the selected firm(s) to provide any additional T&RS services that may be required by SANDAG in the general Project area. The Consultant will be required to work collaboratively as a team member with SANDAG, SCT, Project partners, stakeholders, other consultants, and contractors, requiring, in many cases, fluency in both English and Spanish. The Consultant shall bear sole responsibility to coordinate and integrate the information from each of these entities in order to complete all deliverables.

The financing to construct and operate this Project is anticipated to be secured primarily by toll revenues collected from users. The Project is anticipated to use state of the art Intelligent Transportation Systems (ITS) concepts and implement port and roadway design and operating processes to manage congestion at the border, increasing the efficiency of mobility for people and goods in the San Diego region and Mexico, with the goal of making the border crossing sufficiently attractive to make customers willing to pay a toll for use of the facility.

Implementation of this concept requires an experienced consulting firm or team of firms, with an understanding of traffic and revenue data collection, tolled facility operations and revenue forecast development, particularly with respect to:

- Dynamic pricing algorithms that can be applied to both passenger vehicles and commercial truck traffic.
- Revenue optimization and forecasting with respect to dynamic, congestion-based pricing scenarios in both directions, northbound and southbound.
- State of the art ITS solutions to communicate with users on both sides of the border.
- Supply chain dynamics of the production and distribution of products between the U.S. and Mexico.
- Border crossing inspections and security.

This Project is unique in many ways, and as the Project develops through the described phases, the role and duties of the consultant may evolve as needed to facilitate Project execution. The list of tasks required to complete this Project are described below. All deliverables shall be submitted in both English and Spanish and subject to the approval of a binational committee consisting of members from SCT and SANDAG.

Task 1: Produce a Project Management Plan (PMP)

Consultant shall develop a Binational T&RS PMP for the execution of the binational T&RS. The PMP will become the governing document for completing the Binational Investment Grade T&RS. The PMP shall define and describe all of the tasks from SANDAG that need to be performed to accomplish the binational

investment grade T&RS that meets the needs of both agencies. Each task shall be described in detail including assigned personnel.

A detailed PMP shall be prepared and delivered within twenty-one (21) calendar days of issuance of the Notice to Proceed for consideration. The PMP shall include a schedule and listing of all project tasks listed in the integrated Scope of Work, milestones, activities, deliverables (including necessary review time by all affected agencies), and identify necessary memorandums or agreements with agencies or cross-border partners. The T&RS PMP schedule will fit within the overall Project schedule. Upon approval by SANDAG, the PMP shall be 'Baselined'. Consultant and Project performance shall be monitored and measured monthly against the 'Baseline' PMP. Schedule adjustments shall be accommodated only with SANDAG's approval on an as-needed basis throughout the duration of the Project's implementation, and schedule updates shall be provided with each progress reporting.

Deliverables: PMP for the binational integrated investment grade T&RS.

Task 2: Sketch Planning Level Cross-Border Traffic Forecast

Staff may require consultant to produce sketch planning level cross-border traffic forecasts that can be used by stakeholder agencies for their preliminary planning purposes. These sketch planning level forecasts are not intended to replace the investment-grade traffic and revenue forecasts, which is the main purpose of this proposal. The sketch planning level forecasts are expected to be used by stakeholder agencies and organizations involved in the process that may have need of such forecasts to accommodate their own planning process. Examples of such agencies in the U.S. would be the General Services Agency and Customs and Border Protection.

Deliverables: Sketch planning level cross-border traffic forecasts.

Task 3: Review and Analyze Cross-Border Project Study Area

The consultant will perform preliminary research and analysis of the cross-border study area. This preliminary research will include, but may not be limited to, a review of historical data, existing third party reports and relevant trade and border-related policies and regulations, as well as a review of the transportation system. An analysis of the results of the research shall be included as part of the final T&RS, and should address the following:

- **Study Area Demographic and Economic Status**

Perform all necessary research and analysis of current demographic conditions and forecasts through 2050 for the U.S. and Mexico, including population; employment levels; as well as local, regional, and national production and trade levels including the major corporations and businesses involved.

The study should identify population characteristics and growth trends, including short, medium, and long (40 years) term migratory flows; average income and income classes; types of household and household purchasing power compared to state and national averages in each country. The socioeconomic component shall include the prevailing economic activities of the region, as well as their short, medium, and long-term growth and/or change trends; and identify the industry and business sectors linked to international trade and their growth trends.

- **Behavior of Cross-Border Traffic and Potential Change Factors**

- i. Identify traffic patterns by mode, type of business, time of day, day of the week, time of year, and any other factor that will facilitate estimating the number and purpose of trips, time value of money, and elasticity of demand.
- ii. Assessment of any major developments that could significantly affect the level of cross-border traffic, as well as identification of recent developments and major events that may affect the level of cross-border traffic, such as political considerations, trade policies in either country, immigration policies, national security and terrorism issues.

- **Comparison of Otay Mesa East POE Facilities to Other Border Crossings**

- i. Comparative analysis between the projected facilities and capacity for the proposed facility, Otay Mesa East and existing facilities and capacity at other competing border crossings in terms of facilities, inspection capacity, technology, safety features, accessibility, wait times, and elasticity of demand.
- ii. Overview of any other foreseeable border crossing development, as well as existing facility expansions or upgrades at both land and sea-based POEs, including pedestrian crossings, which may impact cross-border traffic at the proposed Otay Mesa East facility.

- **Justification and Grounds for New Otay Mesa POE**

Assessment of the need for a third border crossing between the San Diego region and Tijuana, derived from the results of the analysis detailed above, as well as any supplemental analysis deemed necessary by the consultant.

Deliverables: A written summary of findings; written documentation addressing the need for a third border crossing at the San Diego-Tijuana border; written discussion of the Project's ability to meet federal, state and local public policy objectives; a written discussion of why the third border crossing should be tolled to pay for the improvements; and a description of any missing data and/or information and its importance to the Binational Investment Grade T&RS.

Task 4: Review and Analyze Existing Local Transportation Models Used to Forecast Cross-Border Traffic Flows

The Consultant shall review existing planning models currently being used for planning traffic flows in the study area, assess their advantages/deficiencies, and make recommendations as needed to correct such deficiencies. Transportation model(s) used by the Consultant may be in accordance and compatible with existing transportation models. Existing models used by agencies in either country shall be evaluated and used as a first choice, but the consultant may choose to use a different model and provide detailed documentation of the chosen model (including formulas, logsum, probabilities, etc.)

Consultant analysis should address the following:

- Adequacy and accuracy of the existing transportation model methodology used to forecast cross-border traffic flows, including peak, off –peak, and mode.
- Identify any shortcomings and suggest improvements and where these improvements are in use.
- Adequacy and accuracy of the existing method used currently to estimate customers willingness to pay a toll and the sensitivity of customers to changes in toll rates (price elasticity of demand), including peak, off-peak, and mode.
- Identify any shortcomings and suggest improvements and where these improvements are in use.

Deliverables: Written assessment of the contracting agencies' transportation model addressing the model's adequacy and accuracy to produce the data needed to complete the investment grade T&RS. Summarize any suggested model adjustments and/or improvements to existing models and/or detailed documentation of chosen model required to produce the required T&RS.

Task 5: Identification of Data Needs, Data Collection and Data Analysis

The consultant will collect all data and information required to produce the investment grade T&RS. All data will be collected from reliable sources and follow defined protocol provided by the contracting agencies. The contracting agencies are anticipating that some data and information will need to be gathered through in-person interviews or mail based surveys. Any survey questions and categories of data collected should be consistent with best practices for the development of an investment grade traffic and revenue study,

Definition of the Study Network

- The Study Roadway Network is made up of roadway/highway sections and border crossing facilities inside the San Diego-Tijuana area of influence to include their current status and foreseeable short, medium, and long-term expansions and upgrades, as well as key trip generation poles on both sides of the U.S.-Mexico border, which will be studied using industry-standard transportation modeling software.
- The consultant will collect all data needed to evaluate current and future traffic flow capacities for the roadways of influence, taking into account that the new East Otay Mesa POE may lead to a new reconfiguration of traffic flows. The Mexico-San Ysidro, Mesa de Otay-Otay, and Tecate-Tecate POEs are to be considered for the study.

Physical and Geometric Features of the Network

- The consultant will travel the roadways and collect information from different data sources to identify the physical, geometric, and operational features of the study roadway network within the Project area of influence, such as length, number of lanes, lane width, shoulder width, type of terrain, road surface and signage condition, location of traffic lights, toll booths, speed bumps, and any other information the consultant may deem necessary. The collected data will be fed into a simulation model through the development of a database which will in turn be loaded into the supply model. The proposal must explain how this activity will be carried out.

Travel Time and Speed

- Travel time and speed will be studied for the links within the study area. The trips will be done during peak and off-peak demand hours, a weekday, and a weekend, by mode: passenger vehicle, bus, truck, and tractor-trailer. Average speed also will be determined for each section of the network of influence. Literature also will be reviewed and field studies done regarding wait times for “micro” behavior in the aforementioned border area.

Demand Analysis

- In this section the demand within the study area of influence (Tijuana-Tecate in Mexico, and San Diego in the U.S.) will be estimated. For this purpose, it will be necessary to conduct origin-destination surveys, stated preference surveys, and traffic counts with vehicle classification, as detailed below. Be advised that the methodologies for conducting the survey, determining sample size, and survey design must be previously approved by the work groups in both countries. The consultant will propose and support the sample size and design methodology, as well as the data collection process chosen.

Origin-Destination Study

Data will be collected regarding traveler origin and destination through in-person interviews with drivers at stations to be determined by the binational committee at the San Ysidro-Mexico, Otay Mesa-Mesa de Otay, and Tecate-Tecate POEs on both sides of the border (assume 2,000 surveys). Survey design should include, but may not be limited to:

- Trip origin and destination
- Purpose of Trip (classifying them as primary and secondary, when possible)
- Trip frequency, length of stay
- Household income range for non-work-related trips
- Type of professional activity and/or occupation for work-related trips

In the case of public transit, the survey should collect at least the following additional information:

- Time of interview
- Line or route
- Trip direction
- Number of occupants

Where appropriate survey data already being collected by contracting agencies may be leveraged for the purposes of the T&RS. Data listed in the two sets of bullets above for residents of Baja California crossing into San Diego County in non-commercial vehicles is currently being collected by SANDAG and shall be made available for the purposes of this study.

For commercial vehicles:

- Cargo type
- Cargo quantity
- Type of truck

- Route used or intended to be used within the study area
- Whether it is a company or an owner-operator
- Company name and field, etc.

The consultant will design the survey format and may include any questions deemed necessary. Survey design shall be approved in cooperation with the SCT Office of Intermodal Projects in Mexico, and by SANDAG in the U.S.

Surveys will be conducted as follows:

- Origin-destination data will initially be collected through in-person driver interviews to a representative sample (ninety-five percent (95%) reliability and three percent (3%) statistical error). The methodology also should consider the possibility of diversifying the interviews by conducting them by other means, such as at the point of origin, by phone, conventional mail, e-mail, or online.
- The consultant will conduct a pretest of completed surveys, evenly distributed among private vehicles, trucks, tractor-trailers, and passenger buses, and analyze them to validate survey responses, the purpose of this is to test the likelihood of success of the proposed interview and, if necessary, recommend revisions and improvements to the instruments, procedures, and methodology. The number of pretest surveys will be proposed by the consultant and approved by the binational committee. The results of this pretest will be reviewed and approved in cooperation with SCT in Mexico and by SANDAG in the U.S.
- The definitive surveys will be conducted according to the methodology proposed by the consulting firm and must be included in both English and Spanish. The sample will be determined for each of the above-mentioned types of vehicles: private vehicles, passenger buses, trucks, and tractor-trailers.
- For the installation of the stations where the surveys will be conducted, the consultant will visit the sites where they will be located in advance, and will offer training to the field personnel who will participate in the study. The design of the survey stations will take into account operation and safety/security issues, pursuant, in Mexico, to the Highway Traffic Device Control Manual published by SCT, and in the U.S. as approved by SANDAG.
- There will be daytime and nighttime measurements, using line devices manufactured for this purpose. Contractor will be liable for ensuring that the stations operate efficiently and for safeguarding the safety of highway users and of the company personnel performing field work.

Stated Preference Surveys

To complement the origin-destination study, a stated preference survey will be prepared and conducted. In general, the survey locations will be the same as those used for the origin-destination surveys, at the stations the binational committee agreed to install. Based on these stated preference surveys and the analysis of socioeconomic variables, the market for the new facility should be divided into homogenous groups, according to their socio-demographic profile, in order to collect the respective value they assign to time. This analysis will define market segments with different willingness to pay to use the new facilities. The design, methodology, and format of the surveys will be proposed by the consultant as part

of his bid, for which the consultant must have personnel specialized in these types of surveys, and will contain at a minimum the information listed below:

- Socio-demographic profile:
- Age
- Gender
- Income level
- Purpose of trip
- Trip frequency
- Who pays for the trip, etc.

If needed, the consultant will prepare a survey design process that will yield the information about user preferences. This process will include, but may not be limited to: defining the context and selection of variables of interest and their expected levels of variation; to this end, it may be necessary to host one or more focus groups with individuals who belong to the different strata of interest.

- In addition, in this phase, the consultant must present how the variables, levels of variation, and grouping of combinations will be selected so that the survey will include an appropriate and realistic number of scenarios to be chosen by the participants.
- For purposes of the foregoing, the consultant may want to do an collect background data, including:
 - o User's border-crossing preferences.
 - o Reasons for using the existing facilities.
 - o User's perception of typical current wait times.
 - o Length of time that the user considers a "reasonable wait time" and a "long wait time" at existing facilities.
 - o Availability of use of new facilities.
 - o Willingness to pay for a more efficient crossing by both frequent and occasional users, showing rate alternatives in regard to value of time.
 - o Complementarily, users may be asked for their suggestions to improve efficiency of border-crossing events, and willingness to participate in a subscription program that will provide advantages to the user.
 - o Willingness to absorb possible toll rate increases during peak hours or lower rates during off-peak hours.
- Preliminary survey design, pretest, and review; for the purpose of detecting evident errors in the design, as well as inconsistencies or other issues.
- Test surveys with focus groups in order to detect more specific issues.
- Pilot test in the field, with a limited sample size, to not only check the quality of survey design, but also the best way to conduct it in the field.
- Revision, redesign, and drafting of final survey.

- The consultant also will collect all data and perform all tasks needed to determine the willingness to pay for travel time reliability (VOR) at the available border-crossing alternatives.

The consultant shall customize the survey for interviewing the drivers of these units (for owner-operators only).

In the Stated Preference surveys, the consultant may request any other information deemed necessary. The results of the surveys will enable the calibration of the preference models, obtaining the corresponding marginal revenues that will make it possible to calculate the willingness to pay for the different types of users and analyze the users' elasticity to different toll rates or to other variables of interest.

The minimum number of surveys will be defined by the consultant and must provide a reliable statistical sample for each of the following categories:

- Private vehicle short trip for work purposes
- Private vehicle short trip for other purposes
- Private vehicle long trip for work purposes
- Private vehicle long trip for other purposes
- Truck short trip
- Truck long trip
- Tractor-trailer short trip
- Tractor-trailer long trip
- Pedestrians
- Bus passengers

Should the consultant feel that different categories are needed, he must submit supporting evidence for approval by the "Binational committee".

In the case of passengers and cargo, it is obvious that in actuality the Social Value of Time (SVT) (and Value of Travel Time Reliability, or VOR, when applicable) will change over time, so the consultant is asked to propose the criterion for updating the SVT through the 50-year study horizon.

Surveying Companies

Surveys will be conducted with managers at manufacturing facilities and transportation companies that are the point of origin of shipping operations. The number of surveys shall be representative and cover the factors described above (assume 100 surveys). At a minimum, they should cover the following:

Both the origin-destination and the stated preference surveys shall cover the area of influence of the Puerta México - San Ysidro, Otay Mesa - Mesa de Otay, and Tecate-Tecate ports of entry; for commercial trucks, the surveys will be complemented by on-site interviews at factories, corporate offices of business enterprises, and will be conducted in both English and Spanish. Surveys must be approved and/or agreed upon by the "Binational committee."

Traffic Counts and Vehicle Classification

Manual and automated traffic counts and vehicle classification will be conducted. The manual count will be done simultaneously on the days and at the times proposed by the consultant and they will be performed concurrently in both countries. Automated counting will be performed at at least three (3) stations per country at border-crossing access points, as well as at those locations deemed necessary within the area of influence of the aforementioned border crossings, for seven days, 24 hours/day, with data sets per hour, per day, and per direction. The consultant will propose the number and location of the stations based on his methodology for calibration and expansion of the model, and will be agreed upon by the “Binational Committee”.

The study shall include the degree of vehicle occupancy (number of occupants per vehicle).

Deliverable: Written Technical Memo describing data needs, sources, purpose and the methodology to collect the data. Collection of all required data to complete the investment grade T&RS as described in the Technical Memo. Data collected will be organized under an Excel format which will become SANDAG's property.

Task 6: Preparing the Traffic and Revenue Model for the Project

Supply Model

Based on data collected in the field and gathered from the literature, as well as on processing study area maps to extract the different elements of roadway infrastructure and facilities, as well as their physical and operational features, the Consultant shall develop an analytical model and build an analysis tool to show current supply and how the physical and operational conditions of existing roadways and infrastructure would change as a result of the construction of new facilities, including a detailed analysis of traffic flow trends in the study area.

Supply scenarios shall be submitted for evaluation, and must contain a graphical representation of links and nodes – including their operational features – using industry-standard transportation modeling software that allows for the following scenarios to play out over the planning horizon:

- i. Current status (existing network)
- ii. Status under the Project (Network with Project improvements)
- iii. Optimal status (Unconstrained Network) This shall include status under the Project as well as any reasonably foreseeable future connecting improvements that may reasonably impact the project assuming funding availability.

Demand Model

The Demand Model shall be made up of area distributions, trip-generating areas (Transportation Analysis Zones (TAZ) or other geography as deemed appropriate by Consultant.), and by the origin-destination charts which define the spatial and temporal distribution of trips, such that trip purpose, mobility needs, socioeconomic aspects, and user preferences can be represented. Urban and suburban areas will be marked within the study area. In addition, the main highway accesses and competing areas outside the Project's area of influence also will be defined. Each of the areas must include socioeconomic, land use, and demand data to allow current and future traffic behavior to be characterized. The consultant also will

forecast the socioeconomic variables chosen for each of the aforementioned areas for a 50-year planning horizon.

Origin-Destination charts will be prepared by coding the data gathered from the origin-destination surveys, divided into pre-defined areas, and using INEGI codes for cities and municipalities in Mexico, and SANDAG codes for those in the U.S. The Consultant shall provide a uniform coding scheme that can be used on both sides of the border or a translation table for the agencies on both sides of the border to use.

Once the data has been coded, the consultant will expand the sample to come up with workday and non-workday origin-destination charts by mode (car, bus, truck, tractor-trailer, and pedestrian), and the sections defined in the stated preference survey, and by direction. To that end, historical traffic patterns, monthly seasonality of demand, and the use if hourly, daily, weekly, monthly, and yearly expansion factors must be analyzed.

The Consultant will clearly explain the methodology used for this task, which will be reviewed in cooperation with SCT in Mexico and by SANDAG in the U.S. Vehicle/pedestrian traffic demand growth must be modeled for existing border crossings under:

- i. The current status
- ii. Status after Project implementation

For the planning horizon on both sides of the border according to different economic growth scenarios and proposing potential scenarios.

The consultant may choose the methodology for segmenting the charts, as well as the expansion factors for the charts, as well as whether to use manual or automatic traffic type selection. The binational group will approve the appropriate methodology as necessary.

Preference Model

In this part of the study, the consultant will calculate the cost and time coefficients of the revenue functions for each pre-defined user category, to include both passenger and commercial. For this purpose, the consultant will use the data collected in the field through previously coded stated preference surveys. The consultant will explain, in detail, the methodologies and models used to calculate these revenue coefficients, as well as the statistical processes used for calibration.

The consultant will perform market research to define ability to pay and come up with a preliminary rate (or agreeable range of rates) to be used in designing the surveys as an initial reference. The consultant also will submit the methodology to be used, as well as a proposed range of toll rates and formats to be used.

The Consultant is asked to propose the supply-demand interaction mechanism, including performance, road rankings, behavior, and finally report the adjusted functions to obtain a calibrated and validated transportation model; as well as the description and justification of the trip assignment/attraction model proposed by the consultant.

Trip Assignment:

Once the supply, demand, and attraction models have been integrated, the consultant will perform the trip assignment for the base year and for the Project. The consultant must express in his proposal the assignment methodology, the implementation platform, and support his recommendation. The results yielded will be compared to actual data available, so that the base scenario can be calibrated (must be documented in detail in the report). Once the model is calibrated, the degree of reliability of results must be proven; it is important for the report to include a full description of the processes actually used in order to understand the tasks undertaken.

In order to strengthen model calibration, the consultant will assess infrastructure in the area of influence, intermodal facilities, and domestic ports, validation phase, considering the verification and calibration of at least ten percent (10%) of the actual traffic flows and speed observed, reasonably reproducing the calibrated model.

- i. An important component for traffic at the Otay East POE derives from its being new infrastructure, so it requires that the consultant, in order to quantify potential traffic, consider traffic diverted from other existing roadways and international border crossings; therefore, the consultant must explain in his proposal how these will be calculated.

For these estimates, SCT and SANDAG will provide data on traffic behavior on new highways and existing crossings. The data collected in the field during the stated preference surveys must also be used.

Using the model created, the consultant will identify revenue-maximizing toll levels. To that end, the consultant may propose three different trip assignment scenarios: a base scenario with a zero-toll; one with revenue-maximizing tolls, and another with an average toll, to be determined by comparing existing border crossings in the study area and gathering their respective assigned trips. A variety of traffic scenarios and conditions must be considered in every case.

The consultant must take into account upgrade/construction projects, industry and tourism development programs, state/federal highway modernization and construction programs, as well as any other projects which the consultant feels may impact the Project being studied. The consulting firm will be required to provide a detailed report of these analyses – particularly of the results of this activity – to the supervising team.

Additionally, sensitivity of trip assignment to changes in toll rates must be analyzed as part of the transportation model developed using transportation demand planning software.

Traffic Forecast

Best-case, worst-case, and trend forecasts will be prepared for traffic growth in existing routes; zero-base forecasts, based on the historical series of traffic flows in the area of influence. In addition, the origin-destination chart will be projected to the future using the methodology proposed by the consultant, for which the consultant will describe in his proposal the methodology to be used. Origin-destination charts will be created according to the proposed zone division, in five year intervals through the 40-year planning horizon.

The traffic forecast must determine the maturity curve per type of vehicle over the first years until behavior becomes uniform, its potential variation through the planning horizon as a result of the execution of new

projects, as well as the integration of new programs and projects in the area of influence. In other words, growth rates change as the Project matures, so the growth is not linear ad infinitum; that is, it stabilizes in later years. The consultant must specify in the proposal the elements to be considered and the methodology to be used.

Risk Analysis

The consultant will perform three types of analyses and combinations thereof:

- i. Construction of scenarios that include projects that could impact the Study border crossing.
- ii. The consultant will simulate scenarios with upward and downward changes in variables that affect traffic and revenue, such as changes in economic variables, including international trade, social value of travel time, etc.
- iii. Perform a probabilistic risk assessment, through which the consultant will identify and assign level of reliability of the forecasts for certain scenarios of interest.

Generate combined scenarios by crossing the suppositions considered above.

The consultant shall work with consultation by the contracting agencies' staff to prepare a uniform methodology or binational transportation model for forecasting traffic and revenue levels for the Project under fixed or dynamic tolling scenarios. This model shall be capable of:

- Projecting revenues under fixed and dynamic toll regimes with rates changing as frequently as needed to meet border "crossing time" targets reflecting the traffic congestion conditions at the competing border crossing facilities.
- Assessing and identifying revenue maximizing toll levels in both directions under a variety of traffic scenarios and conditions with estimates of revenue losses due to traffic diversion.
- Reflecting the anticipated demand elasticity by mode consistent with fixed or dynamic tolling.
- Calculating traffic and revenue levels under a variety of employment, economic and population growth scenarios.
- Producing traffic, revenue and toll rate charts over a 24 hour period reflecting variations in traffic volume (peak, off-peak), crossing time targets and mode changes.
- Summary tables of traffic and revenue data by mode on a monthly basis.

This model shall be validated and calibrated on a historical basis and evaluated for robustness in a manner consistent with good statistical practice.

Deliverables: Written documentation of the uniform methodology or binational transportation model, including key assumptions and input data, equations developed specifically for this Project, model validation and calibration process.

Task 7: Production of Traffic and Revenue Forecasts

The consultant will be required to execute multiple "model" runs testing various Project scenarios and characteristics on traffic and revenue results over a time horizon consistent with the financing strategy.

SANDAG will select one or more Project scenarios to represent the final traffic and revenue forecasts for the Project. The consultant will provide all the appropriate data for the selected Project scenario(s).

Deliverable: One or more Investment Grade Binational Traffic and Revenue Forecast(s) for the proposed Project. Up to five additional updated or “refreshed” traffic and revenue forecasts as required to meet the requirements of the financial underwriting team and subject to approval cooperatively by SCT and SANDAG.

The consultant also shall provide an assessment of the revenue generating capacity of the Project including:

- Price elasticity of demand for passenger and commercial vehicles in both directions during peak and non-peak hours.
- Optimal binational toll rate policy and operations strategy (both during ramp up and over the long run).
- Suggested toll rates by mode and suggested escalation rates.
- Scalable Project alternatives that result in different outcomes.
- Risk assessment of revenue forecasts.
- Potential non-toll revenue generation opportunities.
- Strategies to reduce diversions.

Task 8: Production of Binational Investment Grade Traffic and Revenue Study

The consultant will produce a binational investment grade T&RS for the Project. All work the consultant team performed shall be consistent with the final T&RS. This report will be used as a basis for evaluating alternative Project design, financing requirements and overall Project feasibility. The T&RS shall include a base case and a “low case” as well as certain sensitivity cases, as needed, for each of the tolling scenarios under consideration by SANDAG and SCT. The consultant shall be required to make this report available in both English and Spanish.

Deliverable: One final Binational Investment grade traffic and revenue study for the proposed Project (draft/final).

Task 9: Financing of Project

The traffic and revenue study consultant will be expected to support the financing requirements of the Project in two major ways:

- Provision of up to five updated or refreshed traffic and revenue forecasts that are appropriate for inclusion in a public offering document with respect to a capital markets financing of the Project that may be edited to conform to market convention for third party diligence reports included in offering memoranda.

- Participation in meetings/calls with peer-review advisors and auditors, rating agencies, prospective lenders, investors and credit enhancers and participating governmental agencies, including the TIFIA office. Prepare additional sensitivity cases as required.

Deliverable: Participation in discussions with credit agencies or investment bankers or other financing stakeholders. Consultant shall participate in at least five meetings including one trip to New York and/or San Francisco to discuss the results of the binational investment grade T&RS. Additionally Consultant shall participate in up to five two-hour conference calls.

Additional Phase (Optional Phase 2)

This proposal and consultant selection process also will be used to fulfill any additional Traffic and Revenue forecasting services, which may be required if SANDAG wants to analyze an expanded toll road footprint and related toll revenue analysis in the Project area (U.S. side only). These additional T&R services should be considered an optional set of tasks or additional phase that may become an option, if the toll road footprint in the Project area were expanded. The optional phase may generally include the following tasks listed below:

Task 1a: Review and Analyze Existing T&R Model Developed as Task 4 above to Forecast Traffic Flows and Revenues on the Expanded Toll Road Footprint Scenario

Analysis should address the following:

- Modification of the existing traffic and revenue model for the Project area to include an expanded toll road footprint in the Project area.
- Adequacy and accuracy of the existing revenue model for the Project area, including an expanded toll road footprint in the Project area.
- Adequacy and accuracy of the existing revenue model for the Project area ability to estimate customers' willingness to pay a toll and the sensitivity of customers to changes in toll rates (price elasticity of demand) in the expanded toll road footprint in the Project area.

Deliverables: A written assessment of the methodology, adequacy and accuracy of the existing T&R model used to estimate and forecast traffic flows, including mode and peak, off-peak in the expanded toll road footprint in the Project area.

Task 2b: Preparing the Traffic and Revenue Model for the Expanded Toll Road Scenario

The consultant shall work with SANDAG staff to adjust and expand the existing T&R model for forecasting traffic and revenue levels in the expanded toll road footprint.

This model shall be capable of:

- Projecting revenues under toll regimes with rates changing as frequently as needed to meet targeted objectives.
- Assessing revenue maximizing toll levels under a variety of traffic scenarios and conditions.
- Reflecting anticipated demand elasticity.

- Calculating traffic and revenue levels under a variety of employment, economic and population growth scenarios.
- Providing traffic and revenue data by mode on a monthly basis.

This expanded model shall be validated and calibrated on a historical basis and evaluated for robustness in a manner consistent with good statistical practice.

Deliverables: The consultant shall provide a written summary of the expanded toll road footprint model validation and calibration process and model input categories and final model assumptions to SANDAG. The consultant also shall provide an assessment of the revenue generating capacity of the cross-border facility that includes recommendations as to:

- Optimal toll rate policy and operations strategy (both during ramp up and over the long run).
- Suggested toll rates by mode and suggested escalation rates.
- Scalable Project alternatives that result in different outcomes.
- Risk assessment of revenue forecasts.
- Potential non-toll revenue generation opportunities.
- Strategies to reduce diversions.

Task 3A: Production of Traffic and Revenue Forecast for the Expanded Toll Road Footprint in the Project Area (U.S. Side)

SANDAG will select one or more toll scenarios to be reflected in the final traffic and revenue forecasts for the Project. The consultant will provide the appropriate monthly data with respect to the selected cases. The consultant also will produce a schedule of value of time and elasticity values indicating the toll sensitivity of passenger and commercial vehicles in both directions during peak and non-peak hours.

All of this information will be included in the optional expanded toll road footprint T&R Scenario.

Deliverables: An Investment Grade Traffic and Revenue Forecast for the expanded toll road footprint in the Project area. Up to five additional updated or “refreshed” forecasts will be provided to meet the requirements of the financial underwriting team.

Task 4a: Production of Traffic and Revenue Study for the Expanded Toll Road Footprint in the Project Area

The consultant will produce an investment grade T&RS similar to those produced for other recent publicly and privately developed toll projects. The T&RS shall include a base case and a “low case” as well as certain sensitivity cases, as needed, for each of the tolling scenarios then under consideration by SANDAG. This report will be utilized for SANDAG planning purposes as well as Project financing considerations. Ultimate appropriate length will depend on final Project scope, number of toll cases and discussions among the consultant, SANDAG and the Project team I.

Deliverable: One final Investment grade traffic and revenue study for the expanded Project area (draft/final).

Task 5A: Financing of Project for the Expanded Toll Road Footprint in the Project Area

The consultant will be expected to support the financing of the Project in two major ways:

- Provision of up to five updated or refreshed forms of the T&RS that are appropriate for inclusion in a public offering document with respect to a capital markets financing of the Project that may be edited to conform to market convention for third party diligence reports included in offering.
- Participation in meetings/calls with peer-review advisors and auditors, rating agencies, prospective lenders, investors and credit enhancers and participating governmental agencies, including the TIFIA office.

Deliverable: Participation in discussions with credit agencies or investment bankers or other financing stakeholders. Consultant shall participate in at least five (5) meetings; including one (1) trip to New York and/or San Francisco to discuss the results of the investment grade T&RS. Additionally, Consultant shall participate in up to five (5) two (2)-hour conference calls.

E. PROJECT SCHEDULE

Task	Task Name	Calendar Days from Notice to Proceed (NTP)
1	Project Management Plan	21 days
2	Sketch Planning Level Cross-Border Traffic Forecast	60 days
3	Review and Analyze Cross-Border Project Study Area	30 days
4	Review and Analyze Existing Local Transportation Models Used to Forecast Cross-Border Traffic Flows	60 days
5	Identification of Data Needs, Data Collection, and Data Analysis Definition of Study Network Physical and Geometric Features of the Network Travel Speed and Time Demand Analysis Origin—Destination Study Stated Preference Surveys Company Surveys Traffic Counts and Vehicle Classification	150 days
6	Preparing the Traffic and Revenue Model for the Project	170 days
7	Production of Traffic and Revenue Forecasts	Draft 180 days/Final TBD
8	Production of Binational Investment Grade Traffic and Revenue Study	Draft 210 days/Final TBD
9	Financing of Project	TBD
1A-5A	Additional Phase (Optional Phase 2) (SANDAG only)	TBD

COST ESTIMATE FORM – RFP ATTACHMENT 3

1.1 Price Guarantee

The proposer shall provide a price offer in U.S. dollars for the Investment Grade Traffic and Revenue Study as described in the RFP and Scope of Work for Phase 1 only. The proposer's price for the Project shall be firm for a period of one hundred eighty (180) calendar days from the final proposal submission date and shall reflect the total cost for the Phase 1 Project. **Proposers shall use the tables provided in this RFP Attachment 3 for their submittal of costs associated with the Project and should not deviate from the listed cost tables for SANDAG's RFP.**

1.1.1 Pricing Breakdown

The proposer's prices shall be submitted according to the price breakdown shown in the pricing tables 1 through 4. For pricing tables 2 through 4, further breakdown of the pricing is required.

During the proposal evaluation period, the proposer may be requested to resubmit prices based on agreements reached and options selected during the evaluation process and to provide a more detailed breakdown of costs.

1.1.2 Total Price

The proposer shall submit a **total price** for the Phase 1 Project for all tasks shown on Table 1 in U.S. dollars. The total price shall be submitted and shall agree with the summation of its major components, as shown in Tables 2 through 4. Each component shall in turn correctly reflect the prices shown in Tables 2 through 4.

It is envisioned that in the near future SCT may conduct a procurement process with very similar scope of work as set forth in this procurement. In the event that SCT shall select the same Consultant as identified as the successful proposer in SANDAG's procurement, Consultant agrees that a portion of SANDAG's scope of work may be assigned to SCT under the then current prevailing currency exchange rates in Mexican Pesos. In such event, SCT would be solely responsible for payments for such assigned scope of work and SANDAG shall bear no further responsibility for such scope of work.

Investment Grade Traffic and Revenue Study
Table 1 – Bid Summary

Table 1 –Phase 1

Tasks	# Hours	Total Costs in U.S. dollars
1. Project Management Plan		
2. Sketch Planning Level Cross-Border Traffic Forecast		
3. Review and Analyze Cross-Border Project Study Area		
4. Review and Analyze Existing Local Transportation Models Used to Forecast Cross-Border Traffic Flows		
5. Identification of Data Needs, Data Collection, and Data Analysis		
6. Preparing the Traffic and Revenue Model for the Project		
7. Production of Traffic and Revenue Forecasts		
8. Production of Binational Investment Grade Traffic and Revenue Study		
9. Financing of Project		
Other		
Other Direct Costs		
Total Tasks (Phase 1) including sum of all tasks and other direct costs for prime and all subconsultants =		

Prime Consultant Signature

Date

Table 2

Classification: Rate ¹ :	Principal	Project Manager	Asst Project Manager	Economist	Chief Analyst	Associate Analyst	Transportation Modeler	Technical Specialist	Admin	Total, in U.S. dollars: \$
Phase 1 Tasks	(Hours)									
1. Project Management Plan										
2. Sketch Planning Level Cross-Border Traffic Forecast										
3. Review and Analyze Cross-Border Project Study Area										
4. Review and Analyze Existing Local Transportation Models Used to Forecast Cross-Border Traffic Flows										
5. Identification of Data Needs, Data Collection, and Data Analysis										
6. Preparing the Traffic and Revenue Model for the Project										
7. Production of Traffic and Revenue Forecasts										
8. Production of Binational Investment Grade Traffic and Revenue Study										
9. Financing of Project										
Other										
Other Direct Costs										
Subtotal (Phase 1 Project) =										

Cont. Table 2

Classification: Rate ¹ :	Principal	Project Manager	Asst Project Manager	Economist	Chief Analyst	Associate Analyst	Transportation Modeler	Technical Specialist	Admin	
Phase 1 Tasks	(Costs)									Total
1. Project Management Plan										
2. Sketch Planning Level Cross-Border Traffic Forecast										
3. Review and Analyze Cross-Border Project Study Area										
4. Review and Analyze Existing Local Transportation Models Used to Forecast Cross-Border Traffic Flows										
5. Identification of Data Needs, Data Collection, and Data Analysis										
6. Preparing the Traffic and Revenue Model for the Project										
7. Production of Traffic and Revenue Forecasts										
8. Production of Binational Investment Grade Traffic and Revenue Study										
9. Financing of Project										
Other										
Other Direct Costs										
Subtotal (Phase 1 Project) =										

Table 3 – (Classification Rates) ⁴

Annual Increase ¹ = _____

Combined Overhead ² = _____

Fee ² = _____

Classification	Name	(Year 1)	(Year 2)	(Year 3)	(Year 4)	(Year 5)
Principal ³						
Project Manager ³						
Asst Project Manager ³						
Economist ³						
Chief Analyst ³						
Associate Analyst ³						
Transportation Modeler ³						
Technical Specialist ³						
Administration ³						
Other Classification ³						

1 = Annual increases are not allowed for years 1 and 2. Annual increases shall be the same for all years after year 3 and shall not exceed three percent (3%).

2 = All classification rates include loaded billing rates. Loaded billing rate: includes labor overhead, fringe benefit, and general administrative expenses (% of total direct labor cost). The maximum fee (profit) allowed for this Project shall not exceed 8%.

Loaded billing rate calculation: \$ actual hourly rate x (1 + combined of overhead & fringe %) x (1 + fee %)

3 = List each classification by actual name.

4 = ***All proposed subconsultants must complete a separate classification rate sheet.***

Table 4 – Other Direct Costs

This Table 4 applies to all consultants, including subconsultants listed for this contract.

Printing and Reproductions

Outside Printing at actual costs (See Note 1)

Delivery Services

At actual costs (See Note 1)

Miscellaneous

At actual costs (See Note 1)

Vehicle/Travel Expense

Travel Expense (See Note 2)

Notes

1. Actual costs per lease/access/purchase or other vendor arrangement are competitive prices from appropriate vendors. Long distance telephone charges, postage filing fees, and messenger services will be billed at actual costs. Receipt required. Prior approval required on each Task Order.
2. Per current Caltrans Travel and Expense Guide for Non-Represented Employees. Prior approval on each Task Order is required for any travel or per diem expense reimbursement.

List any "Additional Other Direct Costs" for all consultants listed for this contract.

Additional Other Direct Costs (Prime and Sub Consultants)	Number	Unit Cost
Other Direct Expenses (Faxes etc.)		

SUBCONSULTANT LIST – RFP ATTACHMENT 4

The proposal shall include a complete list of all proposed subconsultants. All subconsultants listed must be provided a meaningful element of work within the defined Scope of Work. Changes to this Subconsultant List will not be allowed without prior written approval from SANDAG.

PROPOSED SUBCONSULTANTS

Subconsultant Firm Name and Address	Scope of Work	Dollar Amount of Work
Name Address		\$0.00
Name Address		\$0.00
Name Address		\$0.00
Name Address		\$0.00
Name Address		\$0.00
Name Address		\$0.00

Name of Firm

Printed Name and Title of Signatory

Signature

Date

BIDDERS LIST – RFP ATTACHMENT 5

Proposer

IFB/RFP Number

The U.S. Department of Transportation (DOT) requires SANDAG to create and maintain a Bidders List containing information about all firms (DBEs and non-DBEs) that bid, propose, or quote on SANDAG's DOT-assisted contracts in accordance with 49 C.F.R., Part 26.11. The proposer is to complete all requested information for every firm that submitted a bid, proposal, or quote, including the proposer itself and any proposed subconsultants. The Bidders List form shall be submitted with the proposal. SANDAG will utilize this information to assist in the Overall Annual DBE Goal Setting/AADPL process. ***The Bidders List content will not be considered in evaluating the proposal or determining award of any contract.***

Proposer's Information

Name of Prime's Firm:			Phone: () -	
Firm Address:			Fax: () -	
			Type of work/services/materials provided:	
City	ST	ZIP		
Number of years in business:				
Contact Person:			Title:	
Is the firm currently certified as a DBE under 49 C.F.R., Part 26? ☐ Yes ☐ No			Check the box below for your firm's annual gross receipts last year: ☐ Less than \$1 million ☐ Less than \$5 million ☐ Less than \$10 million ☐ Less than \$15 million ☐ More than \$15 million	
DBE Certification Eligibility (place an "X"): ☐ African American ☐ Asian Pacific American ☐ Native American ☐ Woman ☐ Hispanic American ☐ Subcontinent Asian American ☐ Other				

RFP ATTACHMENT 5 (CONT'D)

Note: Each proposed subconsultant shall complete this form, and the proposer will submit it with its proposal.

Subconsultant's Information			
Name of Subconsultant's Firm:			Phone: () -
Firm Address:			Fax: () -
City	ST	ZIP	Type of work/services/materials provided:
Number of years in business:			
Contact Person:			Title:
Is the firm currently certified as a DBE under 49 C.F.R., Part 26? ☐ Yes ☐ No			Check the box below for your firm's annual gross receipts last year: ☐ Less than \$1 million ☐ Less than \$5 million ☐ Less than \$10 million ☐ Less than \$15 million ☐ More than \$15 million
DBE Certification Eligibility (place an "X"): ☐ African American ☐ Asian Pacific American ☐ Native American ☐ Woman ☐ Hispanic American ☐ Subcontinent Asian American ☐ Other			

If necessary, this Bidders List form can be duplicated to include all firms (DBEs and non-DBEs) that have submitted a bid, proposal, or quote on this DOT-assisted Project, whether successful or unsuccessful in their attempt to obtain a contract.

Failure of the Proposer to submit the required Bidders List form may cause SANDAG to deem the Proposer/Consultant non-responsive.

PUBLIC CONTRACT CODE CERTIFICATIONS – RFP ATTACHMENT 6

**PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE –
RFP ATTACHMENT 6 (PART 1)**

In accordance with Public Contract Code Section 10162, the proposer shall complete, under penalty of perjury, the following questionnaire:

Has the proposer, any officer of the proposer, or any employee of the proposer who has a proprietary interest in the proposer, ever been disqualified, removed, or otherwise prevented from bidding or proposing on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

☐ Yes

☐ No

If the answer is yes, explain the circumstances in the space below.

Name of Firm

Printed Name and Title of Signatory

Signature

Date

**PUBLIC CONTRACT CODE SECTION STATEMENTS –
RFP ATTACHMENT 6 (PART 2)**

PUBLIC CONTRACT CODE SECTION 10232 STATEMENT

In conformance with Public Contract Code Section 10232, the proposer, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the proposer within the immediately preceding two year period because of the proposer's failure to comply with an order of a federal court which orders the bidder to comply with an order of the National Labor Relations Board.

PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the proposer hereby declares under penalty of perjury under the laws of the State of California that the proposer

☐ **has** ☐ **has not**

(MUST CHECK ONE)

been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "proposer" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1 (reference to "bidder").

The above statement is part of the proposal. Signing the proposal on the signature portion thereof also shall constitute signature of this statement. Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

Name of Firm

Printed Name and Title of Signatory

Signature

Date

Consultant: consultant_name Contract Number: contract_no
File Number: file_no

BUY AMERICA CERTIFICATE (FTA) – RFP ATTACHMENT 7

NOT APPLICABLE

RFP ATTACHMENT 7 (CONT'D)

NOT APPLICABLE

BUY AMERICA CERTIFICATE (FHWA) – RFP ATTACHMENT 8

**ALTERNATIVE A (FHWA)
CERTIFICATE OF COMPLIANCE WITH SECTION 165(A)**

Consultant hereby certifies that it will comply with the requirements of Section 165(a) of the Surface Transportation Assistance Act of 1982 and amendments thereto and the regulations in 23 C.F.R. 635.

Name of Consultant

Signature of Consultant

Date

ALTERNATIVE B (FHWA)

Consultant hereby certifies that it cannot comply with the requirements of Section 165(a) of the Surface Transportation Assistance Act of 1982, but it may qualify for an exception to the requirement pursuant to Section 165(b) of the Surface Transportation Assistance Act and amendments thereto and regulations in 23 C.F.R. 635.

Name of Consultant

Signature of Consultant

Date

**NOTE: COMPLETE EITHER ALTERNATIVE A OR B
DO NOT COMPLETE BOTH**

RFP ATTACHMENT 8 (CONT'D)

Additional Information for Buy America Certificate (FHWA) – Alternative B

Consultant hereby certifies that it cannot comply with the requirements of Section 165(a) of the Surface Transportation Assistance Act of 1982, but it may qualify for an exception to the requirement pursuant to Section 165 of the Surface Transportation Assistance Act and amendments thereto and regulations in 23 C.F.R. 635.

Item No.	Description	Type of Waiver Requested by No. (1)	Indicate Rolling Stock or Nonrolling Stock	Description of Foreign Components of Item	Unit Procurement Cost of Foreign Components

Notes: (1) For "Type of Waiver Requested," See Buy America, Section 7-5.8. List Type 1, 2, 3, or 4.

(2) Consultant must complete **either** Alternative A or B Buy America Certificate.

Name of Consultant: _____

Signature of Consultant _____
(Sign here) (Date)

CERTIFICATIONS FOR FEDERALLY FUNDED CONTRACTS – RFP ATTACHMENT 9

**ELIGIBILITY CERTIFICATION FOR FEDERALLY FUNDED CONTRACTS –
RFP ATTACHMENT 9 (PART 1)**

The award of this contract is subject to a financial assistance contract between the San Diego Association of Governments (SANDAG) and the U.S. Department of Transportation. Any name appearing on the Comptroller General's list of ineligible contractors for federally financed or assisted contracts is not eligible for this contract.

Proposer hereby certifies that neither the proposer nor any of its officers or holders of a controlling interest are on the U.S. Comptroller General's list of ineligible consultants for federally funded and assisted contracts. In the event the proposer or any of its subconsultants are included on such a list during the performance of this Project, proposer shall promptly inform SANDAG of this fact.

Name of Firm

Printed Name and Title of Signatory

Signature

Date

**NONCOLLUSION AFFIDAVIT –
RFP ATTACHMENT 9 (PART 2)**

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

In accordance with Title 23, United States Code Section 112, and Public Contract Code 7106, proposer declares that its proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not, directly or indirectly, induced or solicited any other bidder to put in a false or sham bid; and has not, directly or indirectly, colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the proposer or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

Name of Proposer

Printed Name and Title of Signatory

Signature

Date

**DEBARMENT AND SUSPENSION CERTIFICATE,
TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29 –
RFP ATTACHMENT 9 (PART 3)**

Proposer, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining proposer's responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Name of Firm

Printed Name and Title of Signatory

Signature

Date

**SUBCONSULTANT'S STATEMENT OF ELIGIBILITY –
RFP ATTACHMENT 9 (PART 4)**

(To be filled out by each proposed subconsultant and submitted with the proposal.)

_____ certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any federal project by any federal department or agency.

Where the subconsultant is unable to certify any of the statements in the certification, such subconsultant shall attach an explanation with this form.

The subconsultant certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 USC Section 3801, et seq., are applicable.

Name of Firm

Printed Name and Title of Signatory

Signature

Date

**CERTIFICATION OF RESTRICTIONS ON LOBBYING –
RFP ATTACHMENT 9 (PART 5)**

Proposer hereby certifies that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 20_____.

Name of Firm: _____

Name of Signatory: _____ Title: _____

Signature Date: _____

RFP ATTACHMENT 9 (PART 5 – CONT'D)

Disclosure of Lobbying Activities

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 USC 1352

1. Type of Federal Action ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type ☐ a. initial filing ☐ b. material change For Material Change Only: Year: _____ Quarter: _____ Date of last report: <u> / / </u>
4. Name and Address of Reporting Entity ☐ Prime ☐ Subawardee Tier _____, if known: _____ Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime
6. Federal Department/Agency		7. Federal Program Name/Description CFDA Number, if applicable: _____
8. Federal Action Number, if known _____		9. Award Amount, if known: <u>\$0.00</u>
10a. Name and Address of Lobbying Entity (if individual, last name, first name, MI)		10b. Individuals Performing Services (including address if different from No. 10a)
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
11. Amount of Payment (check all that apply): <u>\$0.00</u> ☐ actual ☐ planned		13. Type of Payment (check all that apply); ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ Other; specify: _____
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify nature: _____ value: _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:		
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 USC, Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 USC 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature _____ Print Name _____ Title _____ Phone No. () _____ Date _____
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

RFP ATTACHMENT 9 (PART 5 – CONT'D)
Disclosure of Lobbying Activities (continuation sheet)

Reporting Entity: _____

Page _____ of _____

RFP ATTACHMENT 9 (PART 5 – CONT'D)

Federal Provisions for Procurements >\$100K Instructions for Completion of SF-LLL Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation or receipt of a covered federal action, or a material change to a previous filing, pursuant to Title 31, USC Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with a covered federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include, but are not limited to, subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in Item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant or loan award number, or the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in Items 4 or 5.
10.
 - A. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
 - B. Enter the full names of the individual(s) performing services, and include full address if different from 10A. Enter last name, first name, middle initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials. Identify the federal officials(s) or employee(s) contacted or the officer(s), employee(s), or member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average thirty (30) minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATE
RFP ATTACHMENT 9 – (PART 6)

Consultant hereby certifies that it will comply with the provisions of the SANDAG Equal Employment Opportunity Program, and rules and regulations adopted pursuant thereto, Title VI of the Civil Rights Act of 1964, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations relating to equal employment opportunity, including laws and regulations hereinafter enacted.

Furthermore, Consultant hereby certifies that it has ☐ has not ☐ been found, adjudicated, or determined to have violated any laws of Executive Orders relating to employment discrimination or affirmative action including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. Sections 2000e et seq.); the Equal Pay Act (29 U.S.C. Section 206(d); Executive Order 10925, 11114, or 11246; or the California Fair Employment and Housing Act (Government Code 12460 et seq.); by any federal or California court or agency, including but not limited to the Equal Employment Opportunity Commission, the Office of Federal Contract compliance Programs, and the California Fair Employment and Housing Commission.

If yes, please explain the circumstance.

Name of Firm

Printed Name and Title of Signatory

Signature

Date

LOCAL AGENCY PROPOSER UDBE COMMITMENT (CONSULTANT CONTRACTS) – RFP ATTACHMENT 10

This form must be submitted with the proposal.

Local Agency <u>SANDAG</u>	Location <u>San Diego</u>
Project Description <u>Investment Grade Traffic and Revenue Study</u>	
Proposal Date _____	
Proposer's Name _____	
Contract UDBE Goal (%) _____	

Work Item Number	Description or Services to be Subcontracted (or contracted if the proposer is a UDBE)	UDBE Certificate Number and Expiration Date	Name of Each UDBE (must be certified prior to submission- include UDBE address and phone number)	Percent Participation of Each UDBE

FOR SANDAG TO COMPLETE SANDAG Proposal Number <u>5001572</u> Federal-Aid Project Number _____ Federal Share _____ Proposal Date _____ SANDAG certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise. _____ Signature of SANDAG Representative Date <u>Elaine Richardson</u> SANDAG Representative (please print or type) <u>(619) 699 - 6956</u> Phone Number	Total Claimed UDBE Commitment: _____% _____ Signature of Proposer _____ Date () - Phone Number _____ Person to Contact (please print or type)
---	--

Distribution: (1) Original - SANDAG files

Local Agency Proposer UDBE Commitment (Consultant Contracts) – Rev 120709

RFP ATTACHMENT 10 (CONT'D)

INSTRUCTIONS

Local Agency Proposer UDBE Commitment (Consultant Contracts)

ALL PROPOSERS

PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; or 4) Women. This information must be submitted with your proposal. Failure to submit this form will be grounds for finding the proposal nonresponsive.

A "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

Please note that the UDBE commitment must be met using UDBE firms. Not all DBE firms qualify as UDBE firms. Small Business Enterprise, Women Business Enterprise, and Minority Business Enterprise designations are not sufficient. Proposer is responsible for ensuring firms listed on Attachment 10 are UDBE firms that have been certified by the state of California.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). Proposers shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE must provide a certification number to the proposer and notify the proposer in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal. (If one hundred percent (100%) of item is not to be performed or furnished by the UDBE, enter the percentage of time work will be performed or furnished by the UDBE.) See Notice to Proposers Regarding Disadvantaged Business Enterprise Requirements and Instructions (FHWA) – RFP Attachment 15 form to determine how to count the participation of UDBE firms. Note: If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

The Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form must be signed and dated by the proposer submitting the proposal. Also, list a phone number in the space provided and print the name of the person to contact.

SANDAG shall complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

Local Agency	<u>SANDAG</u>	Location	<u>San Diego</u>
Project Description	<u>Traffic and Revenue Study</u>		
Total Contract Amount	<u></u>		

FOR SANDAG TO COMPLETE

SANDAG Contract Number 5001572

Federal-Aid Project Number _____

Federal Share _____

Contract Award _____

SANDAG certifies that the DBE certifications have been verified and all information is complete and accurate.

Signature of SANDAG Representative _____ Date _____

Elaine Richardson

SANDAG Representative (please print or type)

(619) 699 - 6956

Phone Number

Total Claimed DBE Participation: _____%

Person to Contact (please print or type)

FOR CALTRANS' REVIEW	
Signature of Caltrans District Local Assistance Engineer (DLAE)	Date
Caltrans DLAE (please print or type)	

Rev 011111

RFP ATTACHMENT 11 (CONT'D)

INSTRUCTIONS

Local Agency Proposer DBE Information (Consultant Contracts)

ALL PROPOSERS/CONSULTANTS

This form requires specific information regarding the proposer and any subconsultants: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and Proposer's/Consultants Name. All references to "proposer" in this form also shall be treated as a reference to Consultant if applicable.

The purpose of the form is to collect data required under 49 C.F.R., Part 26. Even if no DBE participation will be reported, the successful proposer must execute and return the form with its proposal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to DBEs. The proposer shall indicate all work to be performed by DBEs including, if the proposer is a DBE, work performed by its own forces. DBE firms must provide a certification number to the proposer. Enter DBE proposer's and any DBE subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If one hundred percent (100 %) of item is not to be performed by the DBE, describe percentage of time work will be performed by the DBE.) See Notice to Proposers Regarding Disadvantaged Business Enterprises (DBE) Information Form (Attachment 12) to determine how to count the participation of DBE firms. Also, list a phone number in the space provided and print the name of the person to contact.

SANDAG will complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure by SANDAG to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this Project.

The Caltrans District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the Caltrans District Local Assistance Engineer signs and dates the form.

UDBE INFORMATION-GOOD FAITH EFFORTS – RFP ATTACHMENT 12

ALL PROPOSERS/CONSULTANTS

Proposers who do not intend to meet the UDBE goal must complete and submit this form in order to be deemed responsive. All references to “proposer” in this form also shall be treated as a reference to Consultant if applicable.

Federal-Aid Project Number

Proposal Submittal Date

SANDAG has established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of insert percentage% for this Project. The information provided herein shows that a good faith effort was made by proposer to meet this goal.

Proposers should complete this UDBE Information-Good Faith Efforts – RFP Attachment 12 form, even if the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form indicates that the proposer has met the UDBE goal. This will protect the proposer’s eligibility for award of the contract if SANDAG determines that the proposer failed to meet the goal for various reasons, e.g., a UDBE firm was not certified at proposal due date, or the proposer made a mathematical error. Submittal of only the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

ALL PROPOSERS

Proposers that have not committed to meet the UDBE goal utilizing the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form must complete and submit this form and demonstrate adequate Good Faith Efforts to meet the UDBE goal in order to maintain their eligibility for award.

- A. The names and dates of each publication in which a request for UDBE participation for this Project was placed by the proposer (please attach copies of advertisements or proofs of publication)

Publications	Dates Of Advertisement

RFP ATTACHMENT 12 (CONT'D)

- B. The names and dates of written notices sent to certified UDBEs soliciting proposals for this Project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of UDBEs Solicited	Date of	
	Initial Solicitation	Follow-up Methods and Dates

- C. The items of work which the proposer made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the proposer with its own forces) into economically feasible units to facilitate UDBE participation. It is the proposer's responsibility to demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

Items of Work	Proposer Normally Performs Item	Breakdown of Items	Amount (\$)	Percent of Contract
	☐ Y ☐ No			
	☐ Y ☐ No			
	☐ Y ☐ No			
	☐ Y ☐ No			
	☐ Y ☐ No			

- D. The names, addresses, and phone numbers of rejected UDBE firms, the reasons for the proposer's rejection of the UDBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each UDBE if the selected firm is not a UDBE:

Names, addresses and phone numbers of rejected UDBEs and the reasons for the proposer's rejection of the UDBEs

RFP ATTACHMENT 12 (CONT'D)

- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to UDBEs:

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- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subconsultant purchases or leases from the proposer or any affiliate:

--

- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using UDBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name or Agency/Organization	Method/Date of Contract	Results

- H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

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NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

RFP ATTACHMENT 13
UDBE GOOD FAITH EFFORTS AFFIDAVIT

NOT APPLICABLE

**CALTRANS' DIVISION OF LOCAL ASSISTANCE GUIDANCE FOR BIDDERS
COMPLETING THE GOOD FAITH EFFORT AND APPENDIX A TO 49 C.F.R. PART 26
RFP ATTACHMENT 14**

**GUIDANCE FOR BIDDERS
COMPLETING THE GOOD FAITH EFFORT SUBMITTAL**

The information necessary to establish the proposer's adequate good faith efforts to meet the FHWA UDBE goal should include the information listed below. Please note that all references to "proposer" in this document also shall be treated as a reference to Consultant where applicable.

- A. The names and dates of each publication in which a request for UDBE participation for this Project was placed by the proposer.
- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this Project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested.
- C. The items of work that the proposer made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE participation. It is the proposer's responsibility to demonstrate that sufficient work to meet the UDBE goal was made available to UDBE firms.
- D. The names, address and phone numbers of rejected UDBE firms, the firms selected for that work, and the reasons for the proposer's choice.
- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any work which was provided to the UDBEs.
- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the proposer or its affiliate.
- G. The names of agencies contacted to provide assistance in contracting, recruiting and using UDBE firms.
- H. Any additional data to support a demonstration of good faith efforts.

It is recommended that proposers consider the following in making efforts to obtain participation of UDBEs, and when preparing the documentation to be submitted, demonstrating their good faith efforts:

- Advertising for UDBE participation may be placed in newspapers, trade papers, minority focus papers and on the Internet.
- The more advertising the better. The wider the audience—especially in trade and focus

publications—the better a prime contractor can “get the word out” they plan to bid a Project, the better potential for UDBEs to know about the Project and to whom they should bid.

- Solicitations and follow-up telephone contacts should occur within reasonable time before the proposal due date to allow the subcontractor time to prepare a quote to submit to the proposer. Telephone or e-mail logs, and fax receipts may be used to corroborate follow-up contacts.
- Advertisements and solicitations should state which items or portions of work are being made available. The proposer should consider making as many items of work available as possible to meet the goal, including those items normally performed by the proposer with its own forces.
- Proposers are encouraged to assist UDBE subcontractors in the areas of bonding (if required), lines of credit, and obtaining necessary equipment, supplies and materials, and inform UDBEs of this assistance in their solicitations.
- The documentation to be submitted to SANDAG should clearly demonstrate all efforts made by the bidder to meet the UDBE goal. To assist in providing clear documentation, proposers should consider the following:
 - Be careful when referring to “See Attachments” without providing explicit information where to find the material. Clearly identifying these items as Attachment A, Attachment B, etc. is suggested.
 - Attachments may include copies of advertisements, solicitations and logs of telephone follow-ups, e-mail or fax receipts.
 - In documenting the work made available to UDBEs, list the task item number, description of the work and what portion of the item was offered, if applicable.
 - Include quotes from rejected UDBEs and the quotes from the firms selected. If the proposer is doing the work at less cost, include the items to be performed and the costs.
 - Identify any contacts with agencies, organizations or groups used or contacted to provide assistance in contacting, recruiting and using UDBE firms, and any responses or assistance received from them.
 - Describe any additional information which would demonstrate that adequate good faith efforts were made to meet the goal.

TITLE 49—TRANSPORTATION
Subtitle A--Office of the Secretary of Transportation

PART 26 PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES
IN DEPARTMENT OF TRANSPORTATION
Subpart F Compliance and Enforcement

Sec. Appendix A to Part 26--Guidance Concerning Good Faith Efforts

- I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
- II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
- III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.
- IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - A. Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

- B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

**NOTICE TO PROPOSERS REGARDING DISADVANTAGED BUSINESS ENTERPRISE
REQUIREMENTS AND INSTRUCTIONS (FHWA)
RFP ATTACHMENT 15**

SANDAG has established an Underutilized DBE goal for this Agreement of 3.88%.

1. TERMS AS USED IN THIS ATTACHMENT

The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).

The term “Underutilized Disadvantaged Business Enterprise” or “UDBE” are the DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.

The term “Agreement” also means “Contract.”

The term “Agency” also means SANDAG, the local entity entering into this contract with the Contractor or Consultant.

The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

The term “proposer” also means Consultant where applicable.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 C.F.R. 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

For Contracts with a UDBE goal, ALL PROPOSERS shall submit the completed Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form and Local Agency Proposer DBE Information – RFP Attachment 11 form and shall include them with the proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the UDBE goal established for the contract. If the UDBE goal is not met, the

proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract specific UDBE goal.

If proposer has not met the UDBE goal, complete and submit the UDBE Information-Good Faith Efforts – RFP Attachment 12 form with the proposal showing that proposer made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by UDBEs will be considered.

If it is determined that the Consultant's UDBE Commitment does not meet the established contract-specific UDBE goal for any reason and the UDBE Information-Good Faith Effort – RFP Attachment 12 form was not submitted with the proposal, then the proposer would be deemed non-responsive in meeting the UDBE requirements set forth in the Request for Proposal.

The purpose of the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form and Local Agency Proposer DBE Information – RFP Attachment 11 form is to collect data required under 49 C.F.R., Part 26. Even if no DBE participation will be reported, the successful proposer must execute and return the forms. For contracts with UDBE goals, the Local Agency Proposer UDBE Commitment (Consultant Contracts) – RFP Attachment 10 form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and Caltrans' DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the

capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.

- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the cost proposal and list of subcontractors (Subconsultant List – RFP Attachment 3).
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification at (916) 324-8347 for assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program Web site at: <http://www.dot.ca.gov/hq/bep/>.
 - 1. Click on the link in the left menu titled Disadvantaged Business Enterprise
 - 2. Click on Search for a DBE Firm link
 - 3. Click on Click Here to Access the DBE Query Form
 - 4. Searches can be performed by one or more criteria
 - 5. Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access.
- D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS

- A. If the materials or supplies are obtained from a DBE Manufacturer, count one hundred percent (100%) of the cost of the materials or supplies. A DBE Manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

- B. If the materials or supplies purchased from a DBE Regular Dealer, count sixty percent (60%) of the cost of the materials or supplies. A DBE Regular Dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE Regular Dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE Regular Dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of Regular Dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, Manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE Regular Dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a Manufacturer nor a Regular Dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

CONSULTANT SHORT LIST EVALUATION FORM – RFP ATTACHMENT 16

SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)
CONSULTANT SHORT LIST EVALUATION FORM

Consultant: _____

Contract No.: 5001572 Description: Binational Investment Grade Traffic and Revenue Study

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
1. PROJECT TEAM - Qualifications and relevant individual experience. - Unique qualification of key personnel - Time commitment of key members - Integrity and reputation of project team - Organization chart - Staff availability	2.0		
2. PROJECT EXPERIENCE - Demonstrated capability on developing Investment grade traffic and revenue studies, including development of traffic models on similar or related cross-border projects - Management and scheduling abilities - Other ongoing projects and priorities - Quality and cost control	3.0		
3. PROPOSED METHODOLOGY AND APPROACH TO WORK - Demonstrated knowledge of the binational work - Explanation of the Project or services required for the integrated binational T&RS - Creative approach and proposed methodology to complete the integrated binational investment grade T&RS - Innovative approaches and internal measures for timely completion of project	3.0		
4. BINATIONAL COORDINATION AND REQUIREMENTS Project approach indicates a solid binational strategy and ability to regularly communicate with SCT partners in Mexico City.	2.0		
Total			

Comments (continue on reverse if necessary):

I certify that I have performed an independent evaluation of the above named consultant. I further certify that I have not engaged in discussions within the last year with the above-named consultant regarding my future employment with said consultant and that neither I nor anyone in my household has received income from any of the bidders/proposers during the last twelve (12) months.

Evaluator Signature

Date

Evaluator Name (please print or type)

Checked By

Date

CONSULTANT INTERVIEW EVALUATION FORM – RFP ATTACHMENT 17

SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)
CONSULTANT INTERVIEW EVALUATION FORM

Consultant: _____

Contract No.: 5001572 Description: Binational Investment Grade Traffic and Revenue Study

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
1. PROJECT TEAM - Qualifications and relevant individual experience - Unique qualification of key personnel - Time commitment of key members - Integrity and reputation of project team - Organization chart - Staff availability	1.0		
2. PROJECT EXPERIENCE - Demonstrated capability on developing Investment grade traffic and revenue studies, including development of traffic models on similar or related cross-border projects - Management and scheduling abilities - Other ongoing projects and priorities - Quality and cost control	2.0		
3. PROPOSED METHODOLOGY AND APPROACH TO WORK - Demonstrated knowledge of the binational work - Explanation of the Project or services required for the integrated binational T&RS - Creative approach and proposed methodology to complete the integrated binational investment grade T&RS - Innovative approaches and internal measures for timely completion of project	2.0		
4. BINATIONAL COORDINATION AND REQUIREMENTS Project approach indicates a solid binational strategy and ability to regularly communicate with SCT partners in Mexico City	1.0		
5. COST OR BEST VALUE Ranking of comparative costs among proposed firms, providing the best value for services offered	1.0		
6. INTERVIEW QUESTIONS - Demonstrated knowledge of the work required - Appropriate responses to questions	2.0		
7. REFERENCES* Record of producing a quality product on similar projects on time and within budget	1.0		
*All panel members must enter a zero (0) for all interviewed Consultants if time did not allow for reference checks or if the reference checks were not completed on all the Consultants.		Total	

Comments (continue on reverse if necessary):

I certify that I have performed an independent evaluation of the above named consultant. I further certify that I have not engaged in discussions within the last year with the above-named consultant regarding my future employment with said consultant and that neither I nor anyone in my household has received income from any of the bidders/proposers during the last twelve (12) months.

Evaluator Signature _____
Date

Evaluator Name (please print or type) _____
Checked By **Date**

**CONSULTANT SHORT LIST EVALUATION WITH NO INTERVIEWS FORM –
RFP ATTACHMENT 18**

SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)
CONSULTANT SHORT LIST EVALUATION WITH NO INTERVIEWS FORM

Consultant: _____

Contract No.: 5001572 Description: Binational Investment Grade Traffic and Revenue Study

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
1. PROJECT TEAM - Qualifications and relevant individual experience - Unique qualification of key personnel - Time commitment of key members - Integrity and reputation of project team - Organization chart - Staff availability	1.0		
2. PROJECT EXPERIENCE - Demonstrated capability on developing Investment grade traffic and revenue studies, including development of traffic models on similar or related cross-border projects - Management and scheduling abilities - Other ongoing projects and priorities - Quality and cost control	2.0		
3. PROPOSED METHODOLOGY AND APPROACH TO WORK - Demonstrated knowledge of the binational work required - Explanation of the Project or services required for the integrated binational T&RS - Creative approach and proposed methodology to complete the integrated binational investment grade T&RS - Innovative approaches and internal measures for timely completion of project	3.0		
4. BINATIONAL COORDINATION AND REQUIREMENTS Project approach indicates a solid binational strategy and ability to regularly communicate with SCT partners in Mexico City.	2.0		
5. COST OR BEST VALUE Ranking of comparative costs among proposed firms, providing the best value for services offered	1.0		
6. REFERENCES* Record of producing a quality work product on similar projects on time and within budget	1.0		
<i>*All panel members must enter a zero (0) for all interviewed Consultants if time did not allow for reference checks or if the reference checks were not completed on <u>all</u> the Consultants.</i>			Total

Comments (continue on reverse if necessary):

I certify that I have performed an independent evaluation of the above named consultant. I further certify that I have not engaged in discussions within the last year with the above-named consultant regarding my future employment with said consultant and that neither I nor anyone in my household has received income from any of the bidders/proposers during the last twelve (12) months.

Evaluator Signature

Date

Evaluator Name (please print or type)

Checked By

Date

EXAMPLE CERTIFICATE OF INSURANCE – RFP ATTACHMENT 19

Certificate of Insurance					Date: MM/DD/YYYY
Producer: LOCAL AGENT, LTD. 1234 LOCAL DRIVE ANYTOWN, ST 30455		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
Insured: _____ _____ _____		COMPANIES AFFORDING COVERAGE COMPANY _____ A COMPANY _____ B COMPANY _____ C			
COVERAGES THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM, OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE PRODUCTS DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR				COMBINED SINGLE LIMIT NA EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) INCLUDED MEDICAL INCLUDED PERSONAL & ADV INJURY INCLUDED GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/OP AGG INCLUDED BROAD FORM PROPERTY DAMAGE INCLUDED
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS				COMBINED SINGLE LIMIT NA EACH OCCURRENCE \$1,000,000 BODILY INJURY (Per person) INCLUDED BODILY INJURY (Per accident) INCLUDED PROPERTY DAMAGE INCLUDED
	GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EACH ACCIDENT Add as required OTHER THAN AUTO ONLY: Add as required EACH ACCIDENT Add as required AGGREGATE Add as required
	EXCESS LIABILITY ☐ UMBRELLA FORM ☐ OTHER THAN UMBRELLA FORM				EACH OCCURRENCE Add as required AGGREGATE Add as required
C	WORKERS' COMPENSATIONS AND EMPLOYER'S LIABILITY PROPRIETOR S/ PARTNERS / EXECUTIVE OFFICERS ARE: ☐ INCL ☐ EXCL				COMBINED SINGLE LIMIT NA EACH OCCURRENCE \$1,000,000 ☐ STATUTORY LIMITS EACH ACCIDENT DISEASE - POLICY LIMIT DISEASE - EACH EMPLOYEE \$1,000,000
	OTHER Professional Liability-Errors & Omissions				EACH CLAIM Add as required PER OCCURRENCE Add as required AGGREGATE \$5,000,000
DESCRIPTION OF OPERATION(S)/LOCATION(S)/VEHICLE(S)/SPECIAL ITEMS SANDAG Contract # 5001572 Additional Insured Endorsement required for General Liability & Automobile (covered parties): SANDAG, its Board of Directors, Officers, employees, and agents Waiver of Subrogation Endorsement required for General Liability and Workers Compensation policies. Primary Non-Contributory Endorsement required for General Liability and Automobile.					
CERTIFICATE HOLDER SANDAG 401 B STREET, SUITE 800 SAN DIEGO, CA 92101			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. _____ AUTHORIZED REPRESENTATIVE (SIGNATURE)		

STANDARD SERVICES AGREEMENT – RFP ATTACHMENT 20



STANDARD SERVICES AGREEMENT

5001572

CONTRACT NUMBER

Various

PROJECT NUMBER(S)

THIS AGREEMENT is effective as of this day of month, year, in the State of California by and between San Diego Association of Governments (SANDAG), and the following contractor, hereinafter referred to as "Consultant." The term of this Agreement is one (1) year with up to three (3) additional one (1) year options. This Agreement will terminate on XXXXX, 2012, unless one or more options are exercised and an amendment is executed by the parties. If all the options are exercised, the maximum duration of this Agreement shall not exceed four (4) years or XXXXX, 2015.

Name _____ Address _____

Form of Business _____ City _____
(corporation, partnership, sole proprietor, etc.) State _____ Zip _____

Tax ID Number _____

Phone _____ E-mail: _____
: ()

Fax: () Contract UDBE Commitment% ☐ 3.88%

Is Consultant a DBE? ☐ YES ☐ NO

Is Consultant a UDBE? ☐ YES ☐ NO

Consultant UDBE Commitment _____%

Authorized person to sign contracts: _____

Name

Title

The attached Standard Conditions are part of this Agreement. The Consultant agrees to furnish to SANDAG services and materials, summarized as follows (the "Project"):

Binational Investment Grade Traffic and Revenue Study

THE TOTAL CONTRACT VALUE SHALL NOT EXCEED \$ U.S. DOLLARS.

SAN DIEGO ASSOCIATION OF GOVERNMENTS	CONTRACTOR AUTHORIZATION
--------------------------------------	--------------------------

By: _____ Executive Director (or designee)	Firm: _____
--	-------------

Approved as to form:	By: _____ Signature
----------------------	-------------------------------

By: _____ Office of General Counsel	Title: _____
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AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR(S)
\$ N/A-to be encumbered by Task Order.		

By: _____
Director of Finance Date _____

STANDARD CONDITIONS

1. AUTHORIZATION TO PROCEED

Specific authorization to proceed (Notice to Proceed) with all or a portion of the work described in the Scope of Work, Standard Services Agreement – Exhibit A, shall be granted in writing by SANDAG via a Task Order or a Notice to Proceed. Consultant shall not proceed with the work unless it is authorized. Consultant's proposal and SANDAG's request for proposals concerning the Project are hereby incorporated by reference as part of the Scope of Work, Standard Services Agreement – Exhibit A. The Notice to Proceed or each Task Order shall set forth the date of commencement of work. This Agreement shall terminate on or before the date shown on the cover page of the Agreement, unless extended by amendment. Consultant is advised that any recommendation for contract award or notice of intent to contract is not binding on SANDAG until the Agreement is fully executed by all authorized parties.

2. CONSIDERATION

- A. The Consultant agrees to complete, to the full satisfaction of SANDAG, all of the services described herein. Phase 1 described in the Scope of Work, attached hereto as Exhibit A "Scope of Work" will be the first Task Order issued following full execution of this Agreement. Consultant will be reimbursed for Phase 1 work as specified in the attached Fee Schedule, Standard Services Agreement – Exhibit B, and the attached Payment Schedule – Exhibit C, up to the maximum amount of \$XXXXXXX as identified in Table 1, "Bid Summary" in the attached Exhibit B Fee Schedule. For the Optional Phase 2 Scope of Work, attached hereto as Exhibit A "Scope of Work," and subsequent work issued, the parties will confirm the detailed Scope of Work and determine the maximum amount of payment due based on the billing rates in Exhibit B and agree on a maximum price and payment schedule for the work covered under Optional Phase 2 up to a maximum amount of \$_____. The parties have agreed to a Lump Sum Fixed Fee per deliverable as the method of compensation for this Agreement. Deliverables shall be invoiced by Consultant in arrears and no more often than monthly, unless otherwise stated in the applicable Task Order. Each invoice shall include a reduction for retention of 10 percent to be held until acceptance of the completed Task Order. Consultant shall invoice SANDAG at the fixed fee amounts set forth in the payment schedule attached to each Task Order up to the maximum amount of the Agreement for each Phase. The Maximum Amount of this Agreement, including any potential Task Orders, Work Orders, or amendments for Phase 1 and the Optional Phase 2 shall be \$_____. It is understood and agreed that the actual amount of work requested by SANDAG may be less than the Maximum Amount. There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized under this Agreement. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee, unless otherwise specified in the Fee or Payment Schedule, Standard Services Agreement – Exhibit B.

As tasks are identified, SANDAG may issue Task Orders to Consultant. Consultant is not authorized to perform services for SANDAG before the effective date of each Task Order or beyond the termination date set forth in each Task Order. The parties have agreed to the Fee or Payment Schedule attached to this Agreement as Standard Services Agreement – Exhibit B. For any Task Orders that may be issued subsequent to Task Order 1, the parties will negotiate the amount of payment due based on the amounts in the Fee or Payment Schedule in Standard Services Agreement – Exhibit B. Under no circumstances should Consultant presume that additional Task Orders beyond the current Task Order will be issued or that it will receive more than the maximum amount agreed to by the parties for any currently issued Task Order(s). Issuance of Task Orders under this Agreement shall be contingent on funding, budget approval, Consultant's performance, and other relevant factors. SANDAG reserves the right to increase or decrease the amount of estimated funds allocated to each Task Order. Should Consultant perform work for SANDAG in advance of issuance of a fully executed Task Order for such work, Consultant shall be performing the work as an unpaid helper for SANDAG.

It is envisioned that in the near future SCT may conduct a procurement process with very similar scope of work as set forth in this procurement. In the event that SCT shall select the same Consultant as identified as the successful proposer in SANDAGs procurement, Consultant agrees that a portion of SANDAGs scope of work may be assigned to SCT under the then current prevailing currency exchange rates in Mexican Pesos. In such event, SCT would be solely responsible for payments for such assigned scope of work and SANDAG shall bear no further responsibility for such scope of work.

- B. Consultant's rates are not adjustable for the performance period set forth in this Agreement except when there is a change in an applicable prevailing wage position and Consultant is not being paid on a fixed fee basis. Consultant must provide notice to SANDAG at least thirty (30) days prior to effective date of applicable prevailing rate change, or rate change shall be delayed until the next annual rate revision date.
- C. Consultant shall be responsible for any future adjustments to prevailing wage rates, including, but not limited to, changes to wage orders, base hourly rates, and employer payments as determined by the Division of Industrial Relations (DIR), or any new classification or modification that may be added by the DIR or a collective bargaining agreement. A mistake, inadvertence, or neglect by the Consultant in failing to pay the correct rates of prevailing wage will be remedied solely by the Consultant and will not, under any circumstances, be considered as the basis of a claim against SANDAG.
- D. Premium Time or Overtime shall not be allowed under this Agreement without the express written approval of SANDAG.
- E. Transportation and subsistence costs to be reimbursed shall be the actual costs incurred, but shall not exceed the rates stipulated in the Caltrans Travel and Expense Guide for Non-Represented Employees (see www.dot.ca.gov/hq/asc/travel/ch12.htm).
- F. In determining allowable incurred subcontractor costs that are eligible for reimbursement, in addition to reimbursement for actual costs that are incurred by reason of payment, SANDAG will allow subcontractor costs that are treated by the Consultant as accrued due to such costs

- having been billed to the Consultant and recognized by the Consultant as valid, undisputed, due, and payable.
- G. By submitting accrued but unpaid subcontractor costs for reimbursement, Consultant agrees that, within thirty (30) days of receipt of reimbursement, the full amount submitted as a reimbursable accrued subcontractor cost shall be paid to the subcontractor.
 - H. If Consultant fails to satisfactorily complete a deliverable or portion thereof according to the schedule set forth in the Agreement or a Task Order, no payment will be made until the relevant deliverable or portion thereof has been satisfactorily completed.
 - I. Any Task Order, Work Order, or Amendment issued under this Agreement is of no force or effect until returned to SANDAG and signed by an authorized representative of SANDAG. No expenditures are authorized on a Project, and work shall not commence, until a Notice to Proceed, Task Order, or Work Order for those tasks has been executed by SANDAG.
 - J. The period of performance for any Task Order or Work Order issued under this Agreement shall be in accordance with the Agreement performance period. No Task Order or Work Order can be written which extends beyond the expiration date of this Agreement.
 - K. Invoices shall reference the Agreement number, Project title, and any applicable Task Order or Work Order number. Invoices shall be submitted no later than forty-five (45) calendar days after completion of each billing period or upon completion of a Task Order or Work Order. SANDAG agrees to pay invoice thirty (30) days after receipt of invoice or approval of service (as should be specified in the Task Order or Work Order), whichever occurs last, and payment shall be deemed made upon mailing by SANDAG. Credits due SANDAG, including any equipment purchased under the provisions of this Agreement, must be reimbursed by Consultant prior to the expiration or termination of this Agreement.
 - L. Upon completion of all deliverables and work tasks to the satisfaction of SANDAG, Consultant shall submit a final invoice showing the cumulative costs incurred by Consultant, not to exceed maximum amount of the Agreement. Final payment of retained amounts shall be made following Consultant's submittal of all required documentation and completion of the Project. Notwithstanding the foregoing, all payments are subject to the conditions set forth elsewhere in this Agreement or which are otherwise required by law. SANDAG may withhold all payments to Consultant if Consultant fails to comply with the requirements of the Agreement. Payments shall be subject to review by SANDAG for compliance with the requirements of this Agreement, and payment may be withheld if Consultant is not in compliance with the Agreement. Payments shall be subject to an audit upon completion of all services. No other compensation will be paid except for work done under an amended agreement approved pursuant to the Section in this Agreement entitled, "Changes in Work."

3. INDEPENDENT CONTRACTOR

- A. Consultant hereby declares that it is engaged in an independent business and agrees that, in the performance of this Agreement, it shall act as an independent contractor and not as an employee of the San Diego Association of Governments (SANDAG). Consultant has and hereby retains full control of all the employment, compensation, and discharge of all

employees of Consultant assisting in its performance hereunder. Consultant shall be fully responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding tax, and all other laws and regulations governing such matters. Consultant shall be responsible for its own acts and those of its agents and employees during the term of this Agreement. Except as otherwise specifically provided, as an independent contractor, Consultant will be solely responsible for determining means and methods for performing the services described in the Scope of Work.

- B. The payment made to Consultant pursuant to this Agreement shall be the full and complete compensation to which Consultant is entitled. SANDAG shall not make any federal or state tax withholdings on behalf of Consultant. SANDAG shall not be required to pay any workers' compensation insurance on behalf of Consultant. Consultant agrees to indemnify SANDAG for any tax, retirement contribution, social security, overtime payment, or workers' compensation payment which SANDAG may be required to make on behalf of Consultant or any employee of Consultant for work done under this Agreement.
- C. Except as SANDAG may specify in writing in this Agreement or elsewhere, Consultant shall have no authority, express or implied, to act on behalf of SANDAG in any capacity whatsoever, as an agent or otherwise. Consultant shall have no authority, express or implied, to bind SANDAG or its members, agents, or employees to any obligation whatsoever, unless expressly provided in this Agreement.

4. INSURANCE

Consultant shall procure and maintain for the duration of this contract, insurance against claims for injuries to persons, or damages to property, which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees. With respect to Professional Liability, when it is required, coverage must be maintained, and evidence provided, for two (2) years following the termination of this Agreement. Consultant will include the contract number on all insurance-related correspondence, i.e., the insurance certificate itself. All policies required shall be issued by companies who hold a current policyholder's alphabetic and financial-size category rating of not less than A-VI, in accordance with A.M. Best. Carriers must be qualified to do business in California and maintain an agent for service of process within California.

A. COVERAGE REQUIRED – ALL CONTRACTS

(1) MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- Insurance Services Office Commercial (occurrence form CG001), or most recent edition General Liability coverage, and shall not contain the "X, C, and U" (explosion, collapse and underground) exclusions.
- Insurance Services Office form number CA0001 (Ed. 1/87), or most recent edition covering Automobile Liability, code 1 (any auto).
- Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(2) LIABILITY

Consultant agrees that all general liability coverages required under this insurance section are PRIMARY insurance and that any insurance of SANDAG shall be excess and noncontributory.

(a) Commercial General Liability

At all times during this contract and, with respect to Products and Completed Operations Liability, for twenty-four (24) months following the acceptance of the work by SANDAG, Consultant agrees to maintain Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to SANDAG. Commercial General Liability Insurance must include coverage for the following:

- Premises/Operations Liability
- Products/Completed Operations Liability
- Contractual Liability, with respect to this Agreement
- Personal Injury Liability
- Broad Form Property Damage
- Independent Consultants

All Commercial General Liability policies shall name SANDAG, its directors, officers, agents, and employees as additional insureds as their interests may appear. Consultant waives any rights of subrogation against SANDAG, and the policy form must permit and accept such waiver.

(b) Automobile Liability

At all times during this contract, Consultant agrees to maintain Automobile Liability Insurance for bodily injury and property damage, including coverage for owned, non-owned, and hired vehicles.

(c) Workers' Compensation/Employer Liability

At all times during this contract, Consultant agrees to maintain Workers' Compensation and Employer's Liability Insurance in compliance with the applicable statutory requirements. Consultant waives any rights of subrogation against SANDAG, its respective officers, employees, agents, and representatives, and the policy form must permit and accept such waiver.

B. ADDITIONAL COVERAGES REQUIRED (AS INDICATED BY A MARKED BOX)☐ **(1) Garagekeeper's Legal Liability Insurance**

Consultant will operate a parking lot, owns a garage, and/or will accept another's property for repair or keeping and therefore become a bailee. Insurance must provide coverage against

liability for damage to vehicles in Consultant's care, custody, or control. These responsibilities normally are excluded by General Liability policies under the care, custody, and control exclusion. Therefore, this coverage is needed.

☐ **(2) Railroad Protective or Equivalent**

Consultant shall furnish, with respect to the operations of the Consultant or any of the Consultant's subconsultants performing within the railroad right of way, broad form Railroad Protective Liability Insurance covering all work performed under this Agreement. Any exclusions relating to performance of services within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing must be deleted. Option: purchase separate Railroad Protective Liability Policy as required.

☒ **(3) Professional Liability**

At all times during the term of this Agreement, Consultant agrees to maintain Professional Liability Insurance to cover losses arising from negligent acts, errors, or omissions whenever committed for services or operations performed under this Agreement. The Consultant shall ensure both that (1) this policy retroactive date is on or before the date of commencement of the Project; and (2) this policy has a reporting period of two years after the date of completion or termination of this Agreement. The Consultant agrees that, for the time period defined above, there will be no changes or endorsements to the policy that increase SANDAG's exposure to loss.

☐ **(4) Pollution Legal Liability**

At all times during this contract, and for twenty-four (24) months following, Consultant agrees to maintain Pollution Legal Liability Insurance with respect to services or operations under this Agreement. The extended discovery period must be no less than twenty-four (24) months.

☐ **(5) Consultant Equipment**

At all times during this contract, Consultant agrees to maintain Consultant's Equipment Insurance on a special form basis covering equipment owned, leased, or used by Consultant. Consultant waives any rights of subrogation against SANDAG, and the policy form must permit and accept such waiver. Consultant hereby releases and holds harmless SANDAG for any loss or damage to its equipment.

☐ **(6) Installation Floater**

At all times during this contract, Consultant agrees to maintain Installation Floater Insurance on a special form basis covering property owned or provided by Consultant. Consultant waives any rights of subrogation against SANDAG, and the policy form must permit and accept such waiver. Consultant hereby releases and holds harmless these entities for any loss or damage to its property.

C. MINIMUM POLICY LIMITS REQUIRED**Policy Limits**

Commercial General Liability (Per Occurrence)	\$ 1,000,000
Commercial General Liability (Aggregate)	\$ 2,000,000
Automobile Liability (Each Occurrence)	\$ 1,000,000
Workers' Compensation Employer's Liability (Combined Single Limit Each Occurrence)	\$ 1,000,000

Additional Coverages (as indicated under Section B, Additional Coverages Required):

Policy Limits

☐ B. (1) Garagekeepers	\$ _____
☐ B. (2) Railroad Protective (Each Claim)	\$ _____
☐ B. (2) Railroad Protective (Aggregate)	\$ _____
☒ B. (3) Professional Liability (Each Claim)	\$ 1,000,000
☐ B. (3) Professional Liability (Aggregate)	\$ 5,000,000
☐ B. (4) Pollution Liability (Each Claim)	\$ _____
☐ B. (4) Pollution Liability (Aggregate)	\$ _____
☐ B. (5) Consultant Equipment	Replacement Cost
☐ B. (6) Installation Floater	Replacement Cost

D. POLICY PROVISION REQUIRED

Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions and sent to SANDAG's insurance certificate review firm, hereinafter referred to as Ebix BPO, as described in section 4.F below. Notice of cancellation sent by registered mail, postage prepaid, with a return receipt of addresses requested shall be sufficient notice.

E. GENERAL REQUIREMENTS

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by SANDAG, or their insurance Consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including, but not limited to, the provisions concerning indemnification.

SANDAG reserves the right to withhold payments to Consultant in the event of material noncompliance with the insurance requirements outlined above.

Consultant shall procure and maintain the foregoing insurance coverage during the period of performance of this Agreement, and for twenty-four (24) months following completion of all work under this Agreement, from companies authorized to do business in California. Failure to provide and continue in force any insurance as described in the Insurance section shall be

deemed a material breach of this Agreement, which shall be deemed at SANDAG's option to constitute cause for immediate termination hereof.

Consultant is responsible for ensuring that its carrier(s) send Ebix BPO updated certificates of insurance throughout the term of the Agreement. The general liability and property damage insurance, as well as automobile liability insurance, shall include SANDAG as an additional insured. Consultant's automobile, general, and professional liability policies shall be primary insurance as to SANDAG so that any other coverage held by SANDAG shall not contribute to any loss under Consultant's insurance. Said policies must contain a provision that provides the insurance provided by the policy shall be primary and non-contributory to the full limits stated in the declarations, and if SANDAG, its Board of Directors, officers, employees, or agents have other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only.

Insurance required of the Consultant shall be provided by or in behalf of all subcontractors to cover their operations performed under this Agreement. Consultant shall not require subcontractors to maintain insurance amounts that are disproportionate to the scope and dollar value of work subcontracted. Consultant shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.

Any deductibles or self-insured retentions must be declared to and approved by SANDAG. If a self-insured retention is used, the policy must be endorsed to allow any insured entity to satisfy the retention for the purposes of triggering coverage. Consultant shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects SANDAG, its officers, officials, employees and volunteers. If Consultant is unable to reduce or eliminate such deductibles or retentions, Consultant shall provide a financial guarantee satisfactory to SANDAG guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The policy limit requirements set forth in this Agreement do not constitute a limit on Consultant's liability.

F. INSURANCE CERTIFICATE SUBMITTAL

SANDAG has contracted with Ebix BPO to automate its monitoring of certificates of insurance for compliance. The initial certificate of insurance shall be sent to SANDAG's Contract Administrator as a requirement to execute this Agreement. All future renewal certificates must be sent to Ebix BPO at the address shown below:

SANDAG
c/o Ebix BPO
Attn: Monica Vergara
P.O. Box 881639
San Diego, CA 92168-1639

Certificates of Insurance may also be uploaded to Ebix BPO at <https://www.trackcertsnow.com/tcn/faxUpload/faxUpload.jsp>, or sent by fax to Ebix at (877)-880-3490.

To ensure proper processing the following additional contact information is required for certificate submittal:

Contact Name: _____

Fax Number: _____

E-mail address: _____

Phone Number: _____

G. ADDITIONAL INSURED

The following persons must be named as additional insureds on the certificates of insurance for Commercial General Liability, property, and automobile policies: SANDAG, its Board of Directors, officers, employees, and agents. SANDAG may require additional entities to be named as additional insureds if work will be performed on the property of a third party or SANDAG member agency. Consultant is not required to have SANDAG named as an additional insured on workers' compensation, professional liability, or automobile liability policies.

5. TERMINATION OF AGREEMENT

- A.** SANDAG reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the Consultant, or upon thirty (30) calendar days' written notice to the Consultant if terminated for the convenience of SANDAG.

B. TERMINATION FOR CAUSE

SANDAG may terminate this Agreement and be relieved of any payments should the Consultant fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event SANDAG determines sufficient cause exists, SANDAG will send a notice to cure to the address set forth in this Agreement for Consultant. If Consultant fails to satisfactorily cure the problem(s) within ten (10) days of receiving written notice from SANDAG specifying the nature of the cause, SANDAG may immediately cancel and/or terminate this Agreement and every right of the Consultant and any person claiming any right by or through the Consultant under this Agreement.

Termination for cause also shall be merited in the event of a material breach of this Agreement. Events of material breach shall include, but not be limited to, failure to adhere to the Project time schedule, failure to maintain required insurance; bankruptcy; failure to pay any subcontractor or other company or person retained by Consultant in connection with this Agreement; Consultant fails to meet its DBE commitment; Consultant refuses or negligently fails, except in cases for which extension of time is provided by SANDAG, to supply sufficient properly skilled staff or proper materials to perform as required by this Agreement; or

Consultant negligently or intentionally disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction.

- (1) In the event of such termination, SANDAG may proceed with the work in any manner deemed proper by SANDAG. All actual and reasonable costs to SANDAG in the event of termination for cause ("termination costs") shall be deducted from any sum due the Consultant under this Agreement and the balance, if any, shall be paid to the Consultant upon demand. Termination costs include, but are not limited to, the cost of soliciting a new contractor and any increase in the fees that must be paid to the new contractor.
- (2) Consultant shall notify subcontractors and service or supply vendors providing services under this contract of the early termination date of this contract. Failure to notify any subcontractor and service or supply vendor shall result in the Consultant being liable for the termination costs incurred by any subcontractor and service or supply vendor for work performed under this contract, except those specifically agreed to in the termination notice to the Consultant.

C. EARLY TERMINATION OF THIS AGREEMENT OR TASK ORDER(S) OR WORK ORDER(S), OR SUSPENSION OF THIS AGREEMENT FOR CONVENIENCE

(1) General Conditions

SANDAG may terminate this Agreement, in whole or in part, at any time by written notice to the Consultant when it is in SANDAG's best interest. Consultant shall be paid its costs, including contract closeout costs and profit on work performed up to the time of termination. Consultant shall promptly submit its termination claim to SANDAG to be paid to Consultant. If Consultant has any property in its possession belonging to SANDAG, Consultant will account for the same and dispose of it in the manner that SANDAG directs. No billable costs will be considered payable during suspension.

(2) Consultant's Deliverables Under Early Termination

Consultant shall provide all Project-related documents and correspondence required as part of the Scope of Work/Deliverables or included in Task Orders or Work Orders. Project-related documents shall be described, listed, and identified as part of the final revised cost proposal. Project-related documents shall include all documents that are in complete and final form and which have been accepted as complete by SANDAG, or documents in draft and/or incomplete form for those deliverables which are in progress by the Consultant and have not been accepted as complete. All documents must be received and accepted before the settlement cost invoice is paid.

(3) Invoice Submittal Under Early Termination

Separate final invoices for Project-related costs and termination settlement costs shall be submitted no later than thirty (30) calendar days after the date Consultant is notified of acceptance of the final cost proposals by the Executive Director. The invoice for termination settlement costs shall include the following, to the extent they are applicable: Lease termination costs for equipment and facilities approved under the terms of the contract; equipment salvage costs for equipment valued over \$500; rental costs for unexpired leases, less the residual value of the lease; cost of alterations and

reasonable restorations required by the lease; settlement expenses, e.g., accounting, legal, clerical, storage, transportation, protection and disposition of property acquired or produced under the contract, indirect costs, such as payroll taxes, fringe benefits, occupancy costs, and immediate supervision costs related to wages and salaries, incurred as settlement costs.

(4) Cost Principles Under Early Termination

Termination settlement expenses will be reimbursed in accordance with 48 C.F.R., Federal Acquisition Regulations System, Part 31, except on negotiated contracts procured under a Request for Proposals, which shall instead be governed by 48 C.F.R., Part 15.

(5) Consultant Claims Under Early Termination

Consultant agrees to release SANDAG from any and all further claims for services performed arising out of this Agreement or its early termination, upon acceptance by Consultant of payment in the total amount agreed upon as full and final payment of its costs from performance and early termination of this Agreement or Task Order(s) or Work Order(s).

6. INDEMNIFICATION

- A. With regard to the Consultant's performance in connection with or incidental to this Agreement, but excluding its performance of professional services and the indemnification and hold harmless aspects thereto as set forth below, the Consultant agrees to defend, indemnify, protect and hold SANDAG and its Directors, officers, and employees as well as any additional insured identified in the Special Provisions for Service and/or Equipment Agreements (if attached), harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to the Consultant's or its subcontractors' employees, agents, or officers, which arise from or are connected with or are caused or claimed to be caused by the negligent, reckless, or willful acts or omissions of the Consultant and its subcontractors and their agents, officers, or employees, in performing the work or services herein, and all expenses of investigating and defending against same, including attorney's fees and costs; provided, however, that the Consultant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of SANDAG, its Directors, agents, officers, or employees.
- B. With regard to the Consultant's performance of professional services, the Consultant agrees to defend, indemnify, and hold harmless SANDAG, its Directors, officers, and employees, as well as any additional insured identified in the Special Provisions for Service and/or Equipment Agreements (if attached), from and against any and all claims, costs, suits, and damages, including, but not limited to, attorney's fees and losses or payments for injury to any person or property arising from the willful misconduct or negligent acts, errors, or omissions of the Consultant and/or its subcontractors associated with the Project.

- C. In addition to any other remedy authorized by law, so much of the money due Consultant under this Agreement as shall be considered necessary by SANDAG may be retained until disposition has been made of any claim for damages.
- D. This Section of the Agreement shall apply to all liability, regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant. This Section of the Agreement shall survive in perpetuity.

7. ASSIGNMENT AND SUBCONTRACTING

- A. Consultant shall not assign, sublet, or transfer (whether by assignment or novation) this Agreement, or any rights under or interest in this Agreement, without the written consent of SANDAG, which may be withheld for any reason, provided however, that claims for money due to Consultant from SANDAG under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished promptly to SANDAG in writing.
- B. Nothing contained herein shall prevent Consultant from employing independent professional associates, subcontractors, and consultants as Consultant may deem appropriate to assist in the performance of services hereunder. Consultant shall not, however, enter into any agreement to assign subcontracted work in connection with this Agreement without first obtaining SANDAG's written approval as to the Scope of Work and the subcontractor.
- C. If Consultant subcontracts any of the work to be performed under this Agreement, Consultant shall be as fully responsible to SANDAG for the acts, errors, or omissions of Consultant's subcontractor and of the persons employed by the subcontractor as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor of Consultant and SANDAG. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions stipulated in this Agreement to be applicable to the subcontractor, including, but not limited to, provisions pertaining to costs, records, and payment methods. Consultant shall bind every subcontractor and every subcontractor of a subcontractor to the terms of this Agreement, unless specifically noted to the contrary in the subcontract in question, approved in writing by SANDAG.
- D. All or part of the specified deliverables or Scope of Work in this Agreement may be assigned to the entities affected by California Senate Bill 1703 (2002 legislation), including the MTS of San Diego, and the NCTD. When services included in the Scope of Work of the Agreement are required by one of the transportation agencies in the region affected by SB 1703, the Agreement could be assigned in whole or in part to that agency upon mutual written agreement between SANDAG, the respective parties (assignee), and Consultant.

8. STANDARD OF CARE

- A. Consultant's services shall be performed in accordance with generally-accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily

exercised by members of the profession currently practicing under similar conditions. All services shall be performed to SANDAG's reasonable satisfaction.

- B. Neither SANDAG's review, approval, or acceptance of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance thereof; and the Consultant shall be, and remain liable to, SANDAG in accordance with applicable law for all damages to SANDAG by Consultant's errors or omissions deemed to be negligent performance of any of the services furnished under this Agreement. Errors or omissions identified in the Consultant's work product and deemed to be negligent shall be corrected upon written notification by the Project Manager, and no additional payment shall be made for said corrections. Corrections of errors or omissions to the Consultant's work product shall not limit enforcement of any other provision of this Agreement.
- C. Consultant acknowledges and understands that the data and/or information it collects and/or provides to SANDAG will be relied upon by SANDAG and other persons or entities that are now or will in the future be under contract with SANDAG. Should information derived and provided by Consultant be inaccurate and cause SANDAG to incur damages or additional expenses, SANDAG shall notify Consultant and Consultant shall immediately place any applicable insurance carrier on notice of a potential claim.
- D. Consultant shall comply with OSHA and CalOSHA regulations applicable to the Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by SANDAG or other government representatives. Consultant's personnel shall wear white hard hats and orange safety vests at all times while working on a construction Project site and/or within the vicinity of vehicular traffic.
- E. Consultant's performance will be evaluated by SANDAG. A copy of the evaluation will be sent to Consultant for comments. The evaluation, together with the comments, shall be retained by SANDAG. Interim or yearly evaluations may be performed by SANDAG; however, only the Final Consultant Evaluation at Contract Closeout will be kept by SANDAG.

9. NOTICES

All notices or other communications to either party by the other shall be deemed given when made in writing and deposited in the United States Post Office, addressed as follows:

To SANDAG:

San Diego Association of Governments (SANDAG)
Attention: Marney Cox
401 B Street, Suite 800
San Diego, California 92101

To Consultant:

As shown on front page.

10. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

- A. Consultants doing business with SANDAG must be equal opportunity employers who achieve or attempt to achieve parity in the representation of women and minorities in their workforce. A signed Equal Employment Opportunity Certificate – RFP Attachment 9 (Part 6) is a proposal submittal requirement and is a condition for contract award to Consultant.
- B. Consultant shall ensure equal employment opportunity for all persons. Consultant and its subcontractors shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, sexual orientation, national origin, ancestry, age, medical condition, physical or mental disability, Vietnam-era veteran or special disabled veteran status, marital status, or citizenship, within the limits imposed by law. These principles are to be applied by the Consultant in all employment practices, including recruiting, hiring, transfers, promotions, training, compensation, benefits, layoffs, and terminations.
- C. During the performance of this Agreement, Consultant agrees to comply with all the requirements imposed by Title VI and Title VII of the Civil Rights Act of 1964, as amended, and the regulations issued thereunder (Executive Order 11246), the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, and any other applicable federal and state laws and regulations subsequently enacted.
- D. Consultant shall report information to SANDAG regarding the makeup of the work force working on the Project on a quarterly basis. SANDAG shall either provide a form to Consultant for this purpose or a link to a Web page for reporting the necessary data.

11. CONFORMITY TO LEGAL REQUIREMENTS

- A. Consultant shall comply with all federal, state, and local laws and ordinances applicable to this Agreement. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code Section 1775 when applicable. Consultant shall cause all completed deliverables to conform to all applicable requirements of law: federal, state, and local.
- B. Consultant shall be aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, consultants, and subcontractors that are included in this Agreement.
- C. Consultant represents and warrants to SANDAG that it has all necessary licenses, permits, qualifications and approvals, of whatever nature, that are legally required for Consultant to practice its profession. Consultant further represents and warrants to SANDAG that it, at its sole cost and expense, shall keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are required for Consultant to practice its profession and/or perform services under this Agreement.

12. NOTICE OF POTENTIAL CLAIM FOR OUT-OF-SCOPE WORK

Consultant shall not be entitled to additional compensation for out-of-scope work unless it has given SANDAG a written notice of potential claim for any such work. The written notice of potential claim shall set forth the reasons for which the Consultant believes additional compensation will or may be due, the nature of the out-of-scope work involved, and, insofar as possible, the amount of the potential claim. The notice must be given to SANDAG prior to the time Consultant shall have performed the work if based upon an act or failure to act by SANDAG or, in all other cases, within fifteen (15) days after the happening of the event, thing, occurrence, or other cause giving rise to the potential claim.

It is the intention of this Section that any claim for out-of-scope work be brought to the attention of SANDAG at the earliest possible time in order that matters related to any such work can be settled in a prompt manner. Consultant hereby agrees that it shall have no right to additional compensation for any claim for out-of-scope work for which no written notice of potential claim as herein required was filed.

13. DISPUTES

- A. This Agreement shall be interpreted in accordance with the laws of the State of California.
- B. In the event Consultant has a dispute with SANDAG during the performance of this Agreement, Consultant shall continue to perform unless SANDAG informs Consultant in writing to cease performance. Consultant shall submit a statement of the grounds for the dispute, including all pertinent dates, names of persons involved, and supporting documentation to SANDAG's Project Manager. The Project Manager and other appropriate SANDAG staff will review the documentation in a timely manner and reply to Consultant within twenty (20) days. Upon receipt of an adverse decision by SANDAG, Consultant may submit a request for reconsideration to SANDAG's Executive Director. The request for reconsideration must be received within ten (10) days from the postmark date of SANDAG's reply. The Executive Director will respond to the request for reconsideration within ten (10) working days. The decision of the Executive Director will be final and in writing.
- C. If Consultant is dissatisfied with the results following exhaustion of the above dispute resolution procedures, Consultant shall make a written request to SANDAG for mediation. SANDAG shall respond to a request for mediation within thirty (30) calendar days. If SANDAG agrees mediation is appropriate, a mutually-acceptable mediator shall be selected by the parties, and the parties will proceed to mediation of the dispute.
- D. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, litigation and collection expenses, witness fees, and court costs as determined by the court.

14. LIMITATIONS ON USE

- A. The services hereunder are provided for the exclusive use of SANDAG, and such services, data, recommendations, proposals, reports, design criteria, and similar information provided

- by Consultant are not to be used or relied upon by other parties except as authorized by SANDAG.
- B. Consultant shall not use for financial gain, disclose, or make other improper use of privileged information that is acquired in connection with this Agreement. For purposes of this Agreement, "privileged information" includes, but is not limited to, trade secret information, medical records, personnel records, home addresses and phone numbers of any person, social security numbers, and knowledge of selections of contractors or subcontractors in advance of an official announcement by SANDAG.
 - C. All financial, statistical, personal, technical, or other data and information relative to SANDAG's or another entity's operations, which are designated confidential by SANDAG and made available to the Consultant in order to carry out this Agreement, shall be protected by Consultant from unauthorized use and disclosure.
 - D. Permission to disclose information on one occasion or public hearing relating to the Agreement shall not authorize the Consultant to further disclose such information or disseminate the same on any other occasion.
 - E. Consultant shall not comment publicly to the press or any other media regarding the Agreement, or SANDAG's actions on the same, without SANDAG's prior permission, except to SANDAG's staff, Consultant's own personnel involved in the performance of this Agreement, or at public hearings.
 - F. Consultant shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by SANDAG and receipt of SANDAG's written permission.
 - G. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.
 - H. Consultant is allowed to disclose information when required by law, rule, regulation, or court order upon notice to SANDAG sufficient to allow SANDAG to challenge such required disclosure.

15. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

- A. This Agreement will be funded in whole or in part by U.S. Department of Transportation funds. The applicable requirements are set forth below.
 - ☒ FHWA Funding Will Be Used – **Additional UDBE/DBE requirements related to this procurement are set forth in detail in the Standard Federal Provisions (FHWA) Non-Construction (Exhibit G to the Standard Services Agreement – RFP Attachment 18).**
 - ☐ SANDAG has not established an FHWA Underutilized DBE goal for this RFP; however, proposers are encouraged to obtain DBE participation.

- ☒ The FHWA UDBE contract-specific commitment for this Agreement is 3.88%. Ability to meet or attempt to meet goal must be documented.
- ☐ FTA Funding Will Be Used – **Additional UDBE/DBE requirements related to this procurement are set forth in detail in the Standard Federal Provisions (FTA) (Exhibit E to the Standard Services Agreement – RFP Attachment 18). NOT APPLICABLE.**
- ☐ SANDAG has not established a FTA DBE goal for this RFP; however, proposers are encouraged to obtain DBE participation.
- ☐ The FTA DBE contract-specific commitment for this Agreement is insert percentage% is to be met using minority-neutral means. No Good Faith Effort (GFE) documentation is required.
- B. Neither the Consultant, a subcontractor, nor any subrecipient shall discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 C.F.R., Part 26, in the award and administration of U.S. Department of Transportation-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 SANDAG deems appropriate.
- C. The Consultant shall include the above assurance in each subcontract it signs with a subcontractor.

16. RETENTION AND PROMPT PAYMENT

- A. The Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by SANDAG. The ten (10) days is applicable unless a longer period is agreed in writing. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with SANDAG's prior written approval.
- B. SANDAG shall hold a ten percent (10%) retention from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work **satisfactorily** completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with SANDAG's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- C. This Section applies to both DBE and non-DBE Consultants and subcontractors.

17. RECORDS RETENTION

Consultant shall maintain complete and accurate records with respect to actual time and allowable costs incurred under this Agreement. All such records shall be maintained on a generally-accepted accounting basis and shall be clearly identified. Consultant shall provide reasonable access to the representatives of SANDAG, or its designees, including representatives of the applicable government agencies if this Agreement is funded in whole or in part with state or federal funds, to such books and records and any other books, documents, papers, or records of the Consultant that are related to this Agreement. SANDAG, the State, the State Auditor, FHWA, FTA, or any duly authorized representative of the federal government having jurisdiction under federal laws or regulations shall have the right to examine and audit such books and records and to make transcripts or copies from them as necessary. Consultant shall allow inspection of all work data, documents, proceedings, and activities related to this Agreement for a period of five (5) years from the date of final payment under this Agreement. This Section must be included in any subcontract entered into as a result of this Agreement.

18. COVENANT AGAINST CONTINGENT FEES

- A. No elected official(s) of SANDAG or any of its member agencies, the State of California, or the United States government shall become directly or indirectly interested in or personally benefit from the financial proceeds of this Agreement or in any part of it. No officer or employee of SANDAG shall become directly or indirectly interested in or benefit from the financial proceeds of this Agreement or any part of it.
- B. Consultant warrants that its firm has not employed, retained, paid, or agreed to pay any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, SANDAG shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

19. OWNERSHIP OF DOCUMENTS AND OTHER WORK PRODUCT

- A. Tracings, plans, specifications, and maps prepared or obtained under the terms of this Agreement shall be delivered to and become the property of SANDAG. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under this Agreement shall be made available, upon request, to SANDAG without restriction or limitation on its use.
- B. Consultant agrees that any and all property rights, including intellectual property rights such as copyrights or patents that arise from creation of deliverables or other work products required by this Agreement shall be vested in SANDAG and hereby agrees to relinquish all claims to such property rights in favor of SANDAG.

- C. The term “deliverables” includes but is not limited to all original drawings, reports, and other documents, including detailed calculations, digital/electronic databases, source code, data sets, analyses, maps, and other work products developed for the Project. Unless otherwise directed in this document, the Consultant shall supply a minimum of three (3) hard copies of final documentation for each deliverable, along with two (2) copies on approved electronic media and in approved software. All text and data in the quantities requested shall be printed on 8-1/2” x 11” sheets. Foldouts should not exceed 11” x 17”. Hardcopies shall be housed in durable, three-ring binders with sufficient excess capacity for revisions and additions. Each deliverable shall contain a title sheet, table of contents, list of illustrations (if applicable), list of reference drawings (if applicable), and a parts list (if applicable). All submissions with over twenty-five (25) pages shall have an index. All submissions shall be produced in an approved Microsoft software product or approved equivalent. Acceptable softcopy formats are Microsoft Office 2003 Suite or higher, Microsoft Visio 2003 or higher, and AutoCad 14 or higher for prepared submittal documentation. Soft copies of submissions may be provided in unsecured PDF that is text searchable, as well as a Word document. In addition, all documentation and drafts that include discussion of Customs and Border Protection operations should comply with applicable HSPD-12 requirements.
- D. Consultant shall have the right to make a copy of the deliverables solely for the purpose of recordkeeping. Consultant may not sell, reuse, or distribute deliverables prepared under this Agreement in any form without SANDAG’s express written permission.
- E. SANDAG agrees to hold consultant harmless from any claims or damages caused by any use of such deliverables other than stipulated in the Scope of Work.

20. TIME

Consultant acknowledges that timely performance is an important element of this Agreement. Accordingly, the Consultant shall put forth its best efforts to complete its services in accordance with the agreed-upon schedule. It shall be the responsibility of Consultant to advise SANDAG on a monthly basis of the progress of its work, expenditures incurred, and information regarding whether the Project is projected to comply with the schedule and budget limits (Fee or Payment Schedule, Standard Services Agreement – Exhibit B and Schedule, Standard Services Agreement – Exhibit C). Consultant shall document the progress and results of work performed under this Agreement to the satisfaction of SANDAG and, if applicable, to the satisfaction of any government agency as directed by SANDAG. This may include progress and final reports, plans, specifications, estimates, or other evidence of attainment of the Agreement objectives.

21. CHANGES IN WORK

If changes in the work seem merited by Consultant or SANDAG, and informal consultations with the other party indicate that a change is warranted, it shall be processed by SANDAG in the following manner: A letter outlining the changes shall be forwarded to SANDAG by Consultant, but no statement of estimated changes in fee or time schedule shall be provided initially. The SANDAG Project Manager will prepare an independent cost estimate if he/she believes the additional work is needed. The SANDAG Project Manager will then request that Consultant provide an estimate of hours and costs for the change. If SANDAG determines the change is merited, is due to an unexpected circumstance, and was caused through no fault of the Consultant, an amendment to

the Agreement may be prepared by SANDAG following negotiation with the Consultant. SANDAG will not be required to pay for the changes in work unless the amendment is executed by both parties **before** performance of such services commences. **Consultant is expressly put on notice that no employee of SANDAG has authority to authorize, in writing or otherwise, any additional work that would increase the cost of this Agreement or an issued Task Order without SANDAG Executive Director approval.** Such an amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

22. FORCE MAJEURE

Either party is excused from performance hereunder if such non-performance results from acts of God, war, riots, acts of governmental authorities, or any other cause that could not have been overcome by the exercise of due diligence or planning by the non-performing party. In the event of the occurrence of a force majeure event, the party unable to perform shall promptly notify the other party. It shall further pursue its best efforts to resume performance as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.

23. ENTIRE AGREEMENT

This Agreement represents the entire understanding of SANDAG and Consultant as to those matters contained in it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by SANDAG and Consultant.

24. INCORPORATION OF EXHIBITS

A. SANDAG's Request for Proposals (RFP) and Consultant's proposal concerning the Project are hereby incorporated by reference except to the extent they may conflict with the terms of the Agreement. The following documents (exhibits to this Standard Services Agreement) also are attached and incorporated by reference if the box next to document title is marked:

- ☒ Exhibit A – Scope of Work
- ☒ Exhibit B – Fee or Payment Schedule
- ☒ Exhibit C – Schedule (if applicable)
- ☒ Exhibit D – Special Provisions for Service and/or Equipment Agreements
- ☐ Exhibit E – Standard Federal Provisions (FTA) NOT APPLICABLE
- ☐ Exhibit F – Federal Provisions for Procurements in Excess of \$100,000 (FTA) NOT APPLICABLE
- ☒ Exhibit G – Standard Federal Provisions (FHWA) Non-Construction
- ☒ Exhibit H – Final Report – Utilization of Disadvantaged Business Enterprises, First Tier Subcontractor Form (Standard Federal Provisions (FHWA) CEM-2402(F))
- ☒ Exhibit I – Disadvantaged Business Enterprises Certification Status Change Form CEM-2403(F)
- ☒ Exhibit J – Minority-Neutral/Minority-Conscious Disadvantaged Business Enterprises Monthly Participation Progress Report Form
- ☐ Exhibit K – (tbd) used for additional exhibits (e.g., grants, software agreements) - NOT APPLICABLE

- B. In the event of conflicting provisions, the following order of precedence will apply: 1) Standard Federal Provisions (FTA), (FHWA); 2) Federal Provisions for Procurements in Excess of \$100,000 (FTA); 3) Special Provisions for Service and/or Equipment Agreements; 4) the Standard Services Agreement; 5) the RFP; and 6) Consultant's proposal.
- C. Wherever the word "contractor" may appear in the attachments or exhibits to this Agreement, it should be read as the equivalent to the word "consultant." Wherever the words "bid" or "bidder" may appear in the attachments or exhibits to this Agreement, they should be read as the equivalent to the words "proposal" or "proposer."

25. ADMINISTRATION

Consultant proposes to assign name of person as its Project Manager to provide supervision and have overall responsibility for this Agreement for Consultant. The Project Manager shall not be removed from the Project or reassigned without prior approval of SANDAG. Consultant must obtain approval from SANDAG in writing before assigning a new Project Manager to the Project. No subcontracting of these professional services shall be made without prior approval of SANDAG.

26. HEADINGS

Section headings in this Agreement shall not be used to alter the plain meaning of the text in this Agreement.

27. PRESERVATION OF AGREEMENT

Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall be severable and enforceable.

28. SUCCESSORS OR ASSIGNS

All terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto, and each of their respective heirs, executors, administrators, successors, and assigns.

29. SIGNATURES

The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities. This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument.

**STANDARD SERVICES AGREEMENT – EXHIBIT A
SCOPE OF WORK**

**(See RFP Attachment 2 for draft Scope of Work,
the final Scope of Work for the Agreement will be inserted at the time of contract execution.)**

**STANDARD SERVICES AGREEMENT – EXHIBIT B
FEE SCHEDULE**

(The Final Fee Schedule for the Agreement will be inserted at the time of contract execution.)

**STANDARD SERVICES AGREEMENT – EXHIBIT C
SCHEDULE**

(If applicable)

**STANDARD SERVICES AGREEMENT – EXHIBIT D
SPECIAL PROVISIONS FOR SERVICE AND/OR EQUIPMENT AGREEMENTS**

THE SPECIAL PROVISIONS BELOW ARE INCORPORATED INTO THE AGREEMENT

OPTION TO EXTEND

Option To Extend For One To Six Additional Months At End Of Agreement. SANDAG shall have the option to extend the term of this Agreement in one or more increments for a total of no less than one (1) and no more than six (6) calendar months at the discretion of SANDAG. Each extension shall be effected by written unilateral Agreement amendment delivered to Contractor no less than fifteen (15) calendar days prior to expiration of any Agreement term. The rates set forth in the Agreement shall apply to any option exercised pursuant to this option clause unless provision for appropriate price adjustment has been made elsewhere in this Agreement or by Agreement amendment. All payments are subject to availability of funds from SANDAG.

CONFLICT OF INTEREST

- A. Contractor shall file a Conflict of Interest Statement with SANDAG's Executive Director if it is required by SANDAG's Conflict of Interest Code. Contractor is responsible for determining it is a "Consultant" for purposes of the Political Reform Act and such code, and for compliance with any applicable financial disclosure requirements. Contractor represents that, to its knowledge, entry into this Agreement will not result in a conflict of interest prohibited by California Government Code Section 1090 for SANDAG's employees or Board of Directors.
- B. Contractor shall not make or participate in making or in any way attempt to use Contractor's position to influence a governmental decision in which Contractor knows or has reason to know Contractor has a financial interest other than the compensation promised by this Agreement. Contractor represents that Contractor has diligently conducted a search and inventory of Contractor's economic interests, as defined in the regulations promulgated by the Fair Political Practices Commission, and has determined that Contractor does not, to the best of Contractor's knowledge, have an economic or organizational interest which would conflict with Contractor's duties under this Agreement. Contractor agrees to scrupulously avoid performing services for any person or entity or entering into any contractual or other relationship with any person or entity which might create a conflict with the rendering of services under this Agreement. Contractor will immediately advise the General Counsel of SANDAG if Contractor learns of an economic or organizational conflict of interest or other prohibited conflict of interest of Contractor's during the term of this Agreement.

ADDITIONAL INSUREDS

Section 4 F of the Standard Conditions of the Agreement is hereby amended to include the requirement that Contractor also name the following additional entity or entities as an additional insured on

Consultant's general and automobile liability policies upon request by SANDAG with regard to the entire Agreement or on applicable Task Orders as may be specified by SANDAG:

- Caltrans and its officers, employees, and agents.
- SCT and its officers, employees, and agents.
- Any other Project Partners that may be later identified by SANDAG.

SENSITIVE SECURITY INFORMATION

Contractor must protect, and take measures to ensure that its subcontractors at each tier protect, "sensitive security information" made available during the administration of the Contract. Such sensitive security information includes, but is not limited to, information obtained or developed in the conduct of security activities, including research and development, the disclosure of which the Secretary of the United States Department of Transportation has determined would (1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file); or (2) Reveal trade secrets or privileged or confidential information obtained from any person; or (3) Be detrimental to transportation safety. [49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R., Part 15; 49 U.S.C Section 114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CRF Part 1520].

AGREEMENT WITH FTA AND FHWA PROVISIONS

This Agreement requires the use of both FTA and Federal Highway Administration (FHWA) Standard Provisions. In case of a conflict between an FTA and FHWA provision, the U.S. Department of Transportation and/or the SANDAG Office of General Counsel may be consulted for a determination. For Buy America and Disadvantaged Business Enterprise requirements, both the FTA and FHWA provisions and certifications shall apply.

CONSULTANT USING SANDAG OFFICES

Consultant agrees that if its employees or employees of its subcontractors will work from SANDAG office space or have access to SANDAG servers, databases, or records storage areas it will cause those employees to do the following prior to the employee having access to any of the foregoing: a) complete a harassment and discrimination class no less often than every two years that contains the training components set forth in California Government Code section 12950.1 and acknowledge receipt of documentation from Consultant informing the employees that unlawful harassment and discrimination is prohibited when conducting business with SANDAG; b) acknowledge receipt of documentation from Consultant informing the employee that drug and alcohol use and violence are prohibited during work hours, including when conducting business with SANDAG; c) complete a training program regarding ethics and conflicts of interest that, at a minimum, informs the employee of his/her obligation to immediately report any potential or actual financial or organizational conflicts of interest with SANDAG to the SANDAG Project Manager; and d) agree to and execute the attached SANDAG Office Space User Agreement. Failure by Consultant, its subcontractors, or employees to comply with this Section of the Agreement shall be cause for termination of the Agreement for cause at SANDAG's sole discretion.

SANDAG OFFICE SPACE USER AGREEMENT

I, _____, ("contractor's employee"), am an employee of _____ ("contractor"). Contractor has been hired by SANDAG to provide services under SANDAG Contract No. _____ ("contract"). Contractor intends to have contractor's employee work from SANDAG's office space during portions of the contract term. In order to ensure that the staff and interests of SANDAG are protected, contractor's employee is required to agree to the following terms:

- A. Contractor's employee is not a SANDAG employee or agent and understands that he/she cannot act as a SANDAG representative or enter into any agreement or contract on behalf of SANDAG.
- B. Contractor's employee is not eligible for any SANDAG benefits. Contractor's employee may contribute to the SANDAG coffee fund if he/she chooses to use SANDAG break room supplies.
- C. Contractor's employee will maintain confidentiality and not disclose confidential information that he/she may have access to while working under the Contract. Contractor's employee may have access to databases and records storage areas that contain confidential information from law enforcement, records that could be used in an investigation or litigation, records containing bank and credit card account numbers, records specifically marked "trade secret" or "confidential," or personnel or identity information.
- D. Contractor's employee agrees that he/she is forbidden from accessing any confidential databases or records storage areas without specific authorization from a SANDAG manager. Contractor's employee may not disclose any confidential or sensitive information to contractor or any other entity or person who is not a SANDAG employee without first approval from the SANDAG Project Manager.
- E. Contractor's employee agrees that if at any point during the term of the contract he/she is working for an entity that is in litigation with or has an adversarial position to SANDAG, he/she must immediately notify the SANDAG Office of General Counsel.
- F. Contractor's employee will provide SANDAG with his/her home address and phone number in order to enable SANDAG to contact him/her in the event of an emergency such as a fire or security breach.
- G. Contractor's employee may purchase a parking card if he/she chooses to park in the SANDAG office building. SANDAG will not validate parking for contractor's employee or his/her guests.
- H. Contractor's employee may receive an ACCESS card and door security codes to the offices of SANDAG to be used only for the purposes of fulfilling his/her SANDAG-related business purposes on SANDAG premises. Contractor's employee has a duty to ensure that nonauthorized persons do not gain access through use by contractor's employee of his/her access privileges.
- I. Contractor's employee's access to SANDAG premises or other premises he/she may need to access to perform work under the contract is limited to the areas where he/she has official business and the common areas, such as break rooms.

- J. Contractor's employee will comply with SANDAG policies forbidding unlawful harassment and discrimination and acknowledges receiving training on harassment and discrimination prevention from contractor.
- K. Contractor's employee will comply with SANDAG policy prohibiting workplace violence.
- L. Contractor's employee will comply with the SANDAG policy prohibiting use of drugs or alcohol while performing work under the contract.
- M. Contractor's employee will report and seek to avoid any possible conflict of interest that may be presented by access to information because of his/her use of SANDAG office space. Contractor's employee acknowledges that he/she has received training from contractor regarding ethical business practices and avoidance of financial or organization conflicts of interest in accordance with the terms of the contract.
- N. Contractor's employee agrees that access to and use of SANDAG computer systems and other data may be restricted and will be monitored by SANDAG. Contractor's employee agrees to such monitoring.
- O. Contractor's employee will not use any SANDAG stationary, business cards, e-mail address signatures, or any other practice or methodology that may mislead the public into believing contractor's employee has an employment relationship with SANDAG or has authority to act on behalf of SANDAG.

By signing below I agree to all of the terms set forth in this agreement, which is effective this:

_____ day of _____, 20 _____

Contractor's Employee

**STANDARD SERVICES AGREEMENT – EXHIBIT E
STANDARD FEDERAL PROVISIONS (FTA)**

NOT APPLICABLE

**STANDARD SERVICES AGREEMENT – EXHIBIT F
FEDERAL PROVISIONS FOR PROCUREMENTS IN EXCESS OF \$100,000 (FTA)**

NOT APPLICABLE

STANDARD FEDERAL PROVISIONS – FEDERAL HIGHWAY ADMINISTRATION (FHWA) NON-CONSTRUCTION – EXHIBIT G

I. COMPLIANCE WITH FEDERAL HIGHWAY ADMINISTRATION (FHWA) REQUIREMENTS

This Agreement is subject to a financial assistance contract between SANDAG and FHWA. All references to "Contractor" herein shall refer to "Consultant" as defined in the Agreement.

II. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The federal government shall not be subject to any obligations or liabilities to any third-party contractor, or any other person not a party to the Grant Agreement or Cooperative Agreement between SANDAG and FHWA in connection with the performance of this Agreement. Notwithstanding any concurrence provided by the federal government in or approval of any solicitation, subagreement, or third-party contract, the federal government continues to have no obligations or liabilities to any party, including Consultant or any other third-party contractor.

III. FALSE OR FRAUDULENT STATEMENTS AND CLAIMS

The Contractor recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. Section 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R., Part 31, apply to its actions pertaining to this contract. Accordingly, by signing the Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the contract. In addition to other penalties that may be applicable, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claims, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the federal government deems appropriate.

The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government in connection with an urbanized area formula Project financed with federal assistance authorized by 49 U.S.C. Section 5307, the government reserves the right to impose on the Contractor the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1), to the extent the federal government deems appropriate.

IV. TITLE VI COMPLIANCE

During the performance of this contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

- A. **Compliance with Regulations.** The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

- B. **Nondiscrimination.** The Contractor, with regard to the work performed by it during the term of the Agreement, shall not discriminate on the grounds of race, religion, color, sex, age, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, religion, color sex, age, or national origin.
- D. **Information and Reports.** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the recipient, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. **Sanctions for Noncompliance.** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the recipient shall impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
1. Withholding of payments to the Contractor under the Agreement until the Contractor complies, and/or
 2. Cancellation, termination or suspension of the Agreement, in whole or in part.
- F. **Incorporation of Provisions.** The Contractor shall include the provisions of paragraphs A through F of this Section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as SANDAG or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request that SANDAG enter into such litigation to protect the interests of SANDAG, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

V. LABOR

During the performance of this Agreement, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, age, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without

regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.
- C. The Contractor will 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 said labor union or workers' representatives of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and with the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the FHWA and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part. The Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.
- G. The Contractor will include the provisions of paragraphs A through F herein, 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 11246 of September 24, 1965. Such provisions shall be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Secretary of Labor or the FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- H. H. Attention is also directed to the requirements of the California Fair Employment and Housing Act (Government Code Sections 12900 through 12996 - Stat. 1980, Chapter 992), to the regulations promulgated by the Fair Employment and Housing Commission to implement said Act, and to the

nondiscrimination, affirmative action and equal employment opportunity requirements in this Agreement.

VI. STANDARD EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

- A. In connection with the execution of this Agreement, the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.
- B. As used in this exhibit:
1. "Director" means the SANDAG Executive Director.
 2. "Employer Identification Number" means the federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 3. "Minority" includes:
 - a) African American (all persons having origins in any of the African American racial groups not of Hispanic origin);
 - b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - c) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands [this area includes China, Japan, Korea, the Philippine Islands, and Samoa]); and
 - d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- C. A single goal for minorities and a separate single goal for women may have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- D. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

- E. The Contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order No. 11246.
- F. The Contractor shall carry out such sanctions and penalties for violation of the provisions in this exhibit and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by SANDAG. If Contractor fails to carry out such sanctions and penalties it shall be in violation of the Agreement and Executive Order No. 11246 as amended.
- G. If the Contractor fails to comply with the requirements of the Executive Order, the Implementing Regulations, or the Agreement, SANDAG will retain an amount equal to ten percent (10%) of the estimated value of the work performed during the previous month (exclusive of mobilization) from the next monthly estimate, except that such retention shall not exceed \$10,000, nor be less than \$1,000. The retention for failure to comply with this section will be released on a monthly estimate for partial payments following the date that the Contractor fulfills its obligations under the provisions of this exhibit.
- H. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof and to keep records. Records shall at least include for each employee the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractor shall not be required to maintain separate records.
- I. Nothing herein provided shall be construed as a limitation upon the application of other laws that establish different standards of compliance.

VII. DISADVANTAGED BUSINESS ENTERPRISES

- A. SANDAG is a subrecipient of Federal Highway Administration funds through the California Department of Transportation (Caltrans). In conformance with Title 49 C.F.R., Part 26, and directives and guidance issued by Caltrans, dated March 4, 2009, SANDAG is required to implement a Minority-Conscious Disadvantaged Business Enterprise (DBE) program of limited application. The Minority-Conscious component of SANDAG's DBE program is limited to the four (4) Underutilized Disadvantaged Business Enterprise (UDBE) groups: (African American, Asian Pacific American, Native American, and Women) for FHWA-funded Projects.

The UDBE Commitment for this Agreement is 3.88%.

- B. This Project is subject to Title 49 C.F.R. 26.13(b) which states:

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

Contractor shall take necessary and reasonable steps to ensure that DBEs have an opportunity to participate in the Agreement (49 C.F.R. 26).

- C. To ensure there is equal participation of the DBE groups specified in 49 C.F.R. 26.5, SANDAG may have specified a goal for Underutilized Disadvantaged Business Enterprises (UDBEs) above in this Section. A UDBE is a firm that meets the definition of DBE and is a member of one (1) of the following groups:

1. African Americans
2. Native Americans
3. Asian Pacific Americans
4. Women

- D. References to DBEs include UDBEs, but references to UDBEs do not include all DBEs. UDBE goals and underutilized groups for SANDAG's FHWA DBE program may be different from the groups identified as underutilized and in need of a goal for purposes of FTA funding. Therefore, Contractor is hereby put on notice that if the Agreement is funded with both FTA and FHWA funds, the DBE and UDBE requirements may be different in each program and Contractor will be required to comply with both sets of requirements.

- E. Contractor must make work available to UDBEs and select work parts consistent with available UDBE subconsultants and suppliers. It is the Contractor's responsibility to verify that the UDBE firm is certified as a DBE at date of proposal submittal. For a list of DBEs certified by the California Unified Certification Program, go to:

www.dot.ca.gov/hq/bep/find_certified.htm

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

- G. Credit for materials or supplies Contractor purchases from UDBEs counts towards the goal in the following manner:

1. One hundred percent (100%) counts if the materials or supplies are obtained from a UDBE Manufacturer.

2. Sixty percent (60%) 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 C.F.R. 26.55(e) defines "Manufacturer" and "Regular Dealer."

[INTERNAL NOTE: INSERT THE FOLLOWING LANGUAGE IF CONSULTANT HAS PROPOSED TO UTILIZE UDBES IN THE PERFORMANCE OF THE AGREEMENT.]

- H. At the time of award, the Consultant committed to utilize UDBE(s) in the performance of this Agreement, and further agrees to ensure that UDBE subconsultant(s) listed on the Local Agency Proposer UDBE Commitment (Consultant Contracts) form – RFP Attachment 10 performs work or supply materials as reflected, unless otherwise directed and/or approved by SANDAG prior to the Consultant effectuating any changes to its minority-conscious UDBE participation commitment. Once Consultant has executed this Agreement with SANDAG, Consultant's UDBE Commitment will no longer be a goal; it will be a binding contractual obligation to use the firms listed in the Local Agency Proposer UDBE Commitment (Consultant Contracts) form – RFP Attachment 10 for the specified work. Failure to meet the UDBE Commitment will be considered a material breach of contract. SANDAG reserves the right to withhold payment from Consultant if Consultant cannot demonstrate it has or will meet its UDBE Commitment. SANDAG also reserves the right to debar a consultant that does not meet its UDBE Commitment.

OR

[INTERNAL NOTE: INSERT THE FOLLOWING LANGUAGE IF CONSULTANT HAS NOT PROPOSED TO UTILIZE UDBES IN THE PERFORMANCE OF THE AGREEMENT.]

- I. At the time of award, the Consultant did not commit to utilize UDBE(s) in the performance of this Agreement. In the event UDBEs are utilized in the performance of this Agreement, however, Consultant shall comply with all contractual and regulatory reporting requirements.
1. Whether or not Consultant committed to utilize UDBEs in the performance of this Agreement, Consultant shall have Minority-Conscious DBE Reporting Requirements following execution of the Agreement.
 2. Consultant shall complete and submit the following UDBE/DBE reporting forms and/or documents at the times specified:
 - a) If a DBE/UDBE subconsultant is decertified during the term of the Agreement, the decertified subconsultant shall notify the 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 Consultant in writing with the date of certification. The Consultant shall furnish the written documentation to SANDAG. A Disadvantaged Business Enterprises (DBE) Certification Status Change Form CEM-2403(F), Standard Services Agreement – Exhibit I, indicating the DBEs' existing certification status, shall be signed and certified correct by Consultant and shall be furnished to SANDAG within 90 days from the change in certification status.

- b) If the Consultant is a UDBE firm and/or has proposed to utilize UDBE firms, the Consultant shall complete and submit to SANDAG by the 15th of each month, the Minority-Neutral/Minority-Conscious Disadvantaged Business Enterprises (DBE) Monthly Participation Progress Report Form, Standard Services Agreement – Exhibit J until completion of the term of the Agreement to facilitate reporting of DBE participation, which shall include, but not limited to:
- Name of each DBE/UDBE subconsultant;
 - Type of work performed by each subconsultant;
 - Original subcontract value for each DBE/UDBE;
 - The dollars paid to each DBE/UDBE subconsultant during the reporting period;
 - The dollars paid to date for each DBE/UDBE subconsultant; and
 - Proof of payment to DBE/UDBE subconsultant must accompany the report submittals.
- c) Upon completion of the term of the Agreement, the Consultant will be required to prepare and submit to SANDAG, a Minority-Neutral/Minority-Conscious Disadvantaged Business Enterprises (DBE) Monthly Participation Progress Report Form, Standard Services Agreement – Exhibit J clearly marked “Final” to facilitate reporting and capturing actual UDBE minority-conscious utilization.
- d) Consultant is advised not to count the participation of UDBE subconsultants until the dollar amount being counted toward the UDBE participation has been paid to the UDBE.
- e) The Consultant shall submit to SANDAG copies of all executed UDBE subcontracts and/or UDBE purchase orders (PO) within fourteen (14) working days after Consultant executes its subcontract or PO with the UDBE firm. Consultant shall include in all executed UDBE/DBE and non-DBE subcontracts the nondiscrimination statements set forth in this exhibit.
- f) Upon completion of the term of the Agreement, Consultant must submit to SANDAG a Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractor Form (Standard Federal Provisions (FHWA) CEM-2402(F), Standard Services Agreement –Exhibit H and certified correct by the Consultant's authorized representative, and shall be furnished to SANDAG. The form shall be furnished to SANDAG within ninety (90) days from the date of contract acceptance. The amount of \$10,000 will be withheld from payment until a satisfactory form is submitted. Failure to submit required DBE reports may result in the delay of processing Consultant's invoices for payment.
- g) The subconsultant listed by Consultant in its Subconsultant List – RFP Attachment 4 shall list therein the name and address of each subconsultant to whom Consultant proposed 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 the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code. Consultant should be familiar with other provisions of the Act related to the

imposition of penalties for a failure to observe its provisions by using unauthorized subconsultants or by making unauthorized substitutions.

- h) DBEs/UDBEs must perform work or supply materials as listed in the Local Agency Proposer - UDBE Commitment form – RFP Attachment 10) and Local Agency Proposer DBE Information (Consultant Contracts) form – RFP Attachment 11 specified under Section VIII “Disadvantaged Business Enterprises” of this Request for Proposal. Consultant shall not terminate a UDBE listed subconsultant for convenience and perform the work with its own forces or obtain materials from other sources without prior written authorization from SANDAG.
- i) SANDAG will grant authorization to use other forces or sources of materials for requests that show any of the following justifications:
 - Listed UDBE fails or refuses to execute a written contract based on plans and specifications for the Project.
 - Consultant stipulates that a bond is a condition of executing the subcontract and the listed UDBE fails to meet the bond requirements.
 - Work requires a contractor’s license and listed UDBE does not have a valid license under Contractors License Law.
 - Listed UDBE fails or refuses to perform the work or furnish the listed materials.
 - Listed UDBE’s work is unsatisfactory and not in compliance with its contract.
 - Listed UDBE delays or disrupts the progress of the work.
 - Listed UDBE becomes bankrupt or insolvent.
- j) Consultant should not substitute key personnel (Project Manager and others listed by name in the cost proposal) or subcontractors without prior written approval from SANDAG. Consultant must request and justify the need for the substitution and obtain approval from SANDAG prior to use of a different subcontractor. The proposed substituted person or firm must be as qualified as the original, and at the same or lower cost. For engineering types of consultant contracts, the consultant’s Project Manager must be a registered Engineer in the State of California.
- k) If a listed UDBE subconsultant is terminated, you must make good faith efforts to find another UDBE subconsultant to substitute for the original UDBE. For more detailed information, see Notice to Proposers Regarding Disadvantaged Business Enterprise Requirements and Instructions (FHWA) – RFP Attachment 15. The substitute UDBE must perform at least the same amount of work as the original UDBE under the Agreement 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. SANDAG does not pay for work or material unless it is performed or supplied by the listed UDBE, unless the UDBE is terminated in accordance with this section.

J. DBE/UDBE Crediting Provisions

1. A DBE/UDBE must be a small business concern as defined pursuant to Section 3 of U.S. Small Business Act and relevant regulations promulgated pursuant thereto.

2. A DBE/UDBE may participate as the Consultant, subconsultant, joint venture partner or supplier. A proposed DBE/UDBE must be responsible for a commercially useful function (i.e., a distinct element of the actual Scope of Work) and must carry out its responsibility by actually performing, managing, and supervising such work; in order to be credited toward DBE/UDBE participation.
3. Only work proposed to be performed by a DBE's/UDBE's own workforces (including cost of supplies, materials and equipment leases) obtained by the DBE/UDBE for the work of under the Agreement, except supplies and equipment the subconsultant purchases and/or leases from Consultant or its affiliate may be counted.
4. When a DBE/UDBE subcontracts part of its Agreement work to another firm, the value of the subcontracted work may be counted only if the DBE/UDBE subconsultant is itself a certified DBE. Work that a DBE/UDBE subcontracts to a non-DBE/UDBE firm cannot be credited. A DBE/UDBE shall perform at least thirty percent (30%) of the total cost of its contract with its own workforce.
5. When a DBE/UDBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the UDBE performs with its own forces towards UDBE participation.
6. Consultant must calculate credit for participation of DBE/UDBE vendors of equipment, materials, and supplies, as follows:
 - a) Sixty percent (60%) of expenditures(s) for equipment, materials and supplies required under the contract, obtained from a Regular Dealer; or
 - b) One hundred percent (100%) of expenditure(s) for equipment, materials and supplies, obtained from a UDBE Manufacturer.

For purposes of this section, a DBE/UDBE Manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications.

A DBE/UDBE Regular Dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a Regular Dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

Credit for materials or supplies purchased from a DBE/UDBE that is neither a Manufacturer nor a Regular Dealer will be limited to the entire amount of the fees or commission charged for assistance in the procurement of the materials and supplies or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services. The cost of materials or supplies is not counted in this instance.

7. The following types of fees or commissions paid to DBE/UDBE subconsultants, brokers, and packagers may be counted, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work including:
 - a) Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract;
 - b) Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the Manufacturer of, or a Regular Dealer in, the material and supplies.
 - c) Fees and commissions charged for providing any insurance specifically required for performance of the contract.

K. Additional Assurances and Consultant Obligations

1. Consultant shall include in each subcontract the Consultant signs with a subcontractor language providing for the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes.
2. In the event the Consultant identifies additional UDBE subconsultants not previously identified by Consultant for minority-conscious UDBE participation under the contract, Consultant shall notify SANDAG in writing in a timely manner. Such notification will enable SANDAG to capture all minority-conscious UDBE participation. Consultant shall submit, for each UDBE identified after contract execution, a written confirmation from the UDBE acknowledging that it is participating in the contract for a specified value, including the corresponding Scope of Work.
3. Consultant shall not make any falsification of a subcontract agreement as to subconsultant's name, subcontract amount, and/or actual work to be performed by UDBE firms.
4. As with all subconsultants, Consultant shall make timely payments of all monies due and owing to DBE/UDBE subconsultants in accordance with the prompt payment provisions.
5. Consultant is responsible for verifying and monitoring the eligibility certification status of its UDBE subconsultants and suppliers during the term of the Agreement.
6. Noncompliance by the Consultant with the requirements of the Regulations is a material breach of this Agreement and may result in termination of the Agreement or other such remedy as SANDAG deems appropriate.
7. Consultant and subconsultants are encouraged to use services offered by financial institutions owned and controlled by DBEs/UDBEs.

L. Commercially Useful Function Standards

1. A DBE/UDBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE/UDBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE/UDBE is performing a commercially useful function, SANDAG will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE/UDBE credit claimed for its performance of the work, and other relevant factors.
2. A DBE/UDBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or Project through which funds are passed in order to obtain the appearance of DBE/UDBE participation. In determining whether a DBE/UDBE is such an extra participant, SANDAG must examine similar transactions, particularly those in which DBEs/UDBEs do not participate.
3. If a DBE/UDBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own workforce, or the DBE/UDBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, one must presume that it is not performing a commercially useful function.
4. When a DBE/UDBE is presumed not to be performing a commercially useful function as provided in the previous bullet, the DBE/UDBE may present evidence to rebut this presumption. SANDAG may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.
5. SANDAG's decisions on commercially useful function matters are subject to review by FHWA and Caltrans.

M. UDBE/DBE "Fronts" and Frauds

Only legitimate UDBEs/DBEs are eligible to participate in any federally funded contract. Therefore, proposers are cautioned against knowingly and willingly using "fronts" or doing business with UDBEs/DBEs in a manner, which could compromise the UDBE's/DBE's continued eligibility and UDBE participation credit. The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Further, any indication of fraud, waste, abuse or mismanagement of federal funds should be immediately reported to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline (800) 424-9071.

VIII. MISCELLANEOUS

A. Taxes

SANDAG is not exempt from sales taxes.

B. Environmental Violations

For all contracts and subcontracts in excess of \$100,000, Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 H), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations (40 C.F.R., Part 15) which prohibit the use under nonexempt federal contracts, grants or loans, of facilities included on the EPA List for Violating Facilities. Contractor shall report violations to FHWA and to the USEPA Assistant Administrator for Enforcement (EN0329).

The Contractor and suppliers shall submit evidence that the governing air pollution criteria will be met. This evidence will be retained for on-site examination by FHWA.

C. Energy Efficiency

The Contractor shall comply with the California State Energy Conservation Act issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

D. Prohibited Interests

No member, officer, or employee of a local public body, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. No member or delegate to the Congress of the United States shall be admitted to a share or part of this Agreement or to any benefit arising there from.

E. Buy America

Contractor should be familiar with the "Buy America" requirements of the Surface Transportation Assistance Act of 1982 (Section 165) and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) Sections 1041(a) and 1048(a), and the regulations adopted pursuant thereto and set forth in Federal Form 1273. Information on "Buy America" requirements is available for review at the SANDAG office. In conformance with the law and regulations, all manufacturing processes for steel and iron materials furnished for incorporation into the work on this Project shall occur in the United States; with the exception that pig iron and processed, pelletized and reduced iron ore manufactured outside of the United States may be used in the domestic manufacturing process for such steel and iron materials. The application of coatings, such as epoxy coating, galvanizing, painting, and other coating that protects or enhances the value of steel or iron materials shall be considered a manufacturing process subject to the "Buy America" requirements.

A Certificate of Compliance shall be furnished for steel and iron materials. The certificates, in addition to certifying that the materials comply with the specifications, shall specifically certify that all manufacturing processes for the materials occurred in the United States, except for the above exceptions.

The requirements imposed by the law and regulations do not prevent a minimal use of foreign steel and iron materials if the total combined cost of the materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. The Contractor shall furnish the Engineer acceptable documentation of the quantity and value of the foreign steel and iron prior to incorporating the materials into the work.

F. Cargo Preference – Use of U.S. Flag Vessels

Contractor agrees:

1. To utilize privately owned United States flag commercial vessels to ship at least 50 percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whether shipping any equipment, materials, or commodities pursuant to this Section, to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.
2. To furnish within thirty (30) days following the date of loading for shipment originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 1 above to the Project Manager (through the prime contractor in case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20230, marked with appropriate identification of the Project.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this clause.

G. Statement of Eligibility

Contractor shall execute the Eligibility Certificate for Federally Funded Projects which is Part 1 of the Certifications for Federally Funded Contracts – RFP Attachment 9. The Contractor also shall have executed by its subcontractors a Subconsultant's Statement of Eligibility, which is Part 4 of the Certifications for Federally Funded Contracts – RFP Attachment 9 for each designated subcontractor. All Subcontractor's Statement of Eligibility forms will be made a part of the Agreement.

H. Clean Air and Water Requirements

Contractor shall comply with Section 508 of the federal Clean Water Act and Section 306 of the federal Clean Air Act.

I. Debarred Bidders (49 C.F.R., PART 29)

Contractor, including any of its officers or holders of a controlling interest, is obligated to inform the recipient whether or not it is or has been on any debarred bidder's list maintained by the United States Government. Should the Contractor be included on such a list during the performance of this Project, it shall so inform SANDAG.

Contractor shall include in all contracts with designated subcontractors, an obligation to declare whether or not the subcontractor, including any of its officers or holders of a controlling interest, is or has been on any debarred bidder's list maintained by the United States Government. Should a subcontractor be included on such a debarred bidder's list in the past, is now on such a list, or is placed on such a list during the performance of this Agreement, it shall so inform the Contractor. Contractor shall notify SANDAG of any subcontracts with debarred contractors.

J. Audit and Inspection of Records

Contractor agrees that SANDAG, the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts with regard to the Project. Further, Contractor agrees to maintain all required records for at least three (3) years after grantees make final payments and all other pending matters are closed.

K. Privacy

To the extent that Contractor at any tier, any subcontractor at any tier, or their employees administers any system of records on behalf of the federal government, the contractor at any tier, and their employees with the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. Section 552 (the Privacy Act).

L. Energy Conservation

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable state energy conservation plans issued in compliance with the Energy Policy and Conversation Act, 42 U.S.C. Section 6321 et seq.

M. Access Requirements for Persons with Disabilities

Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; 49 U.S.C. Section 5301(d); and the following federal regulations, including any amendments thereto:

- DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R., Part 37
- DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R., Part 27
- DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for transportation Vehicles," 49 C.F.R., Part 38
- DOT regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R., Part 35
- DOT regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R., Part 36
- GSA regulations, "Accommodations for the Physically Handicapped," 41 C.F.R., Subpart 101-19
- Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R., Part 1630

- Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R., Part 64, Subpart F

N. Federal Changes

Contractor shall at all times comply with all applicable FHWA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in Federal Form 1273 or this Agreement, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor's failure to so comply shall constitute a material breach of this Agreement.

O. Subletting or Assigning the Contract

1. Contractor shall perform with its own organization contract work amounting to not less than thirty percent (30%) (or a greater percentage if specified elsewhere in the contract) of the total original Agreement price, excluding any specialty items designated by SANDAG or Caltrans. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by its own organization (23 C.F.R. 635).
 - a) "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.
 - b) "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The Agreement amount upon which the requirements set forth in this subsection are computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. Contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the Agreement requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the Director determines is necessary to assure the performance of the Agreement.
4. No portion of the Agreement shall be sublet, assigned or otherwise disposed of except with the written consent of the Director, or authorized representative, and such consent when given shall not be construed to relieve Contractor of any responsibility for the fulfillment of the Agreement. Written consent will be given only after the Director has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the Agreement.

P. Safety: Accident Prevention

1. In the performance of this Agreement, Contractor shall comply with all applicable federal, state, and local laws governing safety, health, and sanitation (23 C.F.R. 635). Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SANDAG Project Manager may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the Agreement.
2. It is a condition of this Agreement, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this Agreement, that Contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 C.F.R. 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).
3. Pursuant to 29 C.F.R. 1926.3, it is a condition of this Agreement that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

Q. False Statements Concerning Highway Projects

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on federal-aid highway Projects, it is essential that all persons concerned with the Project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the Project is a violation of federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each federal-aid highway project (23 C.F.R. 635) in one or more places where it is readily available to all persons concerned with the Project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or

materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

R. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

By signing and submitting its proposal, Contractor provided the certification set out below and reaffirms it by executing the Agreement. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this Agreement. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with SANDAG's determination whether to enter into this Agreement. Contractor's failure to furnish a certification or an explanation shall disqualify such firm/person from participation in this Agreement.

1. The certification in this subsection is a material representation of fact upon which reliance was placed when SANDAG determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Caltrans or SANDAG may terminate this Agreement for cause of default.
2. Contractor shall provide immediate written notice to SANDAG if at any time Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this subsection and the Debarment and Suspension Certificate, which is Part 3 of the Certifications for Federally Funded Contracts – RFP Attachment 9, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. Contractor may contact SANDAG for assistance in obtaining a copy of those regulations.
4. Contractor agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Agreement, unless authorized by SANDAG.
5. Contractor further agrees that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided in this Agreement, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous.

A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized by SANDAG, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, SANDAG may terminate the Agreement for cause or default.

S. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Primary Covered Transactions

Consultant certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three (3)-year period preceding submission of its proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses; and
4. Have not within a three (3)-year period preceding submission of its proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
5. Where Contractor is unable to certify to any of the statements in this certification, such prospective participant shall provide SANDAG a written explanation prior to execution of the Agreement.

T. Instructions for Certification - Lower Tier Covered Transactions:

(Applicable to all subcontracts, purchase orders, and other lower-tier transactions of \$25,000 or more - 49 C.F.R. 29)

1. The certification in this clause is a material representation of fact upon which reliance was placed when this Agreement or a related contract was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition

to other remedies available to the federal government, Caltrans or SANDAG with which this Agreement originated may pursue available remedies, including suspension and/or debarment.

2. The prospective lower tier participant shall provide immediate written notice to the person to which its bid/proposal was submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
 3. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
 4. The prospective lower tier participant agrees by submitting its bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by SANDAG.
 5. The prospective lower tier participant further agrees by submitting a bid/proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
 6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
 7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 8. Except for transactions authorized by SANDAG, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, Caltrans or SANDAG may pursue available remedies, including suspension and/or debarment.
- U. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions
1. The prospective lower tier participant certifies, by submission of its bid/proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its bid/proposal.

Consultant: consultant_name

Contract Number: 5001572

File Number: file_no

STANDARD SERVICES AGREEMENT – EXHIBIT H**FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONSULTANTS**

(FEDERALLY FUNDED PROJECTS) – CEM-2402(F)

Contract Number	County	Location	Project Description	Federal Aid Project #	Administering Agency	Contract Completion Date					
Prime Consultant			Business Address			Final Contract Amount \$					
						Federal Share \$					
Item Number	Description of Work Performed and Materials Provided	Subconsultant Name and Business Address	DBE Certificate No. and Expiration Date	Contract Payments						Date Work Complete	Date of Final Payment
				Non-DBE	DBE	BA UDBE	APA UDBE	NA UDBE	W UDBE		
Original Commitment				Total	\$	\$	\$	\$	\$	\$	
\$											
						BA - African American		NA - Native American			
						APA - Asian-Pacific Islander		W - Woman			

* The decision of which column to be used for entering the UDBE/DBE dollar value is based on what program(s) the firm is certified. This program status is determined by the Civil Rights Certification Unit based on ethnicity, gender, ownership, and control issues at time of certification. The certified firm is issued a certificate by the Civil Rights Unit that states their program status as well as the firm's expiration date. DBE program status may be obtained by accessing the Civil Rights Web site (www.dot.ca.gov/hq/bep/) and downloading the Calcert Extract or by calling (916) 227-2207.

DBE, SWBE

DBE, SMBE, SWBE

List all first-tier subconsultants, DBEs, and Underutilized DBEs, regardless of tier, whether or not the firms were originally listed for goal credit. If actual UDBE utilization (or item of work) was different than that approved at time of award, provide comments on a separate page. List actual amount paid to each entity.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONSULTANT REPRESENTATIVE SIGNATURE

BUSINESS PHONE NUMBER

DATE

TO THE BEST OF MY KNOWLEDGE THE ABOVE INFORMATION IS COMPLETE AND CORRECT

SANDAG PROJECT MANAGER'S SIGNATURE

BUSINESS PHONE NUMBER

DATE

Consultant: consultant_name

Contract Number: 5001572

File Number: file_no

STANDARD SERVICES AGREEMENT – EXHIBIT I

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

CERTIFICATION STATUS CHANGE

CEM-2403(F) (REV 4/2005)

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

CONTRACT NUMBER	COUNTY	ROUTE	POST MILES	ADMINISTERING AGENCY	CONTRACT COMPLETION DATE	
PRIME CONTRACTOR			BUSINESS ADDRESS	ESTIMATED CONTRACT AMOUNT \$		
The Contractor: List all DBE's with change in certification status (certified/decertified) while in your employ, whether or not firms were originally listed for goal credit. Attach DBE certification/decertification letter in accordance with the Special Provisions.						
CONTRACT ITEM NO.	SUBCONTRACTOR NAME AND BUSINESS ADDRESS		BUSINESS PHONE	CERTIFICATION NUMBER	AMOUNT PAID WHILE CERTIFIED	CERTIFICATION/ DECERTIFICATION DATE Letter attached
						☐
						☐
						☐
						☐
						☐
						☐
						☐
						☐
						☐
						☐
						☐
						☐
COMMENTS:						
I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT						
CONTRACTOR REPRESENTATIVE'S SIGNATURE			TITLE	BUSINESS PHONE NUMBER	DATE	
TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS COMPLETE AND CORRECT						
RESIDENT ENGINEERING'S SIGNATURE				BUSINESS PHONE NUMBER	DATE	

STANDARD SERVICES AGREEMENT – EXHIBIT J

**Minority-Neutral/Minority-Conscious Disadvantaged Business Enterprises
Monthly Participation Progress Report**

Contract Number	Reporting Period (1)	UDBE Goal For This Contract		Committed UDBE Goal		Contract Award Date		Contract Completion Date	
Prime Contractor/Consultant/Supplier		Prime Invoice Number		Prime Invoice Amount \$		Original Contract Amount \$		Final Contract Amount (2) \$	
		CONTRACT PAYMENTS TO DBE/UDBE SUBCONTRACTORS/SUBCONSULTANTS/SUPPLIER							
		Status (check "X" here)		DBE/UDBE Participation					
Description Of Work Performed And Material Provided	Name of DBE/UDBE Subcontractor (3)	DBE	Other Minority Group (4)	Dollar Amount Paid To Each DBE Prior Period	Dollar Amount Paid To Each DBE This Period	Dollar Amount Paid To Each DBE To Date	Minority - Conscious UDBE (5) (check here)	Minority- Neutral DBE (6) (check here)	DBE Certification Number And Expiration Date
Total Payments (7)		\$	\$	\$	\$	\$	DBE Goal Attainment _____		

(1) This report must be submitted by the Contractor with each invoice or request for payment under this contract.

(2) Final contract amount will include amendments.

(3) List First Tier DBE Subconsultants and their respective item(s) of work only. The information shall be consistent with the names and items of work in the "Subcontractor/Subconsultant List" submitted with your SOQ or Proposal.

(4) Other Minority Groups: State Minority Business Enterprises (SMBE), State Women-Owned Business Enterprises (SWBE).

(5) Minority-Conscious: UDBE participation that was utilized specifically to meet the proposed contract goal or portion thereof.

(6) Minority-Neutral: DBE participation that would have been utilized in the absence of any contract goal provisions.

(7) DBE payment amount will be used to calculate DBE Goal Attainment for this period.

Comments/Issues:

I certify under penalty of perjury that payments to subcontractors/subconsultants and suppliers have been made from previous payments received under this Project, and timely payments have been made in accordance with the Prompt Payment Provisions set forth in SANDAG's DBE Program and the California Public Contract and Business Professions Codes.

Contractor/Consultant/Supplier Representative's Signature / Title	Business Contact Numbers	Date:
	Phone:	
	E-mail:	

INTENTIONALLY LEFT BLANK