

The following is a list of documents which should be included in your Internet Package.

Form Name	Attachment No	# Pages
Request for Proposal- Cover Letter		1
Request for Proposal		18
Cost Proposal Worksheet	1	2
Contractor Certification Clauses (CCC-307)	2	4
Subcontracting Provisions/List, ADM 1511	3	1
Notice to Bidders/Proposers Disadvantaged Business Enterprise (DBE) and Underutilized DBE (UDBE) Participation Goal including:	4	7
• DBE/UDBE Participation Information and Instructions		3
• DBE Information/UDBE Participation ADM 0227F		5
• Bidder/Proposer UDBE Good Faith Efforts Documentation ADM 0312F		
Sample Task Proposal	5	5
Proposal/Proposer Certification Sheet	6	2
Criteria for Evaluation of Consultant Written Technical Proposal	7	2
Reference Letter	8	1
Darfur Contracting Act	9	1
Required Attachment Checklist	10	2
Accounting and Audit Guidelines	11	5
Proposed Form of Agreement, STD 213	12	30

DEPARTMENT OF TRANSPORTATION

DIVISION OF PROCUREMENT AND CONTRACTS MS-65
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June 7, 2011

**REQUEST FOR PROPOSAL
Notice to Prospective Proposers
RFP Number 74A0607**

You are invited to review and respond to this Request for Proposal (RFP) Number 74A0607, entitled, Public Engagement. In submitting your proposal, you must comply with the instructions found herein.

The Department of Transportation (Caltrans) wants to encourage Disadvantaged Business Enterprise (DBE) to submit proposals to ensure the participation of DBEs in the performance of contracts financed in whole or in part with Federal Funds achieve its federally mandated Statewide overall goal, as defined in 49 Code of Federal Regulations 26.

The Underutilized Disadvantaged Business Enterprises (UDBE) Participation Program applies and a five (5%) goal is required for this RFP. See Section C, in this RFP for requirements.

Note that all contract entered into with Caltrans will include, by reference, General Terms and Conditions (GTC) and Contractor Certification Clause (CCC) that may be viewed and downloaded at Internet site <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

The designated contact person for this RFP is:

Lindy K. Wilson
Department of Transportation (Caltrans)
Area Code & Telephone Number (916) 227-6042
Area Code & Fax Number (916) 227-6007
Email: lindy_wilson@dot.ca.gov

Please note that no *verbal* information given will be binding upon Caltrans unless such information is issued in writing as an official addendum.

*Technical questions regarding this solicitation will be addressed, in writing, in accordance with the Questions and Answers portion of this RFP. See Section B, Questions and Answers for more details.

Table of Contents

SECTION	PAGE
A) Purpose and Description of Service	2
B) Proposal Requirements and Information	4
1. Time Schedule	4
2. Questions and Answers	4
3. Technical Proposal Requirements	4
4. Cost Proposal Requirements	8
5. Darfur Contracting Act	10
6. Submission of Proposal	10
7. Evaluation Process	13
8. Award and Protest	15
9. Disposition of Proposals	16
10. Standard Conditions of Service	16
C) Special Program(s)	17
1. Disadvantaged Business Enterprise (DBE) Program	17
Attachments	
1. Cost Proposal Worksheet	
2. Contractor Certification Clauses (CCC 307)	
3. Subcontracting Provisions/List, ADM 1511	
4. Notice to Bidders/Proposers Disadvantaged Business Enterprise (DBE) and Underutilized DBE (UDBE) Participation Goal including: <ul style="list-style-type: none"> • DBE/UDBE Participation Information and Instructions • DBE Information/UDBE Participation ADM 0227F • Bidder/Proposer UDBE Good Faith Efforts Documentation ADM 0312F 	
5. Sample Task Proposal	
6. Proposal/Proposer Certification Sheet	
7. Criteria for Evaluation of Consultant Technical Proposals	
8. Reference Letter	
9. Darfur Contracting Act	
10. Required Attachment Checklist	
11. Accounting and Audit Guidelines	
12. Proposed Form of Standard Agreement, STD 213	

A) Purpose and Description of Services

Refer to the Proposed Form of Agreement, which is attached to this RFP as **Attachment 12 (Exhibit A)**.

Background

Caltrans seeks to enhance public outreach by facilitating public engagement in the Department's transportation planning activities. Federal law requires the Department to consult with the public, local officials and Metropolitan Planning Organizations (MPO). Furthermore, public involvement in transportation planning efforts requires early and continuous public participation, which is key in gaining widespread support of the Department's planning and programming efforts, and in enhancing local and public support while minimizing opposition to these efforts.

Polls across the country and throughout this state have also highlighted the public's concerns over land use and transportation issues, concerns that empowered the public in general to make historic advances in their levels of involvement. Caltrans recognizes the need for the continued attention to public involvement in the earliest planning stages—before a project is designed unalterably or without extensive additional costs. Local agencies more than ever feel the need to be involved in the land use and transportation planning efforts that impact the communities they are trying to build.

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) aggressively promote public participation as critical elements of all transportation planning and programming. As a precondition to receiving federal funds for transportation projects, Federal law requires Departments of Transportation (DOT's) to involve all constituents, including the public. FHWA and FTA Interim Policy on Public Involvement requires Caltrans to promote an active role for the public in the development of transportation plans, programs, and projects from early stages of planning through detailed project development, construction, and maintenance.

It is important to note that while FHWA Policy on public involvement requires that DOTs provide an active role for the public in developing transportation plans and programs, getting the "general" public to actively participate is often no small task. Efforts supported by this contract will help overcome hurdles like the "suspicion of government, the emotions of stakeholders, and the politics of power plays (as in the resistance of Not In My Back Yard (NIMBY) associations)." These hurdles often require extensive resources up-front to plan and execute Department projects successfully, and this contract can play a large role by providing the additional resources needed for success.

The purpose of a contract is to provide additional resources to assist Caltrans districts and divisions interested in enhancing public engagement during

transportation planning activities, effectively changing the trajectory of public participation efforts beyond just notification and information, to actively achieve public engagement during transportation planning activities. Actively collaborating with stakeholders and including input from the broader general public will allow Caltrans to meet its responsibilities, while engaging the public throughout transportation planning activities. It will also increase the public's confidence in the transportation decision-making process and ultimately benefit the goals of the Department.

The contract supports Caltrans in meeting its legal requirements under the Transportation Equity Act of the 21st Century (TEA-21), Title VI of the Civil Rights Act of 1964, Environmental Justice (EJ), Executive Order 12898, and Limited English Proficiency (LEP), Executive Order 13166, to engage all affected populations (including the traditionally underrepresented) in the transportation planning process. In addition this Agreement helps Caltrans address Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requirements by assisting transportation planners in designing and implementing public engagement plans.

Collaboration with MPO's is to encourage the public engagement in transportation planning activities. Collaboration with local agencies and communities is needed to ensure that the Department, local agencies and their constituencies understand the local context of long-range transportation planning.

SAFETEA-LU require the State and MPP's employ "Visualization Techniques in the development of the Long-Range Statewide Transportation Plan (see amended 23 U.S.C. 135 (f) (3) (B) (ii) and 49 U.S.C. 5304 (f) (3) (B) (ii) and 49 U.S.C. 5304(f) (3) (B) (ii) at website address: <http://www.fhwa.dot.ca.gov/reauthorization/index.htm>). This Agreement will be used to comply with visualization and simulation techniques.

The Consultant will seek Community Based Organizations (CBO's) such as nonprofits, grass roots activists and applicable advocacy groups with interests in the underrepresented of the affected region(s) around the State and within each Caltrans District for the purposes of public engagement and target outreach.

For the purpose of this Agreement a CBO is a Non-Governmental Agency organized to work on community-based issue, need or problem, at a local level. The CBO is organized to fill gaps in the service provided by government agencies and private organizations, and to engage or address the needs of groups or individuals not as well served by more formally accepted systems. The CBO is usually a legal entity, most often a non-profit, public benefit corporation (501 (c) (3)) of the Internal Revenue Code.

The Consultant will support visualization and simulation, techniques and tools that include computer simulation, photo simulation and photomontages,

sophisticated butcher paper graphics, visual preference/community vision surveys, and other graphically displayed planning information—all tools and techniques that help planners balance stakeholder and general public values during transportation planning activities.

B) Proposal Requirements and Information

1. Time Schedule

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

EVENT	DATE	TIME (Pacific Time)
RFP available to prospective proposers	June 7, 2011	
Written Question Submittal	June 14, 2011	
Final Date for Proposal Submission	June 21, 2011	1 PM
Cost Proposal Opening	June 23, 2011	
Posting of Notice of Intent to Award	June 23, 2011	

2. Questions and Answers

Questions regarding this RFP must be submitted in writing. Proposers are encouraged to submit their written questions by June 14, 2011. Questions and answers will be compiled and emailed to all participants.

Written questions must include the individual's name, firm name, complete address and must reference RFP No. 74A0607. Questions must be sent to the following address:

MAILED OR FAXED TO:

Department of Transportation (Caltrans), MS-65
Division of Procurement and Contracts
Attention: Lindy K. Wilson
1727 30th Street
Sacramento, CA 95816
Fax No.: (916) 227-6007
Email address: lindy_wilson@dot.ca.gov

3. Technical Proposal Requirements

An original proposal marked "ORIGINAL COPY" and 6 copies will be required for the Technical Proposal. Each Technical Proposal shall contain at a minimum, all required items listed below. Each requirement's location must be listed in a Technical Proposal, Table of Contents. Also see Section 6), **Submission of Proposal**, for submittal details.

Cost Proposal information must be submitted in a separate envelope. Do not submit any prime Consultant or subcontractor cost information with

the Technical Proposal. Failure to adhere to these instructions will result in rejection of the proposal.

A. Management

The proposal shall designate, by name, the Project Manager to be employed. The selected prime Consultant shall not cause the substitution of the Project Manager without prior written approval of Caltrans.

B. Methodology

The proposal shall describe the overall approach to the work, specific techniques that will be used, and specific administrative and operational management expertise that will be employed.

C. Work Plan and Work Schedule

The proposal shall include a work plan and schedule for task completion. Identify each major task, necessary subtasks, and/or specific milestones by which progress can be measured. **The work plan or schedule shall specify the estimated hours to accomplish the following five (5) tasks:**

- Provide stakeholder assessment and strategies for the Public Engagement activities
- Market and promote public awareness and public engagement events
- Conduct & facilitate workshops and planning meetings
- Provide technical assistance and technology to enhance public engagement
- Provide measureable results of the public participation events

D. Personnel

The proposal shall list all key personnel who will be working on the project. Include their titles, qualifications, a summary of similar work or studies performed, a resume for key personnel, **a statement indicating how many hours each professional will be assigned to the Agreement and what tasks each professional will perform.** The prime Consultant shall not cause members of the project team to be substituted without prior written approval of Caltrans.

The Proposer key personnel shall include the following classification titles and/or equivalent:

- Project Manager/Principle
- Senior Facilitator (Senior Transportation/Senior Environmental Planner)
- Associate Facilitator (Associate Transportation Planner)
- Event Planner/Project Coordinator (Transportation Planner)
- Graphic Artist

- Technical Editor
- Administrative Assistant (Clerical)

E. References

The proposal shall provide at least three (3) clients for whom the proposer has performed work similar to that proposed in this request. A completed Attachment 8, Reference Letter is required to be completed and submitted for each reference. Each reference must have:

- Firm Name
- Contact Name
- Street Address
- City, State, Zip Code
- Telephone Number
- Brief Description of Service provided
- Service Dates (i.e., start/end dates)
- Service Value/Cost
- Years of Experience

F. Experience

The prospective Consultant and/or subcontractor shall have demonstrated experience in:

- The Proposer's Senior Facilitator must have five (5) years and the Associate Facilitator must have two (2) years progressively responsible full-time experience as a facilitator in transportation planning, or as a community planner with at least half the time spent in the transportation planning or related field. An emphasis on alternative transportation planning is highly desirable.
- Working with Community-Based Organizations (CBO) on State and regional planning efforts to ensure the under-represented within the various target areas have input and are involved/consulted in the planning decision-making activities.
- Facilitating large public participation events and arriving at consensus on difficult transportation planning issues.
- Facilitating or meetings, workshops or charettes, or working with CBOs to facilitate the participation of traditionally underrepresented low-income and minority communities, in planning decision-making for transportation efforts.
- Working with MPOs and RTPAs and other local planning and regional planning agencies and the general public, including the underrepresented, on transportation and related planning issues.
- Developing strategy and completing coordination for successful, high-visibility marketing for outreach campaigns. Developing and

production of news releases, media materials, brochures (in **appropriate languages in addition to English**), and other informational material to attract engagement of appropriate stakeholders.

G. Sample of Work

The prospective consultant shall submit samples of past work by the person or team that will enhance public engagement efforts in transportation planning activities. These samples shall be work produced within the past five (5) years that is similar to the work involved in this Request for Proposal.

Samples of work shall be submitted for the following:

- Associate Facilitator or equivalent
- Senior Facilitator or equivalent
- Community-Based Organizations (CBO's) experience

Samples of work to be submitted shall include:

- 1) Samples illustrative of the Consultant's abilities to facilitate the public in planning activities, including: meetings, workshops, and, on occasion, charrettes attended by the general public and the traditionally underrepresented within the target area.
- 2) Up to two (2) additional items (any medium) which illustrate the Consultant's unique abilities and creative strengths to conduct public outreach and enhance participation of the general public, as well as the traditionally underrepresented within the target area.
- 3) One marketing and planning brochure (or other highly-quality marketing tool) and three additional samples of work that serve to demonstrate the outreach abilities of the proposer.
- 4) One printed news media, CD/Internet, color video or broadcast media used for promotional purposes. Include: the purpose of the media item; general public, underrepresented target audiences; and, any press releases on the results of the participation events. Material will adhere to FHWA basic principles for supporting broad public outreach: tell a story; engage the reader; create a visually appealing document; and, keep the document relatively brief.

H. Subcontracts

If subcontractors are to be used, the proposal must include a description of each person or firm and the work to be done by each subcontractor. No work shall be subcontracted unless listed in the proposal. The

Proposal must include a resume for each of the subcontractors' key personnel that are listed to provide services under the Agreement. The cost of the subcontract work is to be itemized in the Cost Proposal as described below in the section entitled **Cost Proposal Requirements**.

The prime Consultant must obtain the advance written approval of Caltrans Contract Manager before substituting subcontractors.

I. Page Headers and Page Numbering

All pages of the Technical Proposal, including cover pages, Table of Contents, references and resumes, shall have the following header and page numbering format in the upper right-hand corner: Proposer must sign and submit to Caltrans, page one (1) of the Consultant Certification Clauses (CCC), **Attachment 2 (in the Request for Proposal)**, or the form can be obtained via the Internet at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

Technical Proposal

Date

Agreement Number 74A0607

Attachment 2

Page # of ##

- J. Brochures, tapes, drawings, etc. being submitted with Technical Proposals shall be clearly identified as to the name of the proposer and the RFP number.

4. Cost Proposal Requirements

A. Cost Detail Format

- 1) The proposed work should be broken down into the outline in the Work Plan and Work Schedule (refer to Section 3.C above) for the purpose of this proposal. The resultant Agreement cannot exceed the budgeted allocations of \$2,100,000.00. The Cost Proposal, and only the Cost Proposal, **shall itemize all items that will be charged to Caltrans including travel, equipment and supplies, meeting facilities, incentive/stipend, brochures for transportation planning activities, public notification and other direct cost charges** that will be involved and included in the proposal amount. Costs shall be segregated to show actual salary costs including hours, rates, classifications, administrative overhead and fringe benefit expenses, unless otherwise noted on the Cost Proposal worksheet.

2) The following items are listed on the Attachment 1, Cost Proposal under Direct Costs (Except Labor). The Contractor shall itemize and shall not exceed the maximum amounts listed below:

- Travel Costs shall not exceed \$70,000.00
- Equipment and Supplies shall not exceed \$25,000.00
- Meeting Facilities shall not exceed \$30,000.00
- Incentive/stipend shall not exceed \$10,000.00
- Brochures shall not exceed \$150,000.00
- Other Direct Costs shall not exceed \$47,500.00
- Public Notification shall not exceed \$25,500.00

The Contractor shall itemize the items listed above

3) Cost Proposals shall follow the cost proposal format provided in the Cost Proposal Worksheet, **Attachment 1**, and shall be submitted in a separate sealed envelope. Cost information of any kind is **not** allowed in the Technical Proposal. Cost Proposal information consists of: Cost Proposal, Proposal/Proposer Certification Sheet, and any Special Program documents (See **Section C**, Special Programs, below).

B. Subcontracts

The breakdown of subcontract costs shall follow the same format.

C. Page Headers and Page Numbering

All pages of the Cost Proposal, including cover pages, Table of Contents, and if applicable, Special Programs documents such as DBE forms: Subcontracting Provisions/List, ADM 1511, Disadvantaged Business Enterprise (DBE) Program and Underutilized DBE (UDBE) Participation Goal, ADM 0227F, and Disadvantaged Business Enterprise (DBE) Information/Underutilized (UDBE) Good Faith Efforts Documentation, ADM 0312F shall have the following header and page numbering format in the upper right-hand corner:

Cost Proposal
Agreement Number 74A0607
Date
Attachment 1
Page # of ##

5. Darfur Contracting Act

- A. The Darfur Contracting Act, PCC section 10475-10481, applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in PCC section, 10475. All bidders shall complete the Darfur Contracting Act Certification form, Attachment 9, and submit with bid.
- B. If your company has not, within the previous three years, had any business activities or other operations outside of the United States, complete Option 1 on the Darfur Contracting Act Certification form, Attachment 9.
- C. A scrutinized company is a company doing business in Sudan as defined in PCC section, 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (PCC section, 10477 [a]).
- D. Therefore, PCC section, 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency.
- E. A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in PCC section, 10477(b).

6. Submission of Proposal

- A. Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.
- B. The original proposal must be single sided and marked "ORIGINAL COPY". All documents contained in the original proposal package **must have original signatures and must be signed by a person who is authorized to bind the proposing firm**. All additional proposal sets may contain photocopies of the original package. Due to limited storage space, the proposal package should be prepared in the least expensive method (cover page with staple in upper left-hand corner, do not use fancy bindings such as spiral binding or 3-hole punch).
- C. Caltrans does not accept alternate Agreement language from a proposer. A proposal with such language will be considered a counter proposal and

will be rejected. The State's General Terms and Conditions (GTC) are not negotiable. The GTC 610 may be viewed at Internet site www.dgs.ca.gov/contracts.

- D. Responses to this RFP shall be submitted in **two (2) separate** sealed packages/envelopes:

1st sealed Package/Envelope: Technical Proposal - Original and 6 copies.

2nd sealed Package/Envelope: Cost Proposal – Original Cost Proposal, Proposal/Proposer Certification Sheet, and cost information (i.e., if applicable: DBE, Good Faith Efforts, Subcontracting Provisions/List).

- E. Proposals must be submitted no later than **1:00 P.M.**, on June 21, 2011, and addressed as follows (reference B).1, Time Schedule):

Proposals received **after** this date and time will **not** be considered and will be rejected unopened.

The proposal package/envelope must be plainly marked with the RFP number and title, your firm name, address, and must be marked with "DO NOT OPEN", as shown in the following example:

1 ST SEALED PACKAGE/ENVELOPE	2 ND SEALED PACKAGE/ENVELOPE
Agency/Firm Name Address RFP Number 74A0607 Public Engagement	Agency/Firm Name Address RFP Number here 74A0607 Public Engagement
TECHNICAL PROPOSAL DO NOT OPEN	COST PROPOSAL DO NOT OPEN

Proposals not submitted under sealed cover and marked as indicated may be rejected. If the proposal is made under a fictitious name or business title, the actual legal name of proposer must be provided.

- F. All proposals shall include the documents identified in this RFP's **Required Attachment Checklist, Attachment 10**. Proposals not including the proper "required attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.
- G. Proposals must be submitted for the performance of all services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.
- H. Both of the individually sealed and labeled proposals (Technical and Cost Proposal) can be packaged and mailed together. Label (as instructed below) and mail or deliver package to the following location.

MAILED OR *DELIVER TO:

Department of Transportation (Caltrans) MS-65
Division of Procurement and Contracts
Attention: Lindy K. Wilson
1727 30th Street
Sacramento, CA 95816

In the upper portion of the sealed mailing envelope, label outer package:

RFP TBD: 74A0607
Public Engagement Request for Proposal
Firm Name:
DO NOT OPEN

- * If your proposal is hand delivered, you must date and time stamp it immediately upon arrival. The date/time stamp machine is located in the lobby of the first floor to the right of the security guard station at the address noted above. After date/time stamping, proposals should be placed in the locked proposal cabinet located below the time stamp. If the proposal package is too large to be electronically stamped, date/time stamp one of the labels provided and attach it to the proposal package. When the proposal package is too large for the locked proposal cabinet, ask the security guard to call the Contracts' reception desk at 227-6000 to have your proposal package picked up by Contracts' staff.
- I. Each proposer's Technical Proposal will be reviewed to determine if it meets the proposal requirements contained in the section **Technical Proposal Requirements** (above). Failure to meet the requirements for the RFP shall be cause for rejection of the proposal.
 - J. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. Caltrans may reject a proposal that is not responsive, does not meet the technical standards, or is not from a responsible proposer, or may reject all proposals. Caltrans may also waive any immaterial deviation in a proposal. Caltrans waiver of immaterial defect shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if the proposer is awarded the Agreement.
 - K. Costs for developing proposals and in anticipation of award of the Agreement is entirely the responsibility of the proposer and shall not be charged to the State of California.
 - L. Only an individual who is authorized to contractually bind the proposing firm shall sign the Proposal/Proposer Certification Sheet, Attachment 6. The signature must indicate the title or position that the individual holds in the

- firm. The proposer's proposal may be rejected if the Proposal/Proposer Certification Sheet is not signed.
- M. A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline. Proposal modifications offered in any other manner, oral or written, will not be considered.
 - N. A proposer may withdraw its proposal by submitting a written withdrawal request to Caltrans that is signed by the proposer or an authorized agent. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
 - O. Caltrans may modify the RFP up to the specified time of the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.
 - P. Caltrans reserves the right to reject all proposals for reasonable cause.
 - Q. Proposers are cautioned to not rely on Caltrans during the evaluation to discover and report to the proposer any defects and errors in the submitted documents. Before submitting their documents, proposers should carefully proof them for errors and adherence to the RFP requirements.
 - R. Where applicable, proposer should carefully examine work sites and specifications. Proposer shall investigate conditions, character, and quality of surface or subsurface materials or obstacles that might be encountered. No additions or increases to the agreement amount will be made due to a lack of careful examination of work sites and specifications.
 - S. More than one proposal or a proposal that includes various options or alternatives from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any proposer has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that proposer. If there is reason for believing that collusion exists among the proposers, none of the participants in such collusion will be considered in this or future procurements.

7. Evaluation Process Format Requirements

A. Format Requirements

- 1) At the time of proposal opening, each proposal will be checked for the presence and/or absence of required information in conformance with the submission requirements of this RFP. Proposals that do not provide requested information will be rejected as non-responsive.
- 2) Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, shall be rejected.

3) Caltrans will evaluate each proposal to determine its responsiveness to Caltrans needs. Technical proposals will be rated by an evaluation committee using a consensus process (Caltrans RFP Evaluation Standards and Procedures) for determining final scores.

4) Technical Proposal Evaluation/Written Proposal

An evaluation committee will evaluate those Technical Proposals that meet the proposal submission requirements. The evaluation will be based on the criteria shown on Criteria for Evaluation of Consultant Written Technical Proposals, Attachment 7. Only those proposers receiving a minimum score of 85 percent (85%) or above will move on to Cost Proposal Opening (**See Section B).7.B. below**). Those Technical Proposals receiving less than the above minimum score will not receive further consideration.

B. Cost Proposal Opening

Cost Proposals will be opened for proposers who achieved the required minimum score on the Technical Proposal Evaluation. The final selection will be made on the basis of the lowest responsive Cost Proposal from a responsible Proposer. The Cost Proposal Opening will be held at 1727 30th Street, Sacramento, CA 95816 on the date and time specified in Section C) - Proposal Requirements and Information, 1 - Time Schedule. Proposers may participate in person or via teleconference by calling **1-866-700-7952** and entering the pass code **7089821**. Calls will be accepted beginning at **2:50 PM** until the conclusion of the Cost Proposal Opening.

C. Miscellaneous Award Issues

5) Caltrans does not negotiate rates and/or costs listed on any Cost Proposal submitted.

6) If no proposals are received containing bids offering a price, which in the opinion of Caltrans is a reasonable price, Caltrans is not required to award an Agreement (PCC section, 10344 [d]).

7) The proposer is advised that should this RFP result in an award of an Agreement, the Agreement will not be in force and no work shall be performed until the Agreement is fully approved by Caltrans and the proposer is notified by the Contract Manager to begin work.

8) In the event of a precise tie, lots will be drawn to determine the successful proposer, or if applicable, the tie will be broken in accordance with Government Code 14838 (f).

D. Pre-Award Audit

Prior to award of the Agreement, a pre-award audit may be performed. The pre-award audit will be conducted in accordance with generally accepted governmental auditing standards as promulgated by the United States General Accounting Office. The scope of the audit will consist of such tests as the auditors consider necessary to assure that the proposal satisfactorily

meets the requirements outlined in Items 1-3 below prior to execution of the Agreement. Upon completion of a pre-award audit, if, in Caltrans judgment, one or more of these requirements is not satisfactorily met, Agreement award may be canceled.

- 1) At the time of the pre-award audit, the proposal must demonstrate through actual historical data that its accounting system is capable of accumulating and segregating reasonable, allocable and allowable costs. For new businesses, if actual historical data is unavailable or the accounting system is newly implemented, the system will be tested to determine whether the accounting system is adequate and, if necessary, recommend that an interim audit be performed. At a minimum, the proposal must have an accounting system that meets the following objectives:
 - a) The ability to record and report financial data in accordance with generally accepted accounting principles and the Code of Federal Regulations, Title 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31.
 - b) The ability to accumulate and segregate reasonable, allocable and allowable costs through the use of a cost accounting system.
 - c) A system of record keeping ensuring that costs billed Caltrans will be supported by adequate documentation and in compliance with the terms of the Agreement and applicable Federal and State regulations.
 - d) Procedures to retain accounting records and source documentation as required by the terms of the Agreement and applicable Federal and State regulations.
 - e) A system of internal control, which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported and corrected.
- 2) The proposer must be financially capable of performing the work.
- 3) The costs proposed must be reasonable.

8. Award and Protest

- A. Notice of Intent to Award shall be posted at Caltrans, 1727 30th Street, Sacramento, 95816 (1st floor Lobby display case), and on the following Internet site: www.caltrans-opac.ca.gov/contract.htm for five (5) working days prior to awarding the Agreement.
- B. Proposal results may be viewed on the internet at 12:00 P.M. (Noon) on the first business day following the Cost Proposal Opening due date at: <http://caltrans-opac.ca.gov>.
- C. Proposers have the right to protest the award of Caltrans Agreements subject to the following grounds, processes and procedures.

- 1) If any proposer, prior to the award of Agreement, files a protest with Caltrans on the grounds that the (protesting) proposer would have been awarded the Agreement had the Agency correctly applied the evaluation standard in the RFP, or if the Agency followed the evaluation and scoring methods in the RFP, the Agreement shall not be awarded until either the protest has been withdrawn or the State has decided the matter. It is suggested that you submit any protest by certified or registered mail to:

DEPARTMENT OF TRANSPORTATION
Division of Procurement & Contracts, MS 65
Attention: Protest and Dispute's Manager
1727 30th Street
Sacramento, CA 95816
Phone Number: (916) 227-6837
Fax Number: (916) 227-1950

- D. Upon award of the Agreement, proposer must complete and submit to Caltrans the Payee Data Record (STD 204), to determine if the proposer is subject to State income tax withholding pursuant to California Revenue and Taxation Code Sections 18662. This form can be found on the Internet at www.osp.dgs.ca.gov under the heading FORMS MANAGEMENT CENTER. No payment shall be made unless a completed STD 204 has been returned to Caltrans.

9. Disposition of Proposals

Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code section 6250 et seq.) and subject to review by the public. The State cannot prevent the disclosure of public documents. However, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Notice of Intent to Award" is posted. We recommend that you copyright any proprietary material submitted.

10. Standard Conditions of Service

- A. Service shall be available no sooner than the express date set by Caltrans and the proposer, after all approvals have been obtained and the Agreement is fully executed. Should the proposer fail to commence work at the agreed upon time, Caltrans, upon five (5) days written notice to the Consultant, reserves the right to terminate the Agreement. In addition, the proposer shall be liable to the State for the difference between proposer's proposal price and the actual cost of performing work by the second lowest proposer or by another Consultant.
- B. All performance under the Agreement shall be completed on or before the termination date of the Agreement.

C. Antitrust Provisions

- 1) In submitting a proposal to a public purchasing body, the proposer offers and agrees that if the proposal is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the proposer for sale to the purchasing body pursuant to the proposal. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the proposer (See Government Code section 4552).
- 2) If the awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid.

D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action (See Government Code section 4554).

E. Loss Leader usage is prohibited in this solicitation: It is unlawful for any person engaged in business within this State to sell or use any article or product as a "loss leader" as defined in Section 17030 of the California Business and Professions Code. "Loss Leader" means any article or product sold at less than cost: a) where the purpose is to induce, promote or encourage the purchase of other merchandise; or b) where the effect is a tendency or capacity to mislead or deceive purchasers of prospective purchasers; or c) where the effect is to divert trade from or otherwise injure competitors.

F. No oral understanding or agreement shall be binding on either party.

G. If the proposer is awarded the Agreement and refuses to sign the Agreement presented for signature within the time and manner required, the proposer will be liable to Caltrans for actual damages resulting to Caltrans therefrom or ten percent (10%) of the amount proposed, whichever is less

C) Special Program(s)

The following Special Program(s) are applicable to this RFP.

1. Disadvantaged Business Enterprise (DBE) Program

A. UDBE Participation Goals

- 1) This solicitation and resultant agreement is financed in whole or in part with federal funds and therefore subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In compliance with 49 CFR 26, Caltrans set an overall annual DBE goal comprising both race neutral and race conscious elements. To ensure equal participation for DBE groups specified in 49 CFR 26.5, Caltrans specifies a contract goal for Underutilized DBE (UDBE) participation. **The required goal for UDBE participation in this solicitation is 5 percent (5%).**
- 2) A UDBE is a DBE firm as defined in 49 CFR 26 **that is also** one of the following groups: African Americans, Asian-Pacific Americans, Native Americans, or Women. Only UDBE participation will count toward the contract goal for this solicitation. References to DBEs include UDBEs, but references to UDBEs do not include all DBEs. DBE participation will count toward Caltrans' federally mandated overall annual DBE goal. In order to ascertain whether its overall annual DBE goal is being achieved, Caltrans tracks DBE participation on all federal-aid contracts.
- 3) It is the proposer's responsibility to verify that the UDBE firm is certified as a DBE at due date and time of proposal submittal. For a list of DBEs certified by the California United Certification Program (CUCP), go to:
http://www.dot.ca.gov/hq/bep/find_certified.htm
- 4) Proposer shall complete and submit Attachment 4, ADM 0312F form, Bidder/Proposer Underutilized Disadvantaged Business Enterprise (UDBE) Good Faith Efforts Documentation and/or ADM 0227F form, Disadvantaged Business Enterprise (DBE) Information/Underutilized (UDBE) Participation for detailed information and the required forms. Required forms will be made a part of the Agreement. Failure to meet the DBE/UDBE goal or Good Faith Effort requirements and provide required DBE/UDBE participation will result in the proposal being rejected as non-responsive.
- 5) The requirement to advertise for the purpose of identifying potential DBEs/UDBEs is not waived.

**ATTACHMENT 1
COST PROPOSAL**

COST PROPOSAL WORKSHEET

DIRECT LABOR	HOURS	HOURLY RATE	TOTAL
Program Manager/Principle	750@	\$	\$
Senior Facilitator (Senior Transportation /Senior Event Planner, or equivalent)	4,850@	\$	\$
Associate Facilitator (Associate Transportation Planner, or equivalent)	3,330@	\$	\$
Event Planner/Project Coordinator (Transportation, Planner or equivalent)	2,425@	\$	\$
Graphic Artist	1,850@	\$	\$
Technical Editor	160@	\$	\$
Clerical (Administrative Assist)	275@	\$	\$
			\$
SUBCONTRACTOR(S) COST ITEMIZED			\$

******the hourly rates shall include overhead and fringe benefits******

DIRECT COSTS (Except Labor)

Items below must be itemized (See Section B, Proposal Requirements and Information, .4.A. for additional information)

Travel Costs (Itemize)	\$
Equipment and Supplies (Itemize)	\$
Meeting Facilities (including refreshments, translation, signing) (Itemize)	\$

ATTACHMENT 1, COST PROPOSAL

Incentive/stipend
(childcare, meals,
transportation) (Itemize) \$

Brochures for
transportation planning
activities (Itemize) \$

Other Direct Costs
(Itemized) \$

Public Notification (media,
ads) (Itemize) \$

\$

FEE (PROFIT) \$

TOTAL COSTS \$

odwyerpr.com

ATTACHMENT 2
CONTRACTOR CERTIFICATION CLAUSES

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Proposal Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the

ATTACHMENT 2
CONTRACTOR CERTIFICATION CLAUSES

Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:** Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code (PCC) section 10286 and 10286.1, and is eligible to contract with the State of California.

6. **SWEATFREE CODE OF CONDUCT:**

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC section, 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. **DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with PCC section, 10295.3.

ATTACHMENT 2
CONTRACTOR CERTIFICATION CLAUSES

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION**: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT**: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE**: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

ATTACHMENT 2
CONTRACTOR CERTIFICATION CLAUSES

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

RFP: 74A0607

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

SUBCONTRACTING PROVISIONS/LIST

Form ADM 1511 (REV. 9/06)

ATTACHMENT 3

List all subcontractors that will be used in this Agreement. All subcontractors listed below must be used in accordance with the Agreement. This includes, if applicable, compliance with the subcontracting provisions and any Disabled Veteran Business Enterprise (DVBE), Small Business, and Micro-Business subcontractors. If none, bidder to write "NONE" in this space.

NAME	BUSINESS ADDRESS	DESCRIPTION OF PORTION OF WORK WHICH WILL BE DONE BY EACH CONTRACTOR*

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
ADM-0227F (Rev. 10/2009)

DISADVANTAGED BUSINESS ENTERPRISE (DBE) INFORMATION / UNDERUTILIZED (UDBE) PARTICIPATION
(CONTRACTS FEDERALLY FUNDED IN WHOLE OR IN PART)

PART A – CONTRACTORS INFORMATION (Refer to Instructions in Page 2 of this form. Bidder/Proposer shall ensure all information provided is complete and accurate.)

(A1) CONTRACTOR'S BUSINESS NAME	(A2) AGREEMENT NUMBER	(A3) CONTRACT DOLLAR AMOUNT	(A4) DATE
(A1) CONTRACTOR'S BUSINESS ADDRESS	(A1) CITY	(A1) STATE	(A1) ZIP CODE
(A1) CONTACT PERSON	(A1) BUSINESS PHONE	(A1) FAX NUMBER	(A1) EMAIL ADDRESS

PART B – DBE/UDBE INFORMATION AND DOCUMENTATION (Refer to Instructions in Page 2 of this form. Bidder/Proposer shall verify DBE certifications or UDBE firms are certified as DBEs.)

(1) List Name(s) and addresses of all DBEs/UDBEs that will participate in this Agreement:	(2) Area Code & Phone Number	(3) Tier	(4) Description of Work, Service, or Materials Supplied	(5) DBE/UDBE or CUCP Certification Number	(6) Ownership Code	(7) DBE/UDBE \$ Amount Claimed	(8) % of \$ Value Claimed	(9) Caltrans Use Only %
1B EXAMPLE Jane Prime Inc., 1234 Jane's Street, Jane's City, CA, 04321	(XXX) 000-1111	0	Project management	XXXXXXXXXX	7, 5	48,000	48%	
2B EXAMPLE Joe Subcontractor Inc., 4567 Joe's Street, Joe's City, CA, 07654	(XXX) 111-0000	1	Design, surveys, environmental testing	000000000000	6	42,000	42%	
EXAMPLE Supplier International LLC, 1100 X Street, Supplier's City, CA, 45670	(111) XXX-0001	2	Survey instruments, testing materials	111111111111	3	10,000	10%	

PART C – FOR CALTRANS USE ONLY (Verification Completed by Civil Rights, Office of Business and Economic Opportunity):

(C1) PRINT VERIFIER'S NAME AND TITLE	(C1) SIGNATURE	(C2) DATE	(C3) CIVIL RIGHTS STAMP OF APPROVED
(C4) DBE PARTICIPATION <input type="checkbox"/> YES (<input type="checkbox"/> NO) %	(C5) UDBE Participation <input type="checkbox"/> YES (<input type="checkbox"/> NO) %		

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) INFORMATION / UNDERUTILIZED (UDBE) PARTICIPATION

ADM-0227F (Rev. 10/2009)

(CONTRACTS FEDERALLY FUNDED IN WHOLE OR IN PART)

AUTHORITY:

Title 49, Code of Federal Regulations, Part 26 (49 CFR 26)

INSTRUCTIONS FOR COMPLETING FORM ADM-0227F (Please Type or Print Legibly):

PART A – CONTRACTOR INFORMATION

- (A1) Bidder's/Proposer's Business Name, Address, City, State, Zip Code, Contact Person, Business Phone, Fax Number, and Email Address.
- (A2) Agreement number, that is the same number as the Invitation for Bid (IFB) or Request for Proposal (RFP) number.
- (A3) Total dollar amount that Contractor proposes to accomplish the Agreement.
- (A4) Date this form is completed.

PART B – DBE/UDBE INFORMATION AND DOCUMENTS

- Row 1B Complete this row ONLY if Prime is a certified DBE/UDBE and refer also to column instructions below.
- Row 2B Complete these rows ONLY if the Subcontractor(s)/Supplier(s) are certified DBE/UDBE and refer to instructions below for Columns 1 through 7. If there are more than five (5) certified DBE/UDBE subcontractors/suppliers to be listed, please use additional copies of page 1 of this form and only complete A1, Consultant's Business Name, A2, Agreement Number, and 2B rows in Part B.
- Column 1 Enter the names and complete addresses of all certified DBE/UDBE Contractor/Subcontractor/Supplier(s) that will be used in the Agreement.
- Column 2 Enter the area code and phone number of the corresponding certified DBE/UDBE listed in Column 1.
- Column 3 Enter the Contracting Tier number for each DBE/UDBE correspondingly listed in Column 1: 0 = Prime or Joint Consultant, 1 = Primary Subcontractor, 2 = Subcontractor/Supplier of level 1 Primary Subcontractor.
- Column 4 Enter a description that briefly captures the work to be performed or supplies to be provided by each corresponding DBE/UDBE firm listed in Column 1.
- Column 5 Enter the DBE/UDBE or CUCP Certification Number for the corresponding DBE/UDBE listed in Column 1. Self-certification is NOT acceptable. DBEs/UDBEs must be certified by the submittal date identified in the IFB or RFP. For more certification and verification information, refer to the IFB's or RFP's Notice to Bidders/Proposers Disadvantaged Business Enterprise (DBE) Program and Underutilized DBE (UDBE) Participation Goal.

Column 6 Enter the correct Ownership Code number below for the corresponding DBE/UDBE listed in Column B. Only UDBE participation counts toward contract goal.

1 = Black American (UDBE)	4 = Asian-Pacific American (UDBE)	7 = Woman (UDBE)
2 = Hispanic American (DBE)	5 = Subcontinent Asian American (DBE)	8 = Other (DBE)
3 = Native American (UDBE)	6 = Caucasian (DBE)	9 = Not Applicable

Column 7 Enter the percentage (%) of the dollar (\$) value claimed for each corresponding DBE/UDBE listed in Column 1.

ADDITIONAL INFORMATION:

- Form ADM-0312F should be submitted with the ADM-0227F to demonstrate good faith efforts (GFE) AND protect bidder's/proposer's eligibility for contract award in the event Caltrans determines the bidder/proposer failed to meet the UDBE goal.
- A DBE/UDBE joint venture partner shall submit the joint venture agreement with the form ADM-0227F.

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.

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STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

BIDDER/PROPOSER UNDERUTILIZED DISADVANTAGED BUSINESS ENTERPRISE (UDBE) GOOD FAITH EFFORTS DOCUMENTATION
(CONTRACTS FEDERALLY FUNDED IN WHOLE OR IN PART)
ADM-0312F (REV 10/2009)

CONTRACTOR'S NAME	DATE
IFB OR RFP OR RFQ NUMBER	

BIDDER/PROPOSER INSTRUCTIONS: Submittal of only the Disadvantaged Business Enterprise (DBE) Information/Underutilized DBE(UDBE) Participation form, ADM-0227F, may not provide sufficient documentation to demonstrate that adequate good faith efforts (GFE) were made by the bidder/proposer. Bidder/proposers prosing goal attainment should always submit documentation for making GFE to protect its eligibility for award should Caltrans, in its evaluation, find that the goal was not met. Examples of disqualification may include but are not be limited to: 1) A DBE or UDBE subcontractor was not certified by Caltrans or a state or local participating agency that has a reciprocal agreement with Caltrans, by the bid/proposal due date and time; or 2) Bidder/proposer made a mathematical error resulting in failure to meet the goal. Bidder/Proposer must make an adequate GFE to be responsive. When applying for a determination of a GFE when no contract goals have been attained or when only partial goal(s) have been attained, bidders/proposers shall complete this Bidder/Proposer Underutilized Disadvantaged Business Enterprise (UDBE) Good Faith Efforts Documentation form, ADM-0312F, and submit the requested information below with its bid by the bid due date and time. **Bidder/Proposer is responsible to: (1) ensure information is complete and accurate, and (2) verify UDBE and DBE certifications.**

1. ADVERTISEMENT DOCUMENTATION

List names and dates of each general circulation newspaper, trade paper and minority focused paper or other publication in which a request for UDBE participation was placed. Attach a copy of the advertisement or proof of publication.

TITLE OF PUBLICATION	PUBLICATION DATE(S)	TITLE OF PUBLICATION	PUBLICATION DATE(S)

2. UDBE DOCUMENTATION

- a. List the names and dates of written notices sent to UDBE firm certified as DBEs soliciting bids for the contract.
- b. List the dates and methods used for following up initial solicitations to determine with certainty whether or not the UDBEs were interested.
- c. Attach a copy of any solicitation package, phone records, fax confirmations or solicitation follow-up correspondence sent to UDBE firms.
- d. Identify information submitted to the bidder for this solicitation:

Check the appropriate box: IFB RFP RFQ

SOLICITATION

DATE MAILED	DATE PHONED	DATE OF FOLLOW-UP	FOLLOW-UP METHOD PHONE/EMAIL	NAME OF FIRM SOLICITED	CONTACT NAME	PHONE NUMBER

STATE OF CALIFORNIA · DEPARTMENT OF TRANSPORTATION
BIDDER/PROPOSER UNDERUTILIZED DISADVANTAGED BUSINESS ENTERPRISE (UDBE) GOOD FAITH EFFORTS DOCUMENTATION
 ADM-0312F (REV 10/2009) Page 2 of 4 (CONTRACTS FEDERALLY FUNDED IN WHOLE OR IN PART)

CONTRACTOR'S NAME	IFB OR RFP OR RFQ NUMBER	DATE
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2. UDBE DOCUMENTATION (Continued)

SOLICITATION		DATE MAILED	DATE PHONED	DATE OF FOLLOW-UP	FOLLOW-UP METHOD PHONE/EMAIL	NAME OF FIRM SOLICITED	CONTACT NAME	PHONE NUMBER

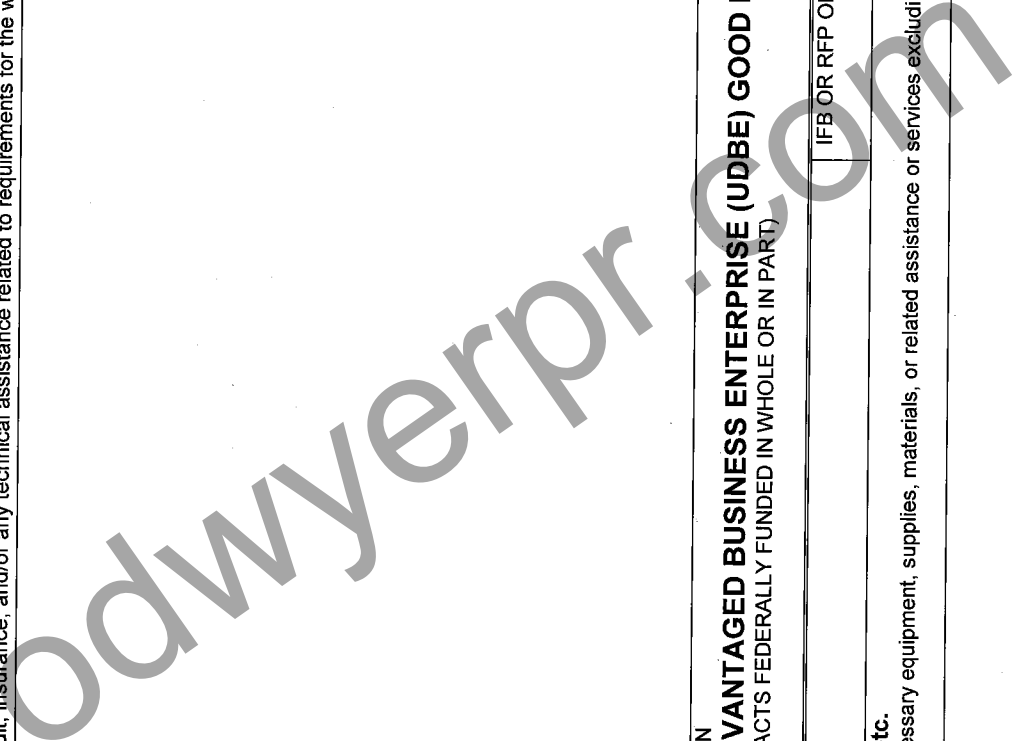
3. ITEMS OF WORK

Identify the items of work made available to UDBE firms, including, where appropriate, any breakdown of the contract work into economically feasible units to facilitate UDBE participation. Bidder/Proposer shall demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

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5. ASSISTANCE TO UDBEs – Bonding, Insurance, etc.

Identify efforts to assist UDBEs in obtaining bonding, lines of credit, insurance, and/or any technical assistance related to requirements for the work or for plans and specification provided to UDBEs.



STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

BIDDER/PROPOSER UNDERUTILIZED DISADVANTAGED BUSINESS ENTERPRISE (UDBE) GOOD FAITH EFFORTS DOCUMENTATION
 ADM-0312F (REV 10/2009) Page 4 of 4 (CONTRACTS FEDERALLY FUNDED IN WHOLE OR IN PART)

CONTRACTOR'S NAME	DATE

6. ASSISTANCE TO UDBEs – Equipment/Materials, etc.

Identify 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 prime contractor or its affiliate.

Odwyer.com

7. ADDITIONAL DATA

Provide any additional data to support a demonstration of GFE such as contacts with UDBE assistance agencies. Identify the names of agencies, organizations, and groups providing assistance in contacting, recruiting, and using UDBE firms. Attach copies of requests to agencies and any responses received, i.e., lists, internet pages, etc.

NAME OF AGENCY/ORGANIZATION	METHODS/DATE OF CONTACT	RESULTS

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.

DEPARTMENT OF TRANSPORTATION

DIVISION OF PROCUREMENT AND CONTRACTS MS-65

1727 30th STREET

SACRAMENTO, CA 95816-7006

PHONE (916) 227-6000

FAX (916) 227-6155

INTERNET <http://caltrans-opac.ca.gov>*Flex your power!
Be energy efficient*

ATTACHMENT 4

June 7, 2011

Request for Proposal 74A0607

NOTICE TO BIDDERS/PROPOSERS**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
AND
UNDERUTILIZED DBE (UDBE) PARTICIPATION GOAL**

Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) requires that all recipients of United States Department of Transportation (USDOT), Federal Highway Administration (FHWA) federal-aid shall establish an overall annual Disadvantaged Business Enterprises (DBE) goal. The State of California, Department of Transportation (Caltrans) is required to report to FHWA the DBE participation for all federal-aid contracts each year so that the overall annual DBE goal attainment efforts may be evaluated. Caltrans encourages DBE participation in the performance of agreements financed in whole or in part with federal funds.

Bidders and proposers are advised that Caltrans has established a federally mandated overall annual DBE goal comprising both race neutral and race conscious elements to ensure equal participation of DBE groups specified in 49 CFR 26.5. In compliance with 49 CFR 26, Caltrans set a contract goal for UDBEs participating in this solicitation expressed as a percentage of the total dollar value of the resultant agreement.

The goal for UDBE participation in this solicitation is not less than 5%.

A UDBE is a DBE firm as defined in 49 CFR 26 that is also one of the following groups: African Americans, Asian-Pacific Americans, Native Americans, or Women. Only the participation of UDBEs will count toward the contract goal. For information on the forms to be completed and returned with your bid, please refer to the attached Kform15 document titled "Disadvantaged Business Enterprise (DBE) and Underutilized Disadvantaged Business Enterprise (UDBE) Information for Bidders."

The bidder/proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

Please read this Notice and Attachments very carefully as bidder/proposer is responsible to ensure bid submittal documents are complete and accurate.

REQUIRED DOCUMENTS

It is imperative that bidder/proposer ensures the completed *Disadvantaged Business Enterprise (DBE) Information/Underutilized DBE (UDBE) Participation* form, ADM 0227F, and/or the *Bidder/Proposer Underutilized Disadvantaged Business Enterprise (UDBE) Good Faith Efforts Documentation* form, ADM 0312F, is submitted with the bid, cost proposal, price and/or rate schedule by the bid due date and time. Refer to instructions in the solicitation. **Failure to complete and submit the required DBE/UDBE information and forms, may be grounds for finding the bid/proposal non-responsive and cause for rejection of the bid/proposal.**

AWARD

Award of the Agreement will be to the responsive and responsible bidder/proposer:

- (1) With the lowest price in response to an Invitation for Bid (IFB) or Request for Proposal (RFP) Primary Method solicitation, **or** proposer with the highest score in response to an RFP Secondary Method solicitation, **and**
- (2) Whose bid complies with all of the requirements set forth herein, **and**
- (3) Who meets the contract goal for UDBE participation **or** demonstrates to the satisfaction of Caltrans that the bidder/proposer made good faith efforts (GFE) to do so.

The bidder/proposer awarded the Agreement shall be responsible for implementing the applicable requirements of 49 CFR 26 in performance of the Agreement.

PROTEST AND DISPUTES

The right to protest the award of an agreement is afforded any bidder/proposer who claims it should have been awarded the Agreement because it was either the responsive and responsible (1) bidder/proposer with the lowest price in response to an IFB or RFP Primary Method, or 2) proposer with the highest score in response to an RFP Secondary Method, who met the solicitation specifications. If the apparent successful bidder failed to meet the goal or document GFE to meet the goal, the bidder/proposer has five (5) working days after notification by Caltrans to provide written documentation or argument concerning the issue of whether it met the goal or made GFE to do so.

Written protest and dispute documentation must be submitted to:

State of California
Department of Transportation
Division of Procurement and Contracts
1727 30th Street, MS 65,
Sacramento, CA 95816-7006
Attention: Protest and Disputes Officer

NOTICE TO BIDDERS/PROPOSERS
RFP 74A0607

I. AUTHORITY AND BIDDER'S RESPONSIBILITY

It is the policy of the State of California, Department of Transportation (Caltrans) that Disadvantaged Business Enterprises (DBEs), as defined in Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS", shall be encouraged to participate in the performance of Agreements financed in whole or in part with federal funds. The Contractor should ensure that DBE firms as defined in 49 CFR 26 have an opportunity to participate in performance of this solicitation and shall take all necessary and reasonable steps, as set forth in 49 CFR 26 for this assurance. The bidder/proposer (bidder) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

This solicitation is subject to 49 CFR 26. Bidders shall be fully informed of the requirements of the regulations and Caltrans' DBE Program developed pursuant to the regulations.

Terms as used in this document:

- 'Caltrans' means 'State of California, Department of Transportation'
- 'Agreement' also means 'Contract'
- 'Bidder' also means 'proposer' or 'offerer'
- Underutilized Disadvantaged Business Enterprise (UDBE) means a DBE firm as defined in 49 CFR 26 **that is also** one of the following groups: African American, Asian-Pacific American, Native American, or Woman. References to DBEs include UDBEs, but references to UDBEs do not include all DBEs.

It is the bidder's responsibility to make work available to DBEs/UDBEs and select work parts or material needs consistence with available DBEs/UDBEs, to meet the contract goal for UDBE participation in this solicitation or to provide information to establish, that prior to bidding, the bidder made adequate good faith efforts (GFE) to meet the goal.

To be eligible for award of the Agreement, the bidder shall demonstrate that the contract goal for UDBE participation will be met or that, prior to bidding, adequate GFE to meet the goal were made. Final determination of goal attainment or GFE by the bidder will be at Caltrans' discretion.

Bidder is cautioned that even though its submittal indicates it will meet the stated UDBE goal, its submittal should also include its GFE documentation along with UDBE goal information to protect its eligibility for award of the Agreement in the event Caltrans, in its review, finds that the goal has not been met.

It is the bidder's responsibility to verify DBE and UDBE certifications.

II. SUBMISSION OF DBE INFORMATION/UDBE PARTICIPATION

The required UDBE goal information shall be submitted on the Disadvantaged Business Enterprise (DBE) Information/ Underutilized DBE (UDBE) Participation form, ADM 0227F, and as described herein. Use the Bidder/Proposer Underutilized Disadvantaged Business Enterprise (UDBE) Good Faith Efforts Documentation form, ADM 0312F, to document any good faith efforts (GFE). Both ADM 0227F and ADM 0312F are attached to this package. Bidder is responsible for carefully reviewing and following all instructions for the ADM 0227F and/or ADM 0312F.

NOTICE TO BIDDERS/PROPOSERS RFP 74A0607

- A. UDBE GOAL INFORMATION:** In page 1 of the ADM 0227F, bidder shall provide the required information and documentation as instructed in page 2 of the ADM 0227F. Bidder is responsible to ensure all information in the ADM 0227F is complete and accurate.
- B. GOOD FAITH EFFORTS:** Using ADM 0312F, bidder shall provide sufficient documentation to demonstrate adequate GFEs were made as instructed in the ADM 0312F. Bidder is responsible for ensuring all information
- C.** in the ADM 0312F is complete and accurate. For disqualification examples, refer to the Instructions to Bidder/Proposer in page 1 of the ADM 0312F.

III. DBE CERTIFICATION REQUIREMENTS

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

1. A DBE must be a small business firm defined pursuant to Section 3 of the Federal Small Business Act and certified through the California Unified Certification Program (CUCP). A UDBE firm is a DBE certified through CUCP. In accordance with 49 CFR 26, the DBE must be certified by bid opening date of the Invitation for Bid (IFB), the Request for Proposal (RFP), or the Architectural and Engineering (A&E) Request for Quotations (RFQ), before credit may be considered toward meeting the DBE goal. It is the bidder's (prime contractor's) responsibility to verify that DBEs are certified by accessing the CUCP database.
2. The CUCP database includes DBEs certified from all certifying agencies participating in the CUCP. If a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
3. Access the CUCP database from the Department of Transportation, Civil Rights, Office of Business and Economic Opportunity (OBEO) web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled Find a Certified Firm
 - Click on Query Form link, located in the first sentence
 - Click on Certified DBEs (UCP) located on the first line in the center of the page
 - Click on Click To Access DBE Query Form
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen (read about NAICS definitions below)
 - "Start Search", "Requery", "Civil Rights Home", and "Caltrans Home" links are located at the bottom of the query form

MUST USE EITHER INTERNET EXPLORER 5.5 OR NETSCAPE 7 (OR GREATER) FOR THIS DATABASE.

Resources to Obtain a List of Certified DBEs for Caltrans Solicitations

Contractors bidding on Caltrans solicitations with a contract goal for UDBE participation may contact the DBE supportive services consultant or obtain lists of certified DBEs from the CUCP database referenced above.

Hint - Helpful Link Regarding NAICS Definitions

The North American Industry Classification System (NAICS) work codes are used to identify the type of work performed by DBEs. You will need to have the NAICS work code numbers before querying. The United States (US) Census Bureau has developed cross-references from Standard Industrial Classification (SIC) codes to the NAICS codes. Please visit the US Census Bureau web site for more information concerning work areas related

to NAICS 237310 Highway, Street, and Bridge Construction, at the following location:
<http://www.census.gov/epcd/naics02/def/ND237310.HTM>.

How to Obtain a Quarterly List of Certified DBEs without Internet Access

If you do not have Internet access, Caltrans also publishes a quarterly directory of certified DBE firms extracted from the on-line database. A copy of the quarterly directory of certified DBEs may be ordered from the Caltrans' Division of Procurement and Contracts/Material and Distribution Branch/Publication Unit by calling (916) 445-3520.

RFP 74A0607

4. In order to be considered a responsible and responsive bidder, the bidder must make a good faith effort to meet the contract goal for UDBE participation established for the Agreement. The bidder can meet this requirement in one of two ways:
 - a. Meet the contract goal and document commitments for participation by UDBE firms.
 - b. If the contract goal is not met or is partially met, the bidder must document an adequate GFE.
5. A bidder (**prime contractor**), who is not a certified DBE, will be required to document one or a combination of the following:
 - a. The bidder will meet the contract goal for UDBE participation through work performed by UDBE subcontractors, suppliers, or trucking companies.
 - b. Prior to bidding, the bidder made an adequate GFE to meet the contract goal for UDBE participation.
6. 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.
7. A certified DBE bidder not bidding as a joint venture with a non-DBE, is required to document one or more of the following:
 - a. The DBE bidder will meet the goal by performing work with its own forces.
 - b. The bidder will meet the contract goal for UDBE participation through work performed by UDBE subcontractors, suppliers, or trucking companies.
 - c. Prior to bidding, the bidder made adequate GFEs to meet the contract goal for UDBE participation.
8. A DBE joint venture partner must be responsible for specific Agreement items of work, or portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces.
9. The DBE joint venture partner must share in the capital contributions, control, management, risks and profits of the joint venture. The DBE joint venture must attach and submit the joint venture agreement with the ADM 0227F as instructed in page 2 of the form.
10. A DBE must perform a Commercially Useful Function (CUF), pursuant to 49 CFR 26, i.e., 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 involved. To perform a CUF, the DBE must also be responsible for materials and supplies to be used on the Agreement for negotiating price, determining quality, and quantity, installing (where applicable), and paying for the material itself.
11. The bidder (prime contractor) shall list only one subcontractor for each portion of work as defined in its bid/proposal and all DBE subcontractors must be listed in the bid/cost proposal list of subcontractors.
12. Any dollar amount of work, service or supplies proposed for DBE/UDBE participation can be counted only once. That is, any further subcontracting or spending for DBE/UDBE work, service or supplies already credited once for DBE participation cannot be counted again.

13. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the goal except that portion of the work to be performed by non-DBE subcontractors.
14. If the bidder performs and documents an adequate GFE to meet the goal, the award cannot be denied on the basis that the bidder failed to meet the goal.

IV. CREDIT: MATERIALS – SUPPLIES – TRUCKING COMPANIES

A. CREDIT FOR MATERIALS OR SUPPLIES PURCHASED FROM DBEs/UDBEs WILL BE AS FOLLOWS:

RFP 74A0607

1. If the materials or supplies are obtained from a DBE/UDBE manufacturer, 100 percent of the cost of the materials or supplies will count toward the DBE/DBE goal.
2. 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 Agreement and of the general character described by the Agreement.
3. If the materials or supplies are purchased from a DBE/UDBE regular dealer, 60 percent of the cost of the materials or supplies will count toward the DBE/UDBE goal.
4. 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 Agreement are bought, kept in stock and regularly sold or leased to the public in the usual course of business.
5. To be a DBE/UDBE 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/UDBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business as provided in this paragraph if the person both owns and operates distribution equipment for the products.
6. Any supplementing of regular dealers' own distribution equipment shall be a long-term lease Agreement and not on an ad-hoc or Agreement by Agreement basis.
7. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE/UDBE regular dealers within the meaning of this paragraph.
8. Credit for materials or supplies purchased from a DBE/UDBE which is neither a manufacturer nor a regular dealer will be limited to the entire amount of 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 similar fees charged for services. The cost of materials or supplies is not counted toward the DBE/UDBE goal in this instance.

B. CREDIT FOR DBE/UDBE TRUCKING COMPANIES WILL BE AS FOLLOWS:

1. The DBE/UDBE must manage and supervise 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 DBE/UDBE goal.
2. The DBE/UDBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
3. The DBE/UDBE will receive 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.
4. The DBE/UDBE may lease trucks from another DBE/UDBE firm, including an owner-operator who is certified as a DBE/UDBE. The DBE/UDBE who leases trucks from another DBE/UDBE receives credit for the total value of the transportation services the lessee DBE/UDBE provides on the Agreement.

5. The DBE/UDBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE/UDBE 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. The DBE/UDBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE/UDBE.
6. A lease must indicate that the DBE/UDBE has exclusive use and control over the truck. This does not preclude the leased truck from being used by others during the term of the lease with the consent of the DBE/UDBE, as long as the lease gives the DBE/UDBE absolute priority for use of the leased truck.
7. Leased trucks must display the name and identification number of the DBE/UDBE.

V. USE OF PROPOSED DBEs

If awarded the Agreement, the successful bidder must use the DBE/UDBE subcontractor(s) and or supplier(s) proposed in its bid/proposal.

RFP 74A0607

The Contractor may not substitute, add or terminate a subcontractor, supplier or, if applicable, a trucking company, listed in the original bid/proposal without the prior written approval of the Contract Manager.

The Contractor must make an adequate GFE to find another certified DBE subcontractor to substitute for the original DBE. The GFE shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was substituted or terminated to the extent needed to meet the established contract goal for UDBE participation.

The requirement that DBEs must be certified by the bid opening date does not apply to DBE substitutions after award of the Agreement. Substitutions of DBEs after award must be certified at the time of the substitution or addition.

Authorization to use other subcontractors or suppliers may be requested for the following reasons:

1. The listed DBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written Agreement, when such written Agreement, based upon the general terms and conditions for this Agreement or on the terms of such subcontractor's or supplier's written bid, is presented by the Contractor.
2. The listed DBE becomes bankrupt or insolvent.
3. The listed DBE fails or refuses to perform the subcontract or furnish the listed materials.
4. The Contractor stipulated that a bond was a condition of executing a subcontract and the listed DBE subcontractor failed or refuses to meet the bond requirements of the Contractor.
5. The work performed by the listed subcontractor is substantially unsatisfactory and is not in substantial conformance with the scope of work to be performed, or the subcontractor is substantially delaying or disrupting the progress of the work.
6. When it would be in the best interest of the State.

VI. SUMMARY OF ATTACHMENTS

Caltrans forms that are attached to these instructions:

ADM 0227F Disadvantaged Business Enterprise (DBE) Information / Underutilized DBE (UDBE) Participation form
ADM 0312F Bidder/Proposer Underutilized Disadvantaged Business Enterprise (UDBE) Good Faith Efforts Documentation form

Additional copies of the forms can be obtained by contacting the analyst listed in the solicitation.

California Department of Transportation

Planning Public Engagement Contract (PPEC) Task Proposal

District No.: _____
Date: _____
Contractor: _____
Company Project No.: _____
Agreement Number: 74A0607
EA: _____

Project Title: _____, Phase _____
 (Keep project title brief and include partner agency, if applicable)

I. Project Description

(Brief description of the project. Projects must be in the early planning stages; if you are in project design, development and programming, you may be too far along- unless there is a unique issue or unexpected controversy where additional public engagement may help Caltrans proceed effectively.)

Goals

(Specify what your goals are for this project and what you hope to achieve. For example: Early identification of key issues within the community, identification and participation of key stakeholders, improve partnerships with local agencies, increase the reach and depth of community participation, engage a specific constituency that has not previously participated, etc.)

Project Team Members

Caltrans Contract Managers	
Partner Agency Contacts	
Caltrans District Contract Coordinator	
Caltrans Requesting District Project Manager	
Contractor Project Manager	

California Department of Transportation

II. Scope of Services

Tasks

Contractor shall execute the following tasks:

(For example, the consultant shall provide input to the proposed strategies to accomplish the "goals" and "objectives" identified in the initial proposal. Match the Task numbers with Deliverable numbers. A Task is specific such as develop outreach strategy, conduct meeting outreach, prepare draft and final report. Be sure that each task addresses public outreach and not planning.)

- 1.
- 2.
- 3.
- 4.

Expected Results

The expected results of this task proposal are:

(Example results may include: documented community/stakeholder agreement on strategies to resolve a specific issue, improved relationships with Caltrans on local agencies, better use of resources as evidenced by effective, results oriented meetings.

1. Improve and increase stakeholder and public understanding of related Caltrans activities within the proposed project or planning area.
2. Improve and increase opportunities, as appropriate, for public input and engagement.
3. Convey to the public and stakeholders the results and outcomes achieved through this proposal.

Deliverables & Project Schedule

Focus deliverables on public outreach and not planning.

(The deliverables should align with the tasks so if the task is to prepare an outreach strategy, the deliverable is a memorandum documenting the outreach strategy.)

Task	Description	Deliverables	From	To
1.				
2.				
3.				
4.				
5.				

III. Reports and/or Meetings

- A. Contractor shall submit progress reports as noted in the Contract under Exhibit A, 74A0607 and Exhibit B, 74A0607.
- B. Contractor's Project Manager shall meet with the Caltrans' Contract Manager and Caltrans' Project Coordinator, as needed, to discuss progress on the project(s), as noted in the Contract under Exhibit A, 74A0607.

California Department of Transportation

IV. Period of Performance

Work under this proposal shall begin on _____, 2011, and terminate on February 28, 2014.

V. Cost

- A. Contractor shall be paid for actual hours worked in accordance with Contract No. 74A0607, Attachment 1, Cost Proposal and with the Contractor's proposed project cost estimate attached to this Task Proposal (Attachment 5).
- B. In addition, the Contractor shall be paid for actual direct costs, other than salary costs that are identified in the Attachment 1, Cost Proposal pursuant to Exhibit B of Contract No. 74A0607.
- C. The total amount payable by Caltrans under this proposal shall not exceed \$ _____.

VI. Requesting Project Manager

The requesting Caltrans District Project Manager is:

Name:
Address:
Phone No.:

VII. Signatures

I certify that this proposal and attachments comply with the provisions of Contract No. 74A0607, are necessary for the satisfactory completion of the product(s) contracted for, and that sufficient funding has been encumbered to pay for this work.

I certify that this proposal and attachments are within the scope of the project and are necessary for the successful completion of the project.

IN WITNESS WHEREOF, this proposal has been executed under the provisions of Contract No. 74A0607 between the State of California, Department of Transportation, and CONTRACTOR. By signature below, the parties hereto agree that all terms and conditions of this proposal and Contract No. 74A0607 shall be in full force and effect.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

CONTRACTOR

By: _____
NAME
Associate Transportation Planner

By: _____
NAME
Project Manager

Date: _____, 2011

Date: _____, 2011

Attachments:

- 1. List of Stakeholders
- 2. Cost Estimate
- 3. Picture/Map of Project Area

California Department of Transportation

Attachment 1: List of Stakeholders and Project Team Members

The following is a list of stakeholders and project team members as understood currently. It may evolve to include or eliminate stakeholders as the public engagement process is carried out.

Stakeholders

When developing stakeholder list, please consider Title VI underrepresented groups and groups identified in the recent SAFETEA-LU update as follows:

Youth

Seniors (Elderly, Retired)

Disabled

Minorities

Rural, low-income communities

Tribal governments

Affected public agencies

Transit operators

Public transportation providers and employees

Ports

Airports

Pedestrian and bike advocates

Providers of freight transportation services

Non-metropolitan local transportation officials

Downtown organizations

Business Sector

Inner City residents

MPOs

RTPAs

Safety groups:

- CHP
- Paramedics
- Fire department

Councils of Governments

Developers

Lending institutions

CBOs

Community Groups

- California Department of Housing and Community Development (HCD)
- California Department of Public Health
- Local Government Commission
- California Bicycle Coalition
- California Bicycle Advisory Committee (CBAC)
- WALKSacramento
- California Walks
- Planning and Conservation League (PCL)
- Center for Civic Partnerships/California Healthy Cities and Communities
- Urban Land Institute (ULI)—Sacramento Chapter
- Sacramento Metropolitan Air Quality Management District
- California Transit Association

California Department of Transportation

- California Association for Coordinated Transportation
- University of California Davis, Institute of Transportation Studies, Sustainable Transportation Center

Caltrans Departments:

- Design
- Maintenance & Operations

Attachment 2: Cost Estimate

Contractor will prepare Cost Estimate, after the task proposal is approved by Caltrans Contract Management.

Attachment 3:

Provide picture and map of project area, if available.

SoDwyerPr.com

ATTACHMENT 6
PROPOSAL/PROPOSER CERTIFICATION SHEET

Only an individual who is authorized to bind the proposing firm contractually shall sign the Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. This Proposal/Proposer Certification Sheet must be signed and returned along with all "required attachments" as an entire package with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

- A. Our all-inclusive proposal is submitted in a sealed envelope marked "**Cost Proposal - Do Not Open**".
- B. All required attachments are included with this certification sheet.
- C. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.
- D. The signature and date affixed hereon certifies that this proposal is a firm offer for a 90-day period.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause for Proposal Rejection

1. Company Name	2. Telephone Number () ()	2a. Fax Number () ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
Indicate applicable license and/or certification information:		
9. Contractor's State Licensing Board Number	10. PUC License Number CAL-T-	11. Required
12. Proposer's Name (Print)		13. Title
14. Signature		15. Date
16. Are you certified with the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) as:		
a. Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/>		
b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/>		
If yes, enter certification number: _____		
If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is checked " Yes ".		
Date application was submitted to OSDS, if an application is pending: _____		
17. Are you a Non-Small Business committing to the use of 25% Certified Small Business Subcontractor Participation? Yes <input type="checkbox"/> No <input type="checkbox"/>		
If Yes, complete and return the Proposal Declaration form, GSPD-05-105 with your proposal.		

Completion Instructions for PROPOSAL/PROPOSER CERTIFICATION SHEET

Complete the numbered items on the Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete if your firm holds a California contractor's license. This information will be used to verify possession of a contractor's license for public works agreements.
10	Complete if your firm holds a PUC license. This information will be used to verify possession of a PUC license for public works agreements.
11	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
12, 13, 14, 15	Must be completed. These items are self-explanatory.
16	If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.
17	Check the applicable box. Complete and return GSPD-05-105 with your proposal.

ATTACHMENT 7

CRITERIA FOR EVALUATION OF CONSULTANT
 WRITTEN TECHNICAL PROPOSALS

Technical Proposal Evaluation:	Maximum Possible Score (Weighted Score) 100 Points	Consensus Determination - %	Score
Maximum possible points earned for Section I, 40 points			
I. CONSULTANT'S APPROACH TO PUBLIC PARTICIPATION			
Completeness of approach and understanding of Scope of Work and RFP requirements <ul style="list-style-type: none"> • Proposer addresses each of the five (5) major tasks identified in the scope of work • Proposer presents examples and experiences for all tasks 	8		
Demonstrate understanding of transportation planning <ul style="list-style-type: none"> • Proposer demonstrates and understanding of transportation planning challenges and opportunities in California • Proposer speaks to the importance of public input in planning for transportation projects 	8		
Identifies strategies to link transportation planning activities to the local context in order to engage the public and key local stakeholders <ul style="list-style-type: none"> • Proposer provides examples that illustrate strategies and approaches that led to engagement events • Proposer provides examples of how they will assist Caltrans in adhering to Department's initiatives and requirements contained in the scope of work 	8		
Understands tools and techniques to engage the public and gain meaningful public input <ul style="list-style-type: none"> • Proposer presents a variety of tools and techniques that exist or have been used in the past • Proposer presents techniques to meet the state and federal requirements as outlined in the scope of work 	8		

ATTACHMENT 7

Demonstrates the importance of collaborating with Community-Based Organizations	8		
<ul style="list-style-type: none"> Proposer presents examples of engaging local organizations Proposer presents examples and opportunity to engage community organizations to help find solutions to transportation planning issues 			
Maximum possible points earned for Section II, 15 points			
II. CONSULTANT'S/SUBCONSULTANT'S ORGANIZATION			
<ul style="list-style-type: none"> Flexibility and capability to cover simultaneous statewide requirements 	5		
<ul style="list-style-type: none"> Resources available statewide on short notice 	5		
<ul style="list-style-type: none"> Administrative and operation management 	5		
Maximum possible points earned for Section III, 25 points			
III. CONSULTANT'S WORK PLAN			
Work Plan and Schedule with identification of Consultant's major tasks and necessary subtask <ul style="list-style-type: none"> Work Plan and Schedule are thorough, clear and concise 	15		
Appropriate allocation of resources <ul style="list-style-type: none"> Allocations are reasonable, appropriate and do not exceed the maximum amounts allowed as outlined in this scope of work 	10		
Maximum possible points earned for Section IV, 10 points			
IV. CONTRACTOR QUALIFICATIONS AND EXPERIENCE			
<ul style="list-style-type: none"> Experience with statewide campaigns 	5		
<ul style="list-style-type: none"> Experience facilitating public input in planning efforts 	5		
Maximum possible points earned for Section V, 10 points			
V. WORK SAMPLES SUBMITTED BY CONSULTANT			
<ul style="list-style-type: none"> Overall quality of work samples submitted (Sample brochure, printed news media, CD/Internet, color video or broadcast media) 	5		
<ul style="list-style-type: none"> Address participation and engagement requirements 	5		
TOTAL POSSIBLE		100 points	
TOTAL ACTUAL			
TOTAL PERCENT			

Passing Score: 85 or 85%.

Only those proposers with a passing score will have their cost opened.

Attachment 8

Proposal
Reference Letter

Public Engagement Request for

RFP Number: 74A0607

{Proposer Company Name}

Address:

Telephone Number

Submitted by:

Date:

RE: PUBLIC ENGAGEMENT CUSTOMER EXPERIENCE

Firm

Name: _____

Contact Name: _____

Street Address: _____

City, State, Zip Code: _____

Firm Telephone Number: _____

Service Value/Cost: _____

Brief Description of Service provided, The services include: _____

Service Dates (i.e., start/end dates): _____

Extent of Work: How many years of experience performing services: _____

Dates of Services performed: Start Date: _____

End Date: _____

How was the services performed by the Proposer?

Satisfactory _____

Fair _____

Poor _____

Signature _____

Date _____

Title: _____

Please print name of person that signed above here: _____

**Attachment 9
Darfur Contracting Act**

Instructions: Complete, as applicable, and submit with proposal.

Public Contract Code Sections 10475 -10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal.

OPTION #1 - CERTIFICATION

If your company has not, within the previous three years, had any business activities or other operations outside of the United States, complete and sign this section and submit with bid package. I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective proposer/bidder named below has not, within the previous three years, had any business activities or other operations outside of the United States. b) I am duly authorized to legally bind the prospective proposer/bidder named below. This certification is made under the laws of the State of California.

Company/Vendor Name (Printed)	Federal ID Number
-------------------------------	-------------------

By (Authorized Signature)

Printed Name and Title of Person Signing

OPTION #2 - CERTIFICATION

If your company, within the previous three years, has had business activities or other operations outside of the United States, in order to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete the certification below. I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective proposer/bidder named below is not a scrutinized company per Public Contract Code 10476; and b) I am duly authorized to legally bind the prospective proposer/bidder named below. This certification is made under the laws of the State of California.

Company/Vendor Name (Printed)	Federal ID Number
-------------------------------	-------------------

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed	Executed in the County and State of
---------------	-------------------------------------

OPTION #3 – WRITTEN PERMISSION FROM DGS

Pursuant to Public Contract Code section 10477(b), the Director of the Department of General Services may permit a scrutinized company, on a case-by-case basis, to bid on or submit a proposal for a contract with a state agency for goods or services, if it is in the best interests of the state. If you are a scrutinized company that has obtained written permission from the DGS to submit a bid or proposal, complete the information below.

We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services to submit a bid or proposal pursuant to Public Contract Code section 10477(b). **A copy of the written permission from DGS is included with our bid or proposal.**

Company/Vendor Name (Printed)	Federal ID Number
-------------------------------	-------------------

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed	Executed in the County and State of
---------------	-------------------------------------

**Attachment 10
Required Attachment Checklist**

ATTACHMENT CHECKLIST

A complete proposal package will consist of the items identified below. Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the State. All attachments identified below are applicable to this RFP and must be returned, as instructed, or your proposal may be considered non-responsive. **Return this checklist with your Technical Proposal package.**

Technical Proposal and Attachments

NOTE: Return this Checklist with the Technical Proposal package.

Attachments

Attachment Name/Description

Technical Proposal as stated in this RFP (This shall be incorporated into the contract as Attachment 2)

Subcontracting Provisions/List, (RFP Attachment 3)

Darfur Contract Act, (RFP Attachment 9)

Proposal Attachment Checklist (RFP Attachment 10)

Contractor Certification Clauses (CCC 307). The CCC 307 can also be found on the Internet at <http://www.dgs.ca.gov/ols/home.aspx>. Page one (1) must be signed and submitted prior to the award of the Agreement. (RFP Attachment 2)

Cost Proposal and Attachments

NOTE: All Cost Proposal Information and applicable Attachments MUST be packaged separately from the Technical Proposal package. **No Cost Information of any kind is allowed in the Technical Proposal.**

Attachments

Attachment Name/Description

Proposal/Proposer Certification Sheet (RFP Attachment 6)

Cost Proposal (RFP Attachment 1)

Quotes from SB/DVBE Subcontractors

Disadvantaged Business Enterprise (DBE) Information/Underutilized (UDBE) Participation ADM 0227F

Disadvantaged Business Enterprise (DBE) and Underutilized DBE (UDBE) Participation Goal Information Packet

Bidder/Proposer Underutilized Disadvantaged Business Enterprise (UDBE) Good Faith Efforts Documentation ADM 0312F

ACCOUNTING & AUDIT GUIDELINES FOR CONTRACTS WITH CALTRANS

INTRODUCTION

The purpose of this brochure is to outline for you, a potential contractor with the California State Department of Transportation (Caltrans), the basic elements of an adequate accounting system, and the types and objectives of audits that will be performed in relation to your contract. In order to successfully compete for a contract and meet the audit requirements, a contractor (whether a prime or subcontractor) must have a system of record keeping and internal control. Although a specific cost accounting system is not required, a contractor needs a system which will assure compliance with the terms of the agreement. A preaward audit will be performed to assure you meet these requirements prior to contract execution. If your system is deficient, the contract will not be executed.

Caltrans reimburses, through your overhead rate, the costs attributable to establishing and maintaining a cost accounting system.

Staff time and other costs related to an audit performed of your contract are also normally reimbursed through your overhead rate.

ACCOUNTING SYSTEM

Contractors (whether a prime or subcontractor) planning to contract with Caltrans must have an accounting system which meets the following objectives:

- The ability to record and report financial data in accordance with generally accepted accounting principles.
- A system of record keeping to ensure that costs billed to Caltrans are:
 - a. Supported by adequate documentation.
 - b. In compliance with the terms of the contract and applicable Federal and State regulations specified in the contract.
- A system of record keeping which ideally includes the following:
 - a. A General Ledger
 - b. Job cost ledger
 - c. Labor distributions
 - d. Time records
 - e. Subsidiary journals
 - f. Chart of accounts

- g. Financial statements
- The ability to accumulate and segregate reasonable, allocable (incurred solely for a project) and allowable (per terms of the contract) costs through the use of a cost accounting system. The following are some of the attributes which would ideally be found in such a system:
 - a. A chart of accounts which includes indirect and direct general ledger accounts. Indirect costs are not specifically identified to a project, for example, rent and/or utilities. Direct costs are specifically identified with a project, for example, drafting hours and/or design hours.
 - b. Segregation of costs by contract, category of cost and milestones (if applicable).
 - c. Proper recording of direct and indirect costs. For example, recording of labor costs should provide that non-project indirect hours be recorded on a timesheet and in the accounting records to an administration, vacation, sick leave or other indirect cost account/code. Direct project hours should be recorded on a timesheet and in the accounting records to a direct project cost account/code.
 - d. Consistent accounting treatment of costs in recording and reporting. For example, if travel expense is charged directly to a project, all travel expense incurred on any project should be considered a direct cost. As a result, project related travel, whether reimbursable per the contract terms or not, should not be included as an indirect cost.
 - e. Ability to trace from invoices submitted to Caltrans to job cost records and original, approved source documents, for example, timesheets, vendor invoices, canceled checks.
 - f. Ability to reconcile job cost records to the accounting records.
 - Compliance with cost principles described in the Code of Federal Regulations 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31. Information on how to obtain this regulation is described under "Audit Criteria" in this brochure.
 - Procedures to monitor and adjust projected overhead rates to actual rates.
 - Controls to ensure that written approval is obtained prior to any changes to the contract.
 - Procedures to retain accounting records and source documentation as required by the terms of the contract.
 - A system of internal control which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported, and corrected. The elements of a system of internal control should include, but not be limited to, the following:
 - a. Separation of duties for proper protection of assets. Incompatible duties are those that place any person in a position to both perpetrate and conceal errors or irregularities in the normal course of business. For example, the person who writes checks should be different from the person who reconciles bank statements and the person who purchases goods should be different from the person who receives goods.

- b. Limiting access to assets to only authorized personnel who require these assets in the performance of their assigned duties. For example, blank check stock should be locked in a safe when not in use.
- c. Authorization and record keeping procedures which provide effective accounting control over assets, liabilities, revenues, and expenditures.
- d. A system of practices to be followed in the performance of duties and functions. Such a system normally includes policies and procedures which establish the purpose and requirements of the accounting system. For example, timekeeping practices should ideally provide for the following:
 - Timesheets be prepared, signed, and dated by all employees.
 - Timesheets be completed in non-erasable ink.
 - Timesheet corrections be crossed-out and initialed by the employee.
 - Timesheets be signed by a supervisor as reviewed and retained on file as required by the contract.
- e. Personnel with skills and training commensurate with their responsibilities.
- f. A system of internal review. For example, bank reconciliations and travel expense claims should be reviewed approved and signed by a supervisor.

AUDITS

Contractors, whether a prime or subcontractor, performing under a negotiated contract with Caltrans are subject to the following audits:

PREAWARD AUDITS

Prior to the award of a contract, the Caltrans Audits Office will conduct a preaward evaluation to determine if the contractor's accounting system is adequate to accumulate and segregate costs as detailed in the previous section and to determine if the proposed costs are reasonable. It alerts both the contractor and Caltrans management to problems relative to the contractor's cost proposal and cost accounting system. Due to time constraints in the award process, your cooperation in scheduling the preaward audit with short notice will expedite the execution of your contract.

INTERIM AUDITS

Interim audits are performed on an as needed basis. During the preaward audit, if it is determined that the contractor's accounting system is new or minor deficiencies are noted, an interim audit is scheduled to determine that the system is functioning adequately to ensure that billed costs are supported and that any deficiencies were corrected. An interim audit may be requested by the

contract administrator or by Caltrans management to address concerns during the course of the contract. Also, an audit manager may initiate an interim audit of a long duration contract to ensure that costs reimbursed to date are allowable.

POST AUDITS

Post audits of contracts are performed routinely after project completion. Post audits are performed to determine whether the costs claimed are allowable, allocable, reasonable, and in compliance with the Federal and State laws and regulations as well as the fiscal provisions stipulated in the contract. The examination includes reviews of applicable laws and regulations, the contract requirements and the contractor's system of internal controls. Audit tests of the contractor's accounting records and other auditing procedures considered necessary will also be made. Applications of all audit procedures would also be governed by the individual contract under audit. Unsupported or unallowable costs are normally the result of weaknesses in the accounting system and will be reimbursed to Caltrans.

AUDIT CRITERIA

For specific information regarding basic cost accounting systems and applicable State and Federal regulations, please see the following:

Code of Federal Regulations 48, Federal Acquisition Regulations System, Chapter 1, Part 31

This regulation contains cost principles and procedures for the pricing of contracts/subcontracts and the determination, negotiation, or allowance of costs. Contact:

Superintendent of Documents
Government Printing Office
Washington, DC 20402

(202) 783-3238

California State Administrative Manual

A reference source for statewide policies, procedures, regulations, and information. Contact:

Documents and Publications
Office of Procurement
Department of General Services
P.O. Box 1015
North Highlands, CA 95660

(916) 973-3700

For review of the above references, contact your local library or the California State Library.

California State Library/Library and Courts Building
914 Capitol Mall
P. O. Box 942837
Sacramento, CA 94237-0001
Information: (916) 654-0261

For assistance in establishing an accounting system which will meet the objectives outlined in this brochure, you should contact an accountant and/or bookkeeper who is familiar with cost accounting systems.

Caltrans is an affirmative action employer. Equal opportunity is offered to all regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation,

age or sexual orientation. Contractors that contract with Caltrans are responsible for taking necessary and reasonable steps to achieve these same goals.

odwyerpr.com

ATTACHMENT #12
 Consulting Services Agreement (Federal)

AGREEMENT NUMBER TBD
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Consultant named below:
 STATE AGENCY'S NAME
Department of Transportation (Caltrans)
 CONSULTANT'S'S NAME
TBD
- The term of this Agreement is: **June 30, 2011** through **February 28, 2014**
- The maximum amount of this Agreement is: **TBD**
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	6 Pages
Exhibit B – Budget Detail and Payment Provisions	4 Pages
Exhibit C* – General Terms and Conditions (GTC 610)	15 Pages
Exhibit D - Special Terms and Conditions	4 Pages
Exhibit E – Additional Provisions	TBD
Attachment 1 - Cost Proposal	TBD
Attachment 2 - Technical Proposal	1 Page
Attachment 3 – Subcontractor Provisions/List	TBD
Attachment 4 – DBE Participation	5 Pages
Attachment 5 – Sample Task Proposal	

Note to Bidders:
 The following 32 pages represent a sample of the Agreement that will be awarded, if any, from this RFP. Please review it carefully and present any questions in writing to the contact identified for this RFP.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this Agreement as if attached hereto. *These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONSULTANT		California Department of General Services Use Only <input type="checkbox"/> Exempt per:
CONSULTANT'S'S NAME (if other than an individual, state whether a corporation, partnership, etc.) TBD		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME Department of Transportation (Caltrans)		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 1727 30th Street MS-65, Sacramento, CA 95816		

**EXHIBIT A
Consulting Services Agreement (Federal)**

SCOPE OF WORK

1. The work to be performed under this Agreement shall be in accordance with the Consultant Technical Proposal entitled **Public Engagement Program** dated (DATE), **Attachment 2**, Cost Proposal, **Attachment 1** and the Scope of Work in this Agreement. The proposals are attached hereto and incorporated by reference. If there is any conflict between the Consultant's proposals and this Agreement, this Agreement shall prevail.

Consultant agrees to provide On-Call Public Engagement Services to the Department of Transportation (Caltrans), as described herein:

The services shall be performed throughout Caltrans Headquarter and Caltrans Districts 1 thru 12 covering the entire State of California on an on-call basis. See the Caltrans District Boundaries and Mailing Addresses available at website: <http://www.dot.ca.gov/mail.htm#map>.

Also, there are 26 Regional Transportation Planning Agencies (RTPA) and 18 Metropolitan Planning Organizations (MPO) that encompass the vast state geography that includes over 470 cities and 58 counties. See the California MPO/RTPA Statewide Map at website: <http://www.dot.ca.gov/hq/tpp/offices/orip/index.html>.

2. This Agreement will commence on June 30, 2011 (estimate) or upon approval by Caltrans, whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by Caltrans. The Consultant shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Contract Manager. This Agreement shall expire on February 28, 2014 (estimate). The services shall be provided at a variety of hours, including evenings and weekends, except holidays. The parties may amend this agreement as permitted by law.
3. All inquiries during the term of this Agreement will be directed to the project representatives listed below:

Department of Transportation	Consultant: TBD
Section/Unit:	Section/Unit:
Contract Manager: TBD	Project Manager:
Address:	Address:
Phone: ()	Phone:
Fax: ()	Fax:

4. Detailed description of work to be performed and duties of all parties:

EXHIBIT A
Consulting Services Agreement (Federal)

- A. The Consultant will provide Stakeholder Assessment and Strategies for the Public Engagement Activities.
- 1) The Consultant will attend and facilitate a strategy meeting with Caltrans representatives and key partner staff. The purpose of the meeting is to discuss strategies and key components of a public engagement plan. The Consultant will assist in agenda development, provide a preliminary list of key outreach plan components and facilitate discussions to identify key tactics, roles and responsibilities and a public engagement action plan that identifies specific timing of planned actions. The Consultant will also assist by suggesting key elements for a stakeholder assessment to be undertaken by the District. After each meeting, the Consultant will prepare a memorandum including a summary of the key discussions and agreements, and concluding with recommendations for the future development of a comprehensive outreach program by the District.
 - 2) The Consultant will also in refining the stakeholder outreach strategies. Caltrans Districts or HQ Divisions will provide the Consultant copies of the stakeholder mailing lists currently used. The Consultant will recommend strategies to update these lists to ensure that the appropriate stakeholders for the Districts or HQ Divisions, including the Title VI groups that are traditionally underrepresented are identified.
 - 3) Traditionally underrepresented refers to low-income and minority populations, as well as the elderly, the young and the disabled); and, Community-Based Organizations (CBOs).
 - 4) Stakeholder refers to interested groups, individuals, public agencies and the general population affected by each project.
 - 5) The Consultant will identify CBOs that provide services within the project area to provide ideas on outreach and access to traditionally underrepresented groups. The Consultant shall obtain full input from these CBOs though individual meetings, as well as, participation from these CBOs during the public engagement events.
 - 6) The Consultant will identify and create a list of ethnic media groups with access to ethnic media networks statewide to assist in the public engagement. This list ethnic media groups will include the addresses, interests, organizational affiliation, ethnicity, and other key demographic data of the underrepresented and other potential participants in the appropriate public engagement event.
- B. The Consultant will market and promote public awareness and public engagement events as requested by the District or HQ Division.
- 1) The Consultant will prepare marketing materials, in English and other languages (i.e., promotions, advertisements mailed out or included as newspaper inserts, including newspapers read by the underrepresented, brochures, broadcast media, internet) to promote public engagement in transportation and land use

EXHIBIT A
Consulting Services Agreement (Federal)

planning activities. Consultant will submit all drafted materials to the District or HQ Division planning staff for review, comment, and approval prior to the event and in sufficient time to implement any requested changes.

- 2) Brochures and other informational products must be coordinated with the Caltrans Contract Manager to ensure the brochures informational products have the Caltrans logo, as well as references to the Governor, the Secretary of Business, Transportation and Housing and the Director/District Director.
 - 3) The Consultant will provide outreach services to recruit attendees to public engagement sessions ensuring that the attendees include a fair representation/cross-section of the population, including those traditionally underrepresented groups or individuals that will be affected by the proposed planning program, plan or project.
 - 4) The Consultant will provide translation services to ensure brochures, meeting notes, handouts, and Internet promotions are printed/posted in English and other languages identified by each District. Consultant will also provide Braille materials and/or audiotapes for the visually impaired, as requested by Caltrans.
 - 5) The Consultant will ensure that all meeting notices shall state that contain a statement to the effect that translators, sign language translators and material in Braille will be provided upon request. The notice shall include the name and phone number of the Consultants contact and the request will need to be made 48 hours in advance in order for Consultant to provide the service.
 - 6) Many case histories in environmental justice have shown that traditional methods of contacting underrepresented communities are not always successful and more culturally sensitive and innovative methods are needed. In these cases, the Consultant may provide payment of an incentive in the form of cash and/or a meal or other amenities that, in the judgment of the Consultant (and only after the approval of the Caltrans Contract Manager), is the only reasonable means to obtain the necessary public participation at these meetings. In addition to refreshments, amenities may include assistance with childcare, transportation and advertising and promotional products that identify Caltrans name.
- C. The Consultant will conduct and facilitate workshops and planning meetings.
- 1) The Consultant will attend a kick-off meeting in Sacramento to be scheduled within one week from of the notice to proceed by the Caltrans Contract Manager.
 - 2) The Consultant will facilitate stakeholder participation in workshops and meetings supporting transportation planning activities. Facilitators will employ a variety of techniques, including consensus building and strategic visioning, to provide stakeholders an opportunity to provide input into deliberative transportation decision-making.

EXHIBIT A
Consulting Services Agreement (Federal)

- 3) The Consultant will ensure that the stakeholder lists are regularly updated for public engagement events that include the participants, traditionally underrepresented populations.
 - 4) The Consultant will arrange public meetings designed to obtain maximum public input at locations identified by the District or HQ Division contacts with input from stakeholders such as CBOs and public/ and private agencies.
 - 5) The Consultant will advise on the meeting facilities, and coordinate and reserve meeting facilities, upon approval of the costs by Caltrans Chief, Office Community Planning (OCP), to be used by the District or HQ Division planning staff to conduct public engagement. The Department will reimburse the Consultant for expenditures paid by that Consultant to secure these facilities upon receipt of invoice. The Consultant will consider non-traditional venues such as schools, work centers, churches, tribal buildings and times (evenings, week-ends) when coordinating the facilities for the public participation meetings.
 - 6) The Consultant, in conjunction with Caltrans staff, will register the Department and coordinate the Caltrans staff attendance at special events, including, but not limited to, planning conferences and county fairs.
 - 7) The Consultant will ensure the rental of Information Technology equipment, including, but not limited to a laptop computers, projectors, microphones, and lighting are provided, upon request. The Department will reimburse the Consultant for expenditures paid by that Consultant to secure the Information Technology equipment upon receipt of invoice.
 - 8) The Consultant will coordinate and facilitate public engagement events for the District or HQ Division planning staff, including but not limited to focus groups, workshops, partnership efforts, public information-sharing sessions, public forums, town-hall meetings, planning conferences, values analysis sessions, remote interactive technology, feedback sessions, and charrettes. The Consultant will also provide alternative public meeting formats to include open houses and other structured meetings. To enhance opportunities for all groups and individuals, particularly the traditionally underrepresented and to engage in the fullest dialogue, the Consultant will enlist the services of the CBO(s) to participate and actually facilitate the dialogue at these events.
 - 9) The Consultant, with input from Stakeholders, will develop new and innovative techniques to enhance outreach for local, regional, interregional and statewide planning efforts and develop transportation planning reports. These reports may include: statewide plans, Transportation Concept Reports (TCR), District System Management Plans (DSMP), corridor studies, such as Corridor Systems Management Plans (CSMP), and Project Initiation Documents (PID), such as Project Study Reports (PSR), prior to the PIDs being programmed.
- D. The Consultant will provide technical assistance and technology to enhance public engagement.

EXHIBIT A
Consulting Services Agreement (Federal)

- 1) The Consultant will provide facilitation services and interactive tools to enhance consensus building and strategic visioning. The skills will include interactive polling technology and, on some occasions, interactive charrettes.
 - 2) The Consultant will provide support for interactive polling technology and experts with broad facilitation skills and experience employing audience response systems (such as Interactive Polling Equipment, instant handheld polling or remote clicker technology-or its equivalent), which can record participant inputs electronically and which can be reflected back to the participants in real-time for discussion or icebreaker sessions (with hard copy results and analysis available, if requested). The Consultant will provide near real-time analysis of the data collected during public engagement events or meetings using this enhanced technology.
 - 3) The Consultant services will include "visualization" techniques and tools that help discussions move from abstract terms to more concrete imaging, which can help participants as they attempt to balance stakeholder values with transportation needs during planning activities. The "visualization" techniques and tools can include computer simulation, photo simulation and photomontages, sophisticated "butcher paper" such as wall-mounted graphics for visioning exercises, visual preference/community vision surveys, and graphically displayed planning issues.
- E. The Consultant will provide measurable results of the public participation events.
- 1) The Consultant, when directed, may be required to produce a report of results of the outreach efforts for each of the supported planning activities within the districts. The Consultant will be prepared to distribute drafts of these reports to the District or HQ Division planning staff. These drafts will be distributed only after Caltrans staff approval, and the Consultant may distribute reports to partner agencies, stakeholders, and other entities. The Consultant may be directed by Caltrans staff to prepare and distribute final reports within fifteen (15) business days of the planning activities.
 - 2) Under a Task Proposal, the Consultant may be required to prepare a draft report after each public outreach event with underrepresented communities that includes: demographics of the participants, analysis of how closely this matches the affected communities (particularly the traditionally underrepresented) within the planning area, analysis of the data obtained through public engagement, and recommendations on how Caltrans can create more successful outreach efforts in the future. Consultant will provide draft report to the requesting District or HQ Division planning staff for review, comment, and approval within seven (7) business days of the conclusion of the event.
 - 3) The Consultant shall prepare year-end reports (due November 1) each year that document results of (Statewide and for each District) the public engagement efforts from the previous calendar year to include: an analysis of the success in

EXHIBIT A
Consulting Services Agreement (Federal)

reaching the public in general, as well as engaging the appropriate underrepresented groups and securing their participation in the events; any lessons learned from the events; and, subsequent recommendations for improving outreach efforts for the next year. Information and analysis will be stratified and summarized to allow for separate reporting requirements (e.g., reporting of outreach to the general public and outreach to underrepresented separated for ease of reporting, if requested). The Consultant will provide drafts of these reports to the appropriate District or HQ Division planning staff for review, comment, and approval.

- 4) The Consultant will distribute final year-to-date reports to the District or HQ Division planning staff, as well as the regional and local transportation agencies (and other entities) as requested by Caltrans.
- F. All reports required by this Agreement will be delivered with an electronic file and camera ready copy or, at Caltrans option; Caltrans may request the Consultant to provide ten (10) printed copies of the report.
- G. The Consultant shall provide senior level support for multiple workshops on planning efforts in several Caltrans Districts.
- H. The Consultant shall perform services under this Agreement through an approved Task Proposal by the Caltrans Contract Manager (See Attachment 5, Sample Task Proposal). The Consultant shall prepare a draft Task Proposal, including scope of work, schedule for completion and rates based upon the Attachment 1, Cost Proposal. A final Task Proposal will be submitted to the Caltrans Contract Manager for approval.
- I. The Consultant shall obtain Caltrans Contract Manager's signature on the Task Proposal. The Task Proposal may not be used to amend this Agreement, nor may a Task Proposal change or extend the term(s) of the Agreement, or change the termination date of this Agreement.
- J. Prior to the implementation of the Task Proposal, the Consultant will meet with the Caltrans Contract Manager to discuss overall implementation and strategy for this Agreement or Task Proposal.
- K. Regular communications, including meetings are necessary to maintain the best possible professional relationship and productivity for the duration of the Agreement. Regular communication will be used as an opportunity to provide further recommendation on public engagement in ongoing transportation planning efforts of Task Proposals.

EXHIBIT B
Consulting Services Agreement (Federal)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt of an approved signed Task Proposal (Attachment 5), and upon receipt and approval of the invoices by Caltrans Contract Manager, the State agrees to compensate the Consultant for actual expenditures incurred in accordance with the rates in **Attachment 1, Cost Proposal**. Incomplete or disputed invoices shall be returned to the Consultant, unpaid, for correction.
- B. Invoices shall include the Agreement Number, service month, dates of services, number of hours services performed, city/county location of service, Caltrans District where service were performed, approved Task Proposal Number and Itemized Direct Cost, including but not limited to, meeting facilities, equipment rental fees, travel cost, childcare, meals, transportation, brochures, and media ads and shall be submitted in triplicate not more frequently than monthly in arrears to:

Department of Transportation (Caltrans)
Office of Community Planning
Division of Transportation Planning
Attention: TBD
1120 N Street, MS #32
Sacramento, CA 95814

- C. Invoices shall be itemized in accordance with the Cost Proposal, **Attachment 1**, and include supporting documentation for materials and supplies.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

2. Budget Contingency Clause

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

EXHIBIT B
Consulting Services Agreement (Federal)

- C. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- D. The State has the option to terminate the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Rates

Rates for these services are defined in Attachment 1, Cost Proposal.

5. Allowable Costs and Payments

- A. The method of payment for this Agreement will be based on actual costs incurred by the Consultant and the amount set forth in the sub-paragraph B. Caltrans will reimburse the Consultant for actual costs (including labor costs, employee benefits, travel, overhead and other direct costs) incurred by the Consultant in performance of the work, which amount will not exceed **\$TBD**. Actual costs shall not exceed the estimated wage rates and other estimated costs set forth in the Consultant's cost proposal without prior written Agreement between Caltrans and the Consultant.
- B. In addition to the actual costs, Caltrans will pay the Consultant a total fixed fee of **\$TBD** as follows. In each invoice, the Consultant shall charge a prorata share of the fixed fee based on the percentage of work completed to the satisfaction of the Contract Manager and Caltrans shall pay the prorata share upon approval of the invoice in accordance with the procedures set forth in Exhibit B, Section 1.
- C. Transportation and subsistence costs shall not exceed rates authorized to be paid non-represented State employees under current State Department of Personnel Administration rules.
- D. The Consultant shall not commence performance of work or services until this Agreement has been approved by Caltrans and the Caltrans Contract Manager gives Consultant notice to proceed. No payment will be made prior to that time, nor for any work performed prior to that time.
- E. The total amount payable by the State, including the fixed fee, shall not exceed **\$TBD**.

EXHIBIT B
Consulting Services Agreement (Federal)

6. Cost Principles

- A. The Consultant agrees that Title 48 Code of Federal Regulations (CFR) Part 31, Contract Cost Principles and Procedures (48 CFR 31), shall be used to determine the allowable individual items of cost.
- B. The Consultant also agrees to comply with Federal procedures in accordance with Title 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR 18).
- C. Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR 31 or 49 CFR 18 are subject to repayment by Consultant to State.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

7. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

8. Equipment Purchase (By Consultant)

- A. Prior authorization in writing by the Contract Manager shall be required before the Contractor enters into any non-budgeted purchase order or subcontract exceeding \$500 for supplies, equipment, or consultant services. The Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in the Consultant's Cost Proposal and exceeding \$500, with prior authorization by the Contract Manager, three competitive quotations must be submitted with the request or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Agreement is subject to the following: The Consultant shall maintain an inventory record for each piece of non-expendable equipment purchased or built with funds provided under the terms of this Agreement. The inventory record of each piece of such equipment shall include the date acquired, total cost, serial number, model identification (on purchased equipment), and any other information or description necessary to identify said equipment. Non-expendable equipment so inventoried are those items of equipment that have a normal life expectancy of one year or more and an approximate unit price of \$5,000 or more. In addition, theft-sensitive items of equipment costing less than \$5,000 shall be inventoried. A copy of the inventory record must be submitted to the State on request by the State.

EXHIBIT B
Consulting Services Agreement (Federal)

- D. Any equipment purchased by the Consultant will be returned to Caltrans at the end of this Agreement or as agreed upon by both parties. Both Caltrans and the Consultant agree to comply with State Administrative Manual (SAM), Section 3520, Disposal of Surplus Personal Property if it is determined that the equipment will no longer be retained.
- E. 49 CFR, Part 18 requires a credit to Federal funds when participating equipment, with a fair market value greater than \$5,000, is credited to the project.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

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EXHIBIT D
Consulting Services Agreement (Federal)

SPECIAL TERMS AND CONDITIONS

1. Settlement of Disputes

- A. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by Caltrans Contract Officer, who may consider any written or verbal evidence submitted by the Consultant. The decision of the Contract Officer, issued in writing, shall be the final decision by Caltrans.
- B. Neither the pendency of a dispute nor its consideration by the Contract Officer will excuse the Consultant from full and timely performance in accordance with the terms of the Agreement.

2. Evaluation of Consultant

Performance of the Consultant under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Consultant Evaluation Sheet (STD 4), and maintained in the Office file, and the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

3. Agency Liability

The Consultant warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Consultant for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

4. Subcontractors

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any Subcontractors, and no subcontract shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the State for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Consultant. The Consultant's obligation to pay its Subcontractors is an independent obligation from the State's obligation to make payments to the Consultant.
- B. The Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted except for Subcontractors listed on Attachment 3, Subcontracting Provisions/List.

EXHIBIT D
Consulting Services Agreement (Federal)

- C. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to Subcontractors
- D. Consultant shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Consultant by Caltrans.

5. Consultant's Reports and/or Meetings

- A. The Consultant shall submit progress reports at least once a month to allow Caltrans Contract Manager to determine if the Consultant is performing to expectations or is on schedule, to provide communication of interim findings and to afford occasions for airing difficulties or special problems encountered so that remedies can be developed.
- B. The Consultant shall meet with Caltrans Contract Manager as needed to discuss progress on the Agreement.
- C. Prior to completion of the Agreement, the Consultant shall hold a final meeting with Caltrans Contract Manager to present findings, conclusions and recommendations and shall submit a comprehensive final report on the project.
- D. Any document or written report prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, a list of all Agreements and subcontracts (including dollar amounts) relating to the preparation of those documents or reports if the combined costs for work by non-employees of the Consultant exceed \$5,000.

6. Publication

- A. The Consultant shall not copyright any deliverable(s) developed and funded under this Agreement.
- B. The Consultant shall have the right to publish any and all information, conclusions and developments (except that which is designated as **CONFIDENTIAL** by Caltrans) resulting from work conducted under this Agreement.
- C. Any publication by the Consultant shall give proper credit to Caltrans. All publications shall bear an appropriate inscription acknowledging Caltrans copyright ownership to the Work and Deliverable(s) (including, but not limited to, all reports, design materials, advertisements, training materials, writings, articles, computer programs, inventions and any documentation related to this Agreement) consisting of a "c" in a circle followed by the four-digit year in which the Work and Deliverables was produced, followed by the words "California Department of Transportation and/or Caltrans. All rights reserved."
- D. The Consultant shall submit to Caltrans any materials released for publication simultaneously with submission to the publisher for the purpose of comment and review by Caltrans with respect to the presence of patentable, confidential, and/or proprietary subject matter within the materials released for publication

EXHIBIT D
Consulting Services Agreement (Federal)

- E. The report shall contain the following disclaimer in a separate section preceding the main body of the document:

"The contents of this report reflect the views of the author who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation."

7. Confidentiality of Data

- A. All financial, statistical, personal, technical, or other data and information relative to Caltrans operations, which is designated confidential by Caltrans and made available to the Consultant in order to carry out this Agreement, shall be protected by the Consultant from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion or public hearing held by Caltrans relating to this Agreement shall not authorize the Consultant to further disclose such information or disseminate the same on any other occasion.
- C. The Consultant shall not comment publicly to the press or any other media regarding this Agreement or Caltrans actions on the same, except to Caltrans staff, Consultant's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative committee.
- D. The 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 Caltrans and receipt of Caltrans written permission.
- E. All information related to the construction estimate is confidential and shall not be disclosed by the Consultant to any entity, other than Caltrans.
- F. Any subcontract, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

8. State-Owned Data - Integrity and Security

- A. Consultant shall comply with the following requirements to ensure the preservation, security, and integrity of State-owned data on portable computing devices and portable electronic storage media:
1. Encrypt all State-owned data stored on portable computing devices and portable electronic storage media using government-certified Advanced Encryption Standard (AES) cipher algorithm with a 256-bit or 128-bit encryption key to protect Caltrans data stored on every sector of a hard drive, including temp files, cached data, hibernation files, and even unused disk space. Data encryption shall use cryptographic technology that has been tested and approved against exacting standards, such as FIPS 140-2 Security Requirements for Cryptographic Modules.
 2. Encrypt, as described above, all State-owned data transmitted from one computing device or storage medium to another.

EXHIBIT D
Consulting Services Agreement (Federal)

3. Maintain confidentiality of all State-owned data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of State information assets for State purposes only.
 4. Install and maintain current anti-virus software, security patches, and upgrades on all computing devices used during the course of the Agreement.
 5. Notify Caltrans Contract Manager immediately of any actual or attempted violations of security of State-owned data, including lost or stolen computing devices, files, or portable electronic storage media containing State-owned data.
 6. Advise the owner of the State-owned data, the agency Information Security Officer, and the agency Chief Information Officer of vulnerabilities that may present a threat to the security of State-owned data and of specific means of protecting that State-owned data.
- B. Consultant shall use the State-owned data only for State purposes under this Agreement.
- C. Consultant shall not transfer State-owned data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s). (State Administrative Manual (SAM) section 5335.1).
- 9. DBE Information and Contract Goal Requirement for UDBE Participation**
- A. This agreement is subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26), entitled "Participation by Disadvantaged Business Enterprises (DBEs) in Caltrans Financial Assistance Programs," in the award and administration of federally assisted Agreements. The regulations in their entirety are incorporated by reference and made part of this Agreement as if attached hereto.
- B. A UDBE is a firm which meets the definition of a DBE as specified in 49 CFR 26 **that is also** one of the following groups: African Americans, Asian-Pacific Americans, Native Americans, or Women. Only the participation of UDBEs will count toward any Agreement goal.
- C. **The Agreement goal for UDBE participation for this Agreement is 5%.** Participation by DBE prime and Subcontractors shall be in accordance with the information contained in the *Disadvantaged Business Enterprise (DBE) Information / Underutilized DBE (UDBE) Participation* (form ADM 0227F) attached hereto and incorporated as part of this Agreement, Attachment 4.
- D. Non-compliance by Consultant or Subcontractor(s) with the requirements of the regulations is a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedy for a breach of this Agreement, as Caltrans deems appropriate.
- E. Consultant or Subcontractor shall not discriminate on the basis of race color, national origin or sex in the performance of this Agreement. Each subcontract

EXHIBIT D
Consulting Services Agreement (Federal)

signed by and between Consultant and Subcontractor(s) in the performance of this Agreement must include this assurance.

10. Subcontractors

- A. Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by Caltrans Contract Manager.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to Subcontractors.
- C. Any substitution of Subcontractor(s) must be approved in writing by Caltrans Contract Manager in advance of assigning work to a substitute Subcontractor(s).
- D. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any Subcontractor(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to the State for the acts and omissions of its Subcontractor(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its Subcontractor(s) is an independent obligation from the State's obligation to make payments to Consultant. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

11. Performance of DBE Consultants and other DBE Subcontractors/Suppliers

- A. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible for materials and supplies used on the Agreement, 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 is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.
- B. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its Agreement with its own work force, or the DBE subcontracts a

EXHIBIT D
Consulting Services Agreement (Federal)

greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, presume that it is not performing a CUF.

- D. DBE Subcontractors shall perform the work and supply the materials which they have listed in their response to the Agreement award requirements specified in the form ADM 0227F, attached, unless Consultant has received prior written authorization to perform the work with other forces or to obtain the materials from other sources as set forth in the Section 8 below entitled, "DBE/UDBE Substitution".
- E. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization by Caltrans Contract Manager.

12. Exclusion of Retention

- A. In conformance with 49 CFR 26.29 (b) (1), the retention of proceeds required by Public Contract Code (PCC), Section 10261 shall not apply.
- B. In conformance with Public Contract Code (PCC) Section 7200 (b), in subcontracts between Consultant and a Subcontractor and in subcontracts between a Subcontractor and any Subcontractor thereunder, retention proceeds shall not be withheld, and the exceptions provided in PCC Section 7200 (c), shall not apply. At the option of Consultant, Subcontractor(s) may be required to furnish payment and performance bonds issued by an admitted surety insurer.
- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

13. Payment to DBE and Non-DBE Subcontractor(s)

- A. Consultant shall pay its DBE Subcontractor(s) and non-DBE Subcontractor(s) within ten (10) calendar days from receipt of each payment made to Consultant by the State.
- B. Prior to the fifteenth of each month, Consultant shall submit documentation to Caltrans Contract Manager showing the amount paid to DBE trucking companies listed in Consultant's DBE information. This monthly documentation shall indicate the portion of the revenue paid to DBE trucking companies, which is claimed toward DBE participation. Consultant shall also obtain and submit documentation to Caltrans Contract Manager showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. The 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. The records must confirm that amount of credit claimed toward DBE participation conforms to the requirements of Section 8 below entitled, "DBE/UDBE Substitutions."

EXHIBIT D
Consulting Services Agreement (Federal)

- C. Consultant shall also submit documentation to the Caltrans Contract Manager showing the truck number, name of owner, California Highway Patrol CA number and if applicable, the DBE certification number of the truck owner for all trucks used during that month for which DBE participation will be claimed. This documentation shall be submitted on the Monthly DBE Trucking Verification form provided to Consultant by the Caltrans Contract Manager
- D. Consultant shall return all moneys withheld in retention from a Subcontractor within thirty (30) days after receiving payment for work satisfactorily completed, even if other Agreement work is not completed and has not been accepted in conformance with the terms of the Agreement. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to Consultant or Subcontractor in the event of a dispute involving late payment or non-payment to Consultant or deficient subcontract performance or noncompliance by a Subcontractor.

14. DBE Records

- A. Consultant shall maintain records of all subcontracts entered into with certified DBE Subcontractor(s) and records of materials purchased from certified DBE supplier(s). The records shall show the name and business address of each DBE Subcontractor or vendor and the total dollar amount actually paid each DBE Subcontractor or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE (prime) Consultant shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, *Final Report- Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*, and certified correct by the Consultant or Consultant's authorized representative, and shall be furnished to the Caltrans Consultant Manager. The form shall be furnished to the Caltrans Contract Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory *Final Report Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors* is submitted to the Caltrans Contract Manager.

15. DBE/UDBE Substitutions

- A. Consultant may not substitute a listed DBE Subcontractor, supplier or, if applicable, a trucking company, without the prior written approval of the Caltrans Contract Manager. Failure to obtain approval of substitute Subcontractors before work is performed, supplies are delivered, or services are rendered may result in payment being denied by Caltrans.

EXHIBIT D
Consulting Services Agreement (Federal)

- B. Consultant must make an adequate good faith effort (GFE) to find another certified DBE/UDBE subcontractor to substitute for the original DBE/UDBE Subcontractor. GFE shall be directed at finding another DBE/UDBE subcontractor to perform at least the same amount of work under the Agreement as the DBE/UDBE subcontractor that was substituted or terminated to the extent needed to meet the contract goal for DBE/UDBE participation established for the Agreement.
- C. The requirement that DBEs must be certified by the bid opening date does not apply to DBE substitutions after award of the Agreement. DBEs substituted after award must be certified at the time of the substitution.
- D. Consultants shall submit requests for substitution to the Caltrans Contract Manager. Authorization to use other Subcontractors or suppliers may be requested for the following reasons:
- 1) Listed DBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written Agreement, when such written Agreement, based upon the terms and conditions for this Agreement or on the terms of such subcontractor or supplier's written bid, is presented by Consultant.
 - 2) Listed DBE becomes bankrupt or insolvent.
 - 3) Listed DBE fails or refuses to perform subcontract or furnish listed materials.
 - 4) Consultant stipulated that a bond was a condition of executing subcontract and listed DBE Subcontractor failed or refuses to meet the bond requirements of Consultant.
 - 5) Work performed by listed subcontractor is substantially unsatisfactory and is not in substantial conformance with scope of work to be performed, or Subcontractor is substantially delaying or disrupting the progress of work.
 - 6) When it would be in the best interest of the State.
- E. At a minimum, Consultant's substitution request to the Caltrans Contract Manager must include a:
- 1) Written explanation of the substitution reason; and if applicable, Consultant must also include the reason a non-DBE Subcontractor is proposed for use.
 - 2) Written description of the substitute business enterprise, include its business status, DBE certification number, and status as a sole proprietorship, partnership, corporation, or other entity.
 - 3) Written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall Agreement that the substitute firm will perform.
- F. Prior to the approval of Consultant's substitution request, the Caltrans Contract Manager must give written notice to the Subcontractor being substituted by Consultant. A copy of the notice sent by Caltrans Contract Manager must be sent to the Division of Procurement and Contracts (DPAC). The notice must do all of the following:

EXHIBIT D
Consulting Services Agreement (Federal)

- 1) Give the reason Consultant is requesting substitution of the listed subcontractor;
 - 2) Give the listed subcontractor five (5) working days within which to submit written objections to DPAC and copies to the Caltrans Contract Manager;
 - 3) Notify the subcontractor that if a written objection is not received or received past the due date, such failure will constitute consent to the substitution; and
 - 4) Be served by certified or registered mail to the last known address of the listed Subcontractor.
- G. The listed Subcontractor, who has been so notified, shall have five working days within which to submit written objections to the substitution to the Caltrans Contract Manager. Failure to submit a written objection shall constitute the listed Subcontractor's consent to the substitution.
- H. If written objections are filed by the listed Subcontractor, DPAC will render a written decision. DPAC shall give written notice of at least five (5) working days to the listed Subcontractor of a hearing by Caltrans on Consultant's request for substitution.

16. DBE Certification and De-certification Status

- A. If a DBE Subcontractor is decertified during the life of the Agreement, the decertified Subcontractor shall notify Consultant in writing with the date of decertification. If a Subcontractor becomes a certified DBE during the life of the Agreement, the Subcontractor shall notify Consultant in writing with the date of certification.
- B. Consultant shall report any changes to the Caltrans Contract Manager within 30 days.

17. DBE/UDBE Eligibility

- A. The dollar value of work performed by a UDBE is credited/counted toward the goal only after the UDBE has been paid.
- B. Credit for UDBE Prime Consultants

Consultant, if a certified UDBE, is eligible to claim all of the work toward the goal except that portion of the work to be performed by non-UDBE Subcontractors.

- C. Credit for Material or Supplies

Credit for materials or supplies purchased from DBEs will be as follows:

- 1) If the materials or supplies are obtained from a DBE manufacturer, one hundred percent (100%) of the cost of the materials or supplies will count toward the DBE goal. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or

EXHIBIT D
Consulting Services Agreement (Federal)

equipment required under the Agreement and of the general character described by the specifications.

- 2) If the materials or supplies purchased from a DBE regular dealer, sixty percent (60%) of the cost of the materials or supplies will count toward the DBE goal. 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 paragraph.
 - 3) 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 DBE regular dealers within the meaning of this paragraph.
 - 4) Credit for 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.
- D. Credit for DBE trucking companies will be as follows:
- 1) The DBE must manage and supervise the entire trucking operation for which it is responsible. There cannot be a contrived arrangement for the purpose of meeting the DBE/UDBE goal.
 - 2) The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the Agreement.
 - 3) 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.
 - 4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.

EXHIBIT D
Consulting Services Agreement (Federal)

- 5) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The 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. The 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.
- 6) For the purposes of this paragraph, 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.

18. Termination of DBE/UDBE

- A. In conformance with 49 CFR 26.53 (f) (1) and 26.53 (f) (2), Consultant shall not:
 - 1) Terminate for convenience a listed DBE Subcontractor and then perform that work with its own forces (personnel), or those of an affiliate, unless Consultant has received prior written authorization from the Caltrans Contract Manager to perform the work with other forces (other than Consultant's own personnel) or to obtain materials from other sources;
 - 2) If a DBE Subcontractor is terminated or fails to complete its work for any reason, Consultant will be required to replace that original DBE Subcontractor with another DBE Subcontractor; and
 - 3) If a UDBE Subcontractor is terminated or fails to complete its work for any reason, Consultant will be required to make GFE to replace the original UDBE Subcontractor with another UDBE Subcontractor to the extent needed to meet the Agreement goal.
- B. Noncompliance by Consultant with the requirements of this section is considered a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedies for a breach of this Agreement as Caltrans deems appropriate.

19. Termination

- A. Caltrans reserves the right to terminate this Agreement without cause upon thirty (30) days written notice to the Consultant or immediately in the event of material breach by the Consultant.
- B. In the event that the total contract amount is expended prior to the expiration date, the State may, at its discretion, terminate this contract with 30 days notice to Consultant.

20. Retention of Records/Audits

- A. For the purpose of determining compliance with Government Code Section 8546.7, the Consultant, Subcontractors and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the

EXHIBIT D
Consulting Services Agreement (Federal)

Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Consultant that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

- B. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this article.

21. Federal Lobbying Activities Certification

- A. The Consultant certifies, to the best of his or her knowledge and belief, that:
- No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal Agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any Cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal Agreement, Grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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.
- D. The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such Subcontractors shall certify and disclose accordingly.

22. Rebates, Kickbacks and Other Unlawful Consideration

The Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any state agency employee. For breach or violation of this warranty, the State shall have the

EXHIBIT D
Consulting Services Agreement (Federal)

right, in its discretion, to terminate the Agreement without liability, to pay only for the value of work performed, or to deduct from the Agreement price or otherwise recover the full amount of each rebate, kickback or other unlawful consideration.

23. Prohibition From Bidding

This Agreement is subject to the provisions of Section 10365.5 of the Public Contract Code which states: "No Consultant who has been awarded a consulting services Agreement may submit a bid for, nor be awarded an Agreement for, the provision of services, goods and supplies, or any other related action which is required, suggested or otherwise deemed appropriate in the end product of the original consulting services Agreement."

24. Consultant Consultant's Rights and Obligations

The Consultant is advised that the provisions of Public Contract Code Sections 10335 through 10381 pertaining to the duties, obligations and rights of a consultant service Consultant are applicable to this Agreement.

25. Audit Review Procedures

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by Agreement shall be reviewed by the Chairperson of the Audit Review Committee (ARC). The ARC will consist of the Deputy Director, Audits & Investigations (Chairperson); Deputy Director of the functional Program area; the Chief Counsel, Legal Division, or their designated alternates; and if Caltrans chooses, two representatives of Caltrans choosing, from private industry. The two representatives from private industry will be advisory in nature only and will not have voting rights. Additional members or their alternates may serve on the ARC.
- B. Not later than thirty (30) days after issuance of the final audit report, the Consultant may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the appropriate Chief Deputy Director. The Chief Deputy Director will make the final decision for Caltrans. The final decision will be made within three (3) months of receipt of the notification of dispute.
- C. Neither the pendency of a dispute nor its consideration by Caltrans will excuse the Consultant from full and timely performance, in accordance with the terms of this Agreement.

26. Debarment and Suspension Certification

- A. The Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant or any person associated therewith in the capacity of owner, partner, director, officer, or manager:

EXHIBIT D
Consulting Services Agreement (Federal)

1. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 2. has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. does not have a proposed debarment pending; and
 4. 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.
- B. Any exceptions to this certification must be disclosed to Caltrans. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining bidder responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

27. APPENDIX A

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

- A. **Compliance with regulations:** The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation - Title 49 Code of Federal Regulations Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- B. **Nondiscrimination:** The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.
- C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
- D. **Information and Reports:** The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit

EXHIBIT D
Consulting Services Agreement (Federal)

access to its books, records, accounts, other sources of information, and facilities as may be determined by Caltrans or any duly authorized representative of the Federal Government to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to Caltrans, or any duly authorized Federal Agency as appropriate, and shall set forth what efforts it has made to obtain the information.

- E. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, Caltrans shall impose such Agreement sanctions as it or any Federal funding agency may determine to be appropriate, including, but not limited to:
- 1) Withholding of payments to the Consultant under the Agreement until the Consultant complies, and/or
 - 2) Cancellation, termination or suspension of the Agreement, in whole or in part.
- F. **Incorporation of Provisions:** The Consultant shall include the provisions of paragraphs (A) through (F) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant will take such action with respect to any Subcontractor or procurement as Caltrans or any Federal funding agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Consultant may request Caltrans to enter into such litigation to protect the interest of the State, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT E
Consulting Services Agreement (Federal)

ADDITIONAL PROVISIONS

1. Liability Insurance Provisions

- A. Consultant is responsible for any deductible or self-insured retention contained within the insurance program.
- B. The Insurance policy shall contain a provision that states that coverage will not be cancelled without 30 days prior written notice to the State.
- C. Coverage must be in force for the complete term of this Agreement. If insurance expires during the term of this Agreement, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of this Agreement.
- D. In the event Consultant fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of the Agreement.
- E. Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the State.
- F. The State will not be responsible for any premiums or assessments on the policy.

1. Commercial General Liability

- a) Consultant shall maintain general liability with limits of not less than **\$1,000,000** per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent Consultants, products and completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Consultant's limit of liability.
- b) The State of California, its officers, agents, employees, and servants shall be included as additional insured, but only with respect to work performed for the State of California under this Agreement. The insurance carrier should provide an endorsement for the additional insured statement.

2. Automobile Liability

- a) Consultant shall maintain motor vehicle liability with limits of not less than **\$1,000,000** per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles. (Auto Liability coverage is needed only if a vehicle is used in the Scope of Work stated in the Agreement.)
- b) The State of California, its officers, agents, employees, and servants shall be included as additional insured, but only with respect to work performed for the State of California under this Agreement. The insurance carrier should provide an endorsement for the additional insured statement.

3. Workers' Compensation/Employer's Liability

EXHIBIT E
Consulting Services Agreement (Federal)

Consultant shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement, including special coverage extensions where applicable. Employer's liability limits of **\$1,000,000** per occurrence shall be required.

4. Professional Liability

Consultant shall maintain Professional Liability at **\$1,000,000** covering any damages caused by a negligent error, act or omission. The policy's retroactive date must be displayed on the certificate of insurance and must be before the date this contract was executed or before the beginning of contract work. The Consultant is responsible to maintain continuous coverage for up to three years after the notice of completion.

2. Union Organizing

- A. Consultant, by signing this Agreement, hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement.
- B. Consultant will not assist, promote, deter union organizing by employees performing work on a State service Agreement, including a public works Agreement. No State funds received under this Agreement will be used to assist, promote, or deter union organizing.
- C. Consultant will not, for any business conducted under this Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meeting is to assist, promote, or deter union organizing, unless the State property is equally available to the general public for holding meetings.
- D. If Consultant incurs costs or makes expenditures to assist, promote, or deter union organizing, Consultant will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs and that Consultant shall provide those records to the Attorney General upon request.

3. Ownership of Proprietary Property

For the purposes of this section (**Ownership of Proprietary Property**) of **Exhibit E** of Contract Number: **74A0607** (herein after referred to as "this Agreement") the following definitions shall apply:

- Work:** As delineated in Attachment 2, Technical Proposal and Exhibit A of the Agreement.
- A. **Work Product:** As defined as Deliverable in Attachment 2 and Exhibit A of the Agreement including but not limited to, all Work and Deliverables conceived or made, or made hereafter conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six (6) months after the termination thereof, which relates to the Work commissioned or performed under this Agreement.
 - B. **Inventions:** Any idea, methodologies, design, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by the Consultant or jointly with the Consultant's Subcontractor and/or the Consultant's Subcontractor's employee's with one or more employees of Caltrans, during the term of this Agreement and in performance of any Work

EXHIBIT E
Consulting Services Agreement (Federal)

under this Agreement, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in performance of Work issued under this Agreement.

4. Ownership of Work Product and Rights:

- A. **OWNERSHIP OF WORK PRODUCT:** All Work Product derived by the Work performed by the Consultant, its employees or by any of the Consultant's Subcontractor's employees under this Agreement, shall be owned by Caltrans and shall be considered works made for hire by the Consultant's Subcontractor for Caltrans. Caltrans shall own all United States and international copyrights in the Work Product. As such, all Work Product shall contain, in a conspicuous place, a copyright designation consisting of a "c" in a circle followed by the four-digit year in which the Work Product was produced, followed by the words "California Department of Transportation." For example, a Work Product created in the year 2003 would contain the copyright designation © 2003 California Department of Transportation.
- B. **VESTING OF COPYRIGHT RIGHTS:** Consultant, its employees or any of Consultant's Subcontractor's employees agrees to perpetually assign, and upon creation of each Work Product automatically assigns, to Caltrans, its successors and assigns, ownership of all United States and international copyrights in each and every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Consultant's Subcontractor from Caltrans. From time to time upon Caltrans request, the Consultant's Subcontractor and/or its employees shall confirm such assignments by execution and delivery of such assignments, confirmations or assignment, or other written instruments as Caltrans may request. Caltrans, its successors and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for Work Product. Consultant hereby agrees to waive all moral rights relating to identification of authorship restriction or limitation on use, or subsequent modifications of the Work.
- C. **AVOIDANCE OF INFRINGEMENT:** In performing services under this Agreement, Consultant and its employees agree to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Consultant or its employees becomes aware of any such possible infringement in the course of performing any work under this Agreement, Consultant or its employees shall immediately notify Caltrans in writing.
- D. **CONFIDENTIALITY AND INFORMATION:** Caltrans may provide its own intellectual property, confidential business and technical information to the Consultant in connection with the work to be performed by the Consultant under this Agreement. Such intellectual property and information shall be designated as confidential upon or prior to disclosure by Caltrans. In addition, the preparation and specifications of the deliverables shall in all instances be treated as confidential, unless and until disclosed publically by Caltrans. All confidential written materials shall be marked with the legend "California Department of Transportation-Confidential." The Consultant shall use its best efforts to prohibit any use or disclosure of Caltrans' confidential information, except as necessary to perform work under this Agreement. In the event that Consultant is an entity or otherwise will be causing individuals in its employ or under its supervision to participate in the rendering of the work, Consultant warrants that it shall cause each of such individuals to execute a Confidentiality Agreement.

EXHIBIT E
Consulting Services Agreement (Federal)

ADDITIONAL CONDITIONS

SUBCONTRACTORS: Consultant shall affirmatively bind by contract all Subcontractors or service vendors providing services under this Agreement to conform to the provisions of this Exhibit E. Consultant shall then provide the signed contract to the Caltrans Contract Manager prior to the commencement of any work.

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