



# **San Joaquin**

## **Joint Powers Authority**

REQUEST FOR PROPOSALS

FOR

**Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and**

**Northern California Region**

Solicitation No.: **16-J-23-00**

DATED: November 24, 2015

SAN JOAQUIN JOINT POWERS AUTHORITY

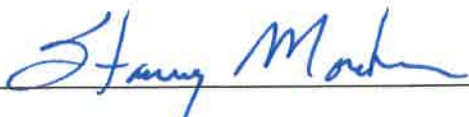
949 E. CHANNEL STREET

STOCKTON, CALIFORNIA 95202


[www.SJJPA.com](http://www.SJJPA.com)

**SIGNATURES:**

**APPROVED:**

By:   
Stacey Mortensen, SJPA Executive Director

**APPROVED BY PROGRAMMING AND PLANNING:**

By:   
Brian Schmidt, Director of Operations, Planning and  
Programming

**APPROVED AS TO FORM:**

By:   
Daniel J. Schroeder, Attorney for SJPA

**APPROVED BY CONTRACTS**

**AND COMPLIANCE:**

By:   
Manny Caluya, Contracts and Compliance Assistant

**TABLE OF CONTENTS**

<b>SECTION.....</b>	<b>Page</b>
SECTION 1 – NOTICE INVITING PROPOSALS .....	3
SECTION 2 - INTRODUCTION.....	4
SECTION 3 - PROJECT SCHEDULE AND INSTRUCTIONS FOR PROPOSAL SUBMISSION .....	6
SECTION 4 - SCOPE OF WORK & PROPOSAL REQUIREMENTS.....	11
SECTION 5 - EVALUATION CRITERIA AND SELECTION PROCESS .....	17
SECTION 6 - GENERAL CONDITIONS.....	19
SECTION 7 – SJJPA STANDARD FORM CONTRACT .....	23
SECTION 8 - REQUIRED FORMS.....	44

## SECTION 1 – NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that sealed Proposals are invited by the San Joaquin Joint Powers Authority, a joint powers authority, herein referred to as SJJPA for Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region, all in strict conformance with the “REQUEST FOR PROPOSALS for Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region”, dated November 24, 2015 (hereinafter referred to as RFP), said RFP being on file in the offices of SJRRC at 949 E. Channel Street, Stockton, California 95202.

Each Proposal must be contained in a sealed envelope and should be labeled “Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region”, **Solicitation No.: 16-J-23-00, Attention: Contracts and Compliance.** Proposals must be received at the offices of SJRRC, at or before 2:00 P.M. on December 23, 2015.

Copies of the RFP may be obtained at the office of SJRRC Contracts and Compliance Department or an electronic copy at no charge. Contact Manny Caluya, Contracts and Compliance Assistant at [RFP@acerail.com](mailto:RFP@acerail.com). No Proposal may be withdrawn for a period of (120) days after Proposal opening.

The Contract to be entered into pursuant to this NOTICE INVITING PROPOSALS may be subject to a financial assistance Contract between SJJPA and the United States Department of Transportation. If this RFP is subject to Federal financial assistance, and for any reason the Federal financial assistance is withdrawn, then and in such event, SJJPA may withdraw this NOTICE INVITING PROPOSALS and/or terminate any Contract entered into In accordance with this RFP.

The successful Proposer, and each of his/her/its subcontractors, shall be required to comply with all local, state, and federal labor laws and regulations.

All Proposers are required to read and completely familiarize themselves with the terms and conditions of the RFP, and to submit all necessary paperwork as required of Proposer as specified in this RFP.

SJPA reserves the right to postpone the opening of Proposals, accept or reject any and all Proposals and to waive any informality in any Proposal, all as SJPA deems to be in its own best interests.

DATED: *NOV. 24, 2015*

San Joaquin Regional Rail Commission

By:



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Manny Caluya, Contracts and Compliance  
Assistant

## SECTION 2 - INTRODUCTION

### Background

The Intercity Passenger Rail Act of 2012 (Assembly Bill 1779) signed by Governor Brown on September 29, 2012, permitted the establishment of the San Joaquin Joint Powers Authority (SJJPA), and enabled SJJPA to enter into an Interagency Transfer Agreement (ITA) with the State to transfer the administrative responsibilities of the San Joaquin Intercity Passenger Rail Service (San Joaquins) from the State to SJJPA. The ITA was signed on June 29, 2015. The governance/management of the San Joaquin Rail Service was transferred to the SJJPA on July 1, 2015.

AB 1779 requires the SJJPA to protect the existing San Joaquin Rail Service and facilities and seek to expand service as warranted by ridership and available revenue. Increases in the San Joaquin Rail Service and ridership will result in more jobs, improved air quality, and will help promote sustainable development in the San Joaquin Corridor. Under the provisions of AB 1779, the state will continue to provide the funding necessary for service operations, administration, and marketing.

SJJPA is governed by a Board of Directors comprised of a Board Member and an Alternate representing each of the 10 Member Agencies along the 365-mile San Joaquin route. In July 2015, the SJJPA assumed the current Caltrans responsibility for the day-to-day management, planning, and funding, support services related to the San Joaquin's Intercity passenger rail service.

The San Joaquin Regional Rail Commission (SJRRRC) is the owner/operator of the Altamont Corridor Express (ACE) Rail Service and was selected in July 2013 to serve as the Managing Agency for the new San Joaquin Joint Powers Authority (SJJPA). As the Managing Agency, SJRRRC will provide staffing, consultants and other services to support the SJJPA.

**Purpose of the Request for Proposals (RFP)**

SJJPA is soliciting proposals for “Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region.” The general scope of the “Project” includes, but is not limited to, Marketing and Outreach Services. Additional details and requirements are provided in Section 4 of this RFP.

The contract will be awarded for Two (2) years and Five (5) months. The term of this Agreement shall commence on February 01, 2016 and shall expire on June 30, 2018.

<b>TOTAL BUDGET</b> \$294,000	<b>FY 2015/16:</b> \$54,000	<b>FY 2016/17:</b> \$120,000 (\$10,000/month)	<b>FY 2017/18:</b> \$120,000 (\$10,000/month)
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**SECTION 3 - PROJECT SCHEDULE AND INSTRUCTIONS FOR PROPOSAL SUBMISSION**

**3.1. Proposal Due Date and Submittal Process**

Proposers must submit one (1) bound original, one (1) unbound copy, three (3) additional copies and one (1) electronic copy (on compact disc in PDF format) of their Proposal to the offices of the San Joaquin Joint Powers Authority no later than **2:00 P.M. Pacific Time on December 23, 2015**. Proposals must be labeled and clearly marked “Proposal – Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region”. Proposers must label and clearly mark their Cost Proposal “Cost Proposal – Marketing and Outreach Services for the San Joaquin Rail Service in the Bay Sacramento Area and Northern California Region”

**Sealed Proposals should be mailed or delivered to:**

**San Joaquin Joint Powers Authority  
949 East Channel Street  
Stockton, CA 95202  
Attention: Contracts and Compliance Department  
“DO NOT OPEN WITH REGULAR MAIL”**

It is the sole responsibility of the Proposer to ensure that their Proposals are received by the SJJPA on or before the due date. Any Proposals received after the due date and time will be deemed non-responsive and will not be considered.

**3.2. Schedule of Procurement Activities**

In addition to the above-stated Proposal due date as noted in Section 3.1, the remainder of the schedule for this procurement is as follows:

<b><u>Event</u></b>	<b><u>Date</u></b>
RFP requests available on Website	Nov. 24, 2015
Deadline for written RFP Clarifications/Questions	Dec. 08, 2015 by 2:00 PM
Responses to Questions Posted on Website	Dec. 15, 2015
<b>Proposal Due Date</b>	<b>Dec. 23, 2015 by 2:00 PM</b>
Top Ranked Proposers Notified	Jan. 06, 2016
Oral Presentations/Interviews	Jan. 13 – 15, 2016
Notice of Intent to Award	Jan. 19, 2016
SJJPA Board Approval (tentative)	Jan. 29, 2016
Notice To Proceed	Feb. 01, 2016

**3.3. RFP CLARIFICATIONS AND QUESTIONS**

RFP Clarifications and Questions may be submitted at any time prior to **2:00 P.M. on December 08, 2015**. Questions and/or requests for clarifications may be



submitted in writing via U.S. Mail, overnight express delivery service, fax or E-Mail to:

San Joaquin Joint Powers Authority  
Attn: Contracts and Compliance Department  
949 East Channel Street  
Stockton, California 95202  
E-mail: [RFP@acerail.com](mailto:RFP@acerail.com)

**All correspondences need to refer to Solicitation No. 16-J-23-00**

Fax: (209) 944-6238

Responses to all inquiries will be emailed to potential proposers and posted at <http://www.acerail.com/About/Contract-Opportunities> no later than **5:00 P.M., December 15, 2015**. This will be the only response to questions received.

#### **3.4. FORM OF PROPOSAL**

As mentioned in Section 3.1, Proposers must submit one (1) bound original, one (1) unbound copy, three (3) additional copies and one (1) electronic copy (on compact disc in PDF format) of their Proposal. Proposals should be prepared in a concise, economic manner and there is a 15-page limit for the proposal, exclusive of the resumes and cost proposal. All Proposals must contain each of the following components:

- A cover letter, signed by an individual authorized to enter into a contract for the proposing firm or entity and containing, at a minimum, the following information:
  - Proposer name, address, telephone, fax number, and e-mail address of key contact person.
  - Description of type of organization (e.g., corporation, partnership) submitting the proposal.

- If joint venture or other teaming arrangement with two or more parties, describe the type of teaming arrangement and past working relationships on similar projects.
- If joint venture or other teaming arrangement with two or more parties, name of entity/person that would be the lead for this project as well as the person authorized to negotiate and execute a contract.
- A written statement warranting the acceptance of all requirements of the project as described in this RFP and acknowledging receipt of all addenda and dates received.
- A written statement acknowledging the validity of the Proposals, including the Cost Proposal, for a period of (Number of days here) calendar days after the submission deadline.
- Company History (please include for all team member firms, if the team consists of more than one firm) including:
  - Number of years in business
  - Current work commitments.
- Project Team
  - Provide resumes of key proposed project personnel—Project Executive, Project Manager. Indicate number of years each person has been employed by the proposing firm (or subcontractor firm). Resumes should highlight relevant qualifications for this project.
- Project Experience & References
  - Provide concise, one- or two-page descriptions of comparable projects now in progress or completed within the last 5 years for which the proposing firm provided similar services. These descriptions should demonstrate your firms, your team’s experience relevant to the scope, costs, conditions, and delivery method of the projects listed in this RFP. Include in the description of each project:
    - Name of the firm that provided the services.

- Member(s) of the proposed team for these projects who worked on the reference project, and their role(s).
  - Services provided.
  - Owner references (include name, title, organization, address, current phone number, and email address)
- Technical Proposal arranged to be fully responsive to the Scope of Work.
  - Management approach and staffing plan.
  - Resumes of Proposer’s project staff who will be directly involved in this project (does not apply to the 15-page proposal limit).
  - **Cost Proposals – Shall be labeled “Cost Proposal – Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region, Contract No.: (16-J-23-00).” (State contract payment terms, whether monthly, yearly, etc.). Should include cost for Five (5) months (February 01, 2016 – June 30, 2016), yearly and/or monthly cost from (July 01, 2016 – June 30, 2017 & July 01, 2017 – June 30, 2018).**
  - Required forms, as outlined in Section 8 (does not apply to the 15-page proposal limit).

## **SECTION 4 - SCOPE OF WORK & PROPOSAL BID REQUIREMENTS**

### **4.1 SCOPE OF WORK**

#### **MARKETING AND OUTREACH SERVICES FOR THE SAN JOAQUIN RAIL SERVICE IN THE SACRAMENTO AREA & NORTHERN CALIFORNIA REGION**

##### **Background**

The Intercity Passenger Rail Act of 2012 (Assembly Bill 1779) signed by Governor Brown on September 29, 2012, permitted the establishment of the San Joaquin Joint Powers Authority (SJJPA), and enabled SJJPA to enter into an Interagency Transfer Agreement (ITA) with the State to transfer the administrative responsibilities of the San Joaquin Intercity Passenger Rail Service (San Joaquins) from the State to SJJPA. The ITA was signed on June 29, 2015. The governance/management of the San Joaquin Rail Service was transferred to the SJJPA on July 1, 2015.

AB 1779 requires the SJJPA to protect the existing San Joaquin Rail Service and facilities and seek to expand service as warranted by ridership and available revenue. Increases in the San Joaquin Rail Service and ridership will result in more jobs, improved air quality, and will help promote sustainable development in the San Joaquin Corridor. Under the provisions of AB 1779, the state will continue to provide the funding necessary for service operations, administration, and marketing.

SJJPA is governed by a Board of Directors comprised of a Board Member and an Alternate representing each of the 10 Member Agencies along the 365-mile San Joaquin route. The Member Agencies are:

- Alameda County
- Contra Costa Transportation Authority
- Sacramento Regional Transit District
- San Joaquin Regional Rail Commission

- Stanislaus Council of Governments
- Merced County Association of Governments
- Madera County Transportation Commission
- Fresno Council of Governments
- Kings County Association of Governments
- Tulare County Association of Governments

### **Introduction**

The San Joaquin Joint Powers Authority has issued this request for proposal to solicit qualified proposers to perform marketing and outreach activities located in the Sacramento Area & Northern California Region (including the areas from Sacramento to Redding and Tahoe, with the primary focus in the Sacramento area) to promote increased use of the San Joaquin Intercity Passenger Rail Service.

The 2015 SJJPA Business Plan (Business Plan) identifies the following goals and objectives for the SJJPA Marketing and Outreach program:

- a) Ensure Member Agencies, Corridor Communities and Major Stakeholders Participate in the Development of the Marketing and Outreach Plan
- b) Ensure Retention of Existing Riders
- c) Ensure Adequate Education and Awareness about the San Joaquins in all Communities Served by the Trains and Thruway Buses
- d) Reach out to Minority, Non-English-Speaking Constituencies, Disadvantaged Communities, and Members of the Public along the Corridor who may not be Familiar with the San Joaquin Service
- e) Utilize Community Advocates as Communication Channels for Information Flow and Leverage Information Distribution Through All Corridor Communities
- f) Showcase attractions and services provided in Communities Served by the Trains and Thruway Buses

- g) Increase Outreach Focus and Opportunities for School, Senior Group and other Special Group Trips
- h) Incorporate Regular Passenger and Community Appreciation Activities and Events to ensure Current Rider Retention
- i) Solicit Feedback From Passengers and Communities on the Effectiveness of the Outreach Programs and the San Joaquin Service
- j) Retool Marketing and Outreach Programs in Response to Feedback
- k) Increase Ridership and Revenue to Ensure Future San Joaquin Service Sustainability

To achieve the goals and objectives for marketing and outreach contained in the SJJPA's Business Plan, SJJPA is focusing on a grassroots, community-based approach to outreach and marketing.

SJJPA will retain small businesses and/or individuals who are active in community issues to act as a direct conduit between SJJPA and the various communities within the corridor. Local outreach representatives will be selected that are passionate about their communities to ensure that San Joaquin service information gets to the right stakeholders and that critical feedback gets back to SJJPA. This approach was adopted in the 2015 Business Plan as being more direct and cost effective than traditional advertising. Additionally, the grassroots focus will help SJJPA identify and address markets throughout the San Joaquin Corridor that are underserved, or lacking information. The agency seeks to value all segments of people in the economic and social domains, and can achieve this by direct person-to-person contact through the utilization of local outreach representatives that live in work in their region.

### **Scope of Work**

SJJPA Local Outreach Representatives will be expected to:

- Lead agency outreach efforts in the Sacramento Area & Northern California Region to potential passengers of all types, community organizations, stakeholders, disadvantaged communities, minorities and non-English-speaking constituencies, agencies, businesses,

associations, and elected officials through one-on-one meetings, meeting presentations, memberships in organizations and associations, and other activities.

- Maintain a contact database of individuals from the groups listed above. Format will be determined by SJJPA Staff.
- Increase awareness in the Sacramento Area & Northern California Region of the San Joaquin intercity passenger rail service (San Joaquins) as a transportation provider for leisure travelers, business travelers, and groups taking trips throughout the San Joaquin Corridor, California, and to Nevada.
- Serve as the agency liaison to various stakeholder entities, such as Chambers of Commerce, Visitor's Bureau's, alliances, other government agencies, etc.
- Assist with the planning, budgeting, and executing of the agency's involvement in various community and transit events (i.e. sponsorships, tabling, vendor booths, etc.).
- Serve as the point of contact for all stakeholder communications, including timely responses to inquiries from stakeholders within the Sacramento Area & Northern California Region regarding agency interests.
- Collaborate with SJJPA staff on planning and designing a creative advertising program, which would include a social media component.
- Monitor local press, bloggers, and other outlets for articles and other media relevant to the agency's interests.
- Work with media within the region to get San Joaquin service mentions and stories.

- Spearhead the formation of mutually beneficial partnerships with local and regional agencies, organizations, and businesses.
- Form new and cultivate existing relationships with Sacramento Area & Northern California Region elected officials, business groups, non-profits, organizations, and other stakeholders for the purpose of sharing the vision of the SJJPA's major capital initiatives.
- Create and execute presentations (Powerpoint and otherwise) in front of groups and governing bodies.
- Market the San Joaquin service at public events where large audiences can be reached..
- Assist with creation of e-newsletters/newsletters and work with other agencies and organizations to help distribute to existing and potential passengers.
- Review and potentially update various agency social media components. Provide content for social media outreach on a regular basis.
- Review and suggest content for Amtrak and SJJPA websites.
- Review advertising materials created by SJJPA and any partners.
- Perform other duties as required.

### **Deliverables**

Submit by e-mail a progress report to SJJPA staff highlighting the meetings attended; meetings conducted; contacts made; research done; correspondence; where follow-up is needed; and



goals for the next reporting cycle no less than once per month at the same time the invoice is submitted for payment.

Submit weekly updates of the contact list to SJJPA staff.

Package all relevant print media sourced chronologically into a PDF document. Include links to all online sources. Submit weekly to SJJPA staff.

### Proposals

Proposers must include specific strategies for reaching out to minority, non-English-speaking, and low income constituencies in their proposals. With Hispanics comprising well over 50 percent of the San Joaquin Valley population, but only 30 percent of the San Joaquin ridership, a concerted effort will be made in the San Joaquin Valley to hire bi-lingual (English/Spanish) local outreach representatives that know, understand, and respect Hispanic culture. The San Joaquin corridor also has many opportunities for group, senior and student travel.

Proposals must identify how the proposer will partner with "Operation Lifesaver" in schools regarding safety around the railroad tracks, will encourage travel among families, will partner with schools for field trips and presentations, and how they will provide focused outreach to senior organizations and communities.

Proposals should include details on how local outreach representatives will enlist SJJPA Member Agencies, local and regional agencies, visitor bureaus, business organizations, social services providers and non-profit groups involved in transportation, environmental or livability issues to distribution of information and generate support for the San Joaquin service. The goal will be to activate these locally-based groups and businesses in helping to highlight the mobility options available and planning processes underway aimed at creating better connections to work, family, and attractions.

Proposals should also detail plans for coordinating joint promotions with a wide variety of businesses in the tourism and recreation industry, including hotels and entertainment partners.

Proposers should highlight existing relationships with organizations, agencies, community leaders, elected officials, media and other interested parties within the region.

Proposals should be limited to 15 single-spaced pages, including and tables or graphics.

Proposals must articulate the proposer’s approach to carrying out the tasks identified in the “Scope of Work”, highlight their experience and expertise, and include a cost proposal (which includes billing rates, number of hours estimated for the local outreach representatives, costs for attending and exhibiting at events, memberships, printing, travel, etc.). The cost and procurement of promotional items, booth displays at events, and development of materials, as well as SJPA graphics, are not part of this contract and should not be included in the cost proposal (these items will be provided to the local outreach representatives by SJPA staff).

**Budget**

<b>TOTAL BUDGET</b> \$294,000	<b>FY 2015/16:</b> \$54,000	<b>FY 2016/17:</b> \$120,000 (\$10,000/month)	<b>FY 2017/18:</b> \$120,000 (\$10,000/month)
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**SECTION 5 - EVALUATION CRITERIA AND SELECTION PROCESS**

**5.1 EVALUATION CRITERIA**

Responsive proposals will be evaluated by a Selection Panel representing SJPA.

The evaluations will be based on the following criteria with 100 points possible.

- 5.1.1. (25 points) Responsiveness to Agency’s goals, interests, or objectives**
- 5.1.2. (25 points) Expertise and experience (including references and demonstrated successes) related to the goals and objectives of the Agency**
- 5.1.3. (25 points) Ability to Devote the Most Appropriate and Qualified Staff to the specific needs of the Agency and Project Approach**
- 5.1.4. (25 points) Value provided for the Budget**

Following the initial evaluation, the Selection Panel will rank the written proposals and, with the concurrence of the Executive Director, notify the top teams to be interviewed (if requiring interviews).

## **5.2 PROPOSER INTERVIEWS**

The top- ranked teams will be invited to a one-hour presentation/interview, of which no more than 20 minutes will be allotted to a presentation by the Proposer of the key points in their proposal and the principal strengths their team brings to SJJPA. The rest of the time will be for the SJJPA Selection Panel's questions. The question and answer portion of the interview will be based on those derived from the initial review of the proposal.

Interviews will be evaluated based on how the in-person experience alters the scores previously given to the written proposal. For each of the first three Evaluation Criterion (See 5.1.1., 5.1.2., and 5.1.3.), up to five (5) points can either be added to each score or taken away from each score based upon the impression of the interviewer (not to exceed the total score allocated to each criterion).

### Example

Upon review of a written proposal, a panelist awards the following scores to a written proposal:

Responsiveness to Agency's goals, interests, or objectives (20 out of 25 points)

Expertise and experience (23 out of 25 points)

Ability to Devote the Most Appropriate and Qualified Staff to the specific needs of the Agency and Project Approach (23 out of 25points)

**After the interview, the same panelist changes his scores as follows:**

Expertise and experience (~~20~~ **24** out of 25 points)

Relevant experience and technical competence of proposed personnel  
(23 **no change** out of 25 points)

Ability to Devote the Most Appropriate and Qualified Staff to the specific  
needs of the Agency and Project Approach (~~23~~ **20** out of 25 points)

The Proposer's Project Executive and Project Manager, as well as other key personnel identified in the proposal, shall present and respond to the Selection Panel's questions.

### **5.3 RECOMMENDATION**

Following the Oral Interviews, the SJRRC Contracts and Compliance Assistant will convey the Selection Panel's recommended firm for "Marketing and Outreach Services for the San Joaquin Rail Service in the Sacramento Area and Northern California Region" to the Executive Director of SJJPA. If approved by the Executive Director, the recommendation will be presented to the SJJPA Board for approval if necessary.

## **SECTION 6 - GENERAL CONDITIONS**

### **6.1 Limitations**

This request for proposal (RFP) does not commit SJJPA to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP.

### **6.2 Negotiations and Award**

The Procurement Department may accept the proposal from the person or firm ranked first without negotiation, or may negotiate with the first ranked firm or

representative in order to establish a detailed scope of work, the time and schedule for completion of the work, the cost of services, and the method and manner of payment. In the event negotiations with the first ranked proposer are unsuccessful, the Procurement Department may terminate negotiations with that proposer and commence negotiations with the next ranked proposer and so on, until a successful negotiation is achieved.

SJJPA reserves the right to reject any and all proposals received and to waive any informality or irregularity in any proposal received and to be the sole judge of the respective merits of the respective proposals received.

### **6.3 Binding Offer**

A signed proposal submitted to SJJPA in response to this RFP shall constitute a binding offer from the Contractor to contract with SJJPA according to the terms of the proposal for a period of (120) calendar days after its date of submission, which shall be the date proposals are due to SJJPA.

### **6.4 Consulting Personnel**

Once agreed to, the Contractor's Project Manager and other key project personnel may not be replaced or reassigned without written approval of the SJJPA Project Manager.

### **6.5 Contract Arrangements**

The selected Contractor will be expected to execute a contract similar to SJJPA's Standard Agreement, which is included in Section 7 of this RFP. Particular attention should be paid to SJJPA's insurance and indemnification requirements. The contract payment terms will be on a monthly basis with associated direct costs in a not to exceed amount, in order to complete the above-described project with payment made on the basis of receipt by SJJPA of satisfactory deliverables.

## 6.6 Selection Disputes

Any protest regarding this bid process or award must be submitted to the San Joaquin Joint Powers Authority ("SJPA") in writing; in accordance with the protest procedures described in Chapter 9 Section 9.2.2, 9.2.3, 9.2.4 and 9.2.5 of SJPA's board approved Procurement Manual. See the following language:

### Protests Due

Protests based on restrictive or severely defective specifications, or improprieties in any type of solicitations that are apparent or reasonably should have been discovered prior to bid opening or the closing date for proposals, must be received by SJPA no later than 5 days before the scheduled bid opening. Prior to filing a protest based on such criteria, bidders will be required to utilize any procedures in the specifications for Approved Equals or requests for clarifications prior to submitting a protest. If the bidder disagrees with the SJPA's decision on such requests, the bidder may then avail itself of the bid protest procedures. Protests based upon the staff recommendation for contract award must be received by SJPA within 48 hours receipt of notice by SJPA advising of the staff's recommendation for award of a contract.

### Content of Protest

The protest filed with SJPA shall be in writing and shall:

- Include the name, address, telephone number of the protester, and the name of a contact person.
- Identify the number, date, and description of the solicitation.
- Contain a statement of the grounds for protest and any supporting documentation. The grounds for the protest must be supported to the fullest extent feasible. Additional materials in support of the protest will be considered only if filed within the time limits specified. If the protestor later raises new grounds or new evidence not previously set forth in written submissions that

reasonably could have been raised SJJPA will not consider such new grounds or evidence in the determination of the protest.

- Indicate the ruling or relief desired from SJJPA.

**Protests should be addressed to:**

San Joaquin Joint Powers Authority  
949 E. Channel Street  
Stockton CA, 95202  
Attn: Contracts and Compliance

No Formalities

No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, logically arranged, clear and legible.

Additional Information

Any additional information requested or required by SJJPA from the protestor, or interested parties shall be submitted as expeditiously as possible, but in no case later than forty-eight (48) hours after the receipt of such request unless specifically accepted by SJJPA. **Failure to comply with the time periods for filing protests as set forth herein shall be a basis for rejection of the protest.**

**6.7 Public Records**

This RFP and any material submitted by a proposer in response to this RFP are subject to public inspection under the California Public Records Act (Government Code § 6250 et seq.), unless exempt by law. Proposals will remain confidential until the SJJPA Board has authorized award.

**6.8 Termination of Contract**

If, for any reason, the project for which this agreement is in place does not receive full funding, SJPA may terminate this contract at any time. Termination will follow the procedures and requirements as set forth in Section 19 of the Professional Services Agreement.



**SECTION 7 – ~~SJRRRC AND/OR~~ SJJPA STANDARD FORM CONTRACT**

**PROFESSIONAL SERVICES AGREEMENT**

**Between the ~~San Joaquin Regional Rail Commission and/or~~ SAN JOAQUIN JOINT POWERS  
AUTHORITY and \_\_\_\_\_ for \_\_\_\_\_**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the ~~San Joaquin Regional Rail Commission, a joint powers agency formed pursuant to Government Code 6500 and following (“SJRRRC”)~~ and/or SAN JOAQUIN JOINT POWERS AUTHORITY, a joint powers agency formed pursuant to Government Code 6500 an following (“SJJPA”) and \_\_\_\_\_ [enter Contractor (company’s name)] a \_\_\_\_\_ [enter Contractor’s legal status e.g., corporation, nonprofit public benefit corporation, limited liability company] (“Contractor”).

RECITALS

Whereas, ~~SJRRRC and/or~~ SJJPA has determined that it requires the following professional services from a Contractor: \_\_\_\_\_ [insert description of Contractor’s services]; and

Whereas, Contractor represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees; and

Whereas, Contractor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, ~~SJRRRC and/or~~ SJJPA and Contractor agree as follows:

1. DEFINITIONS

1.1. "Scope of Services": Such professional services as are set forth in Contractor's \_\_\_\_\_ [enter Contractor's proposal date] proposal to ~~SJRC and/or~~ SJJPA attached hereto as Exhibit A and incorporated herein by this reference.

1.2. "Approved Fee Schedule": Such compensation rates as are set forth in Contractor's \_\_\_\_\_ [insert date fee schedule submitted to ~~SJRC and/or~~ SJJPA] fee schedule to ~~SJRC and/or~~ SJJPA attached hereto as Exhibit B and incorporated herein by this reference.

~~1.3. Comply with Department of Transportation (DOT) and Federal Transit Administration (FTA) Requirements as described in Exhibit \_\_\_\_\_, and incorporated herein by this reference.~~

1.4. Complete Contract: The complete Contract between the parties shall consist of the following component parts, to with:

- (a) This Agreement
- (b) Notice Inviting Bids
- (c) Proposal (as accepted by ~~SJRC and/or~~ SJJPA)
- (d) All components and parts of the "REQUEST FOR PROPOSALS for Project Name dated (Date), including, but not limited to: General Conditions, Instructions for Proposal, Special Provisions, Technical Specifications, Request for Clarifications, Bid/Proposal Forms, Required Forms, Addenda, Insurance Certificates.

2. TERM

2.1. The term of this Agreement shall commence on \_\_\_\_\_ and shall expire on \_\_\_\_\_ unless extended by written agreement of the parties or terminated earlier in accordance with Section 19 ("Termination") below.

2.2. ~~Option Period— Subject to Section 19, SJRRC and/or SJJPA has the option to extend this Agreement for successive SJRRC and/or SJJPA Fiscal Years (July through June) in the amount (amount) per year, by giving the 90 days written notice prior to the end of each fiscal year.~~

3. CONTRACTOR'S SERVICES

3.1 Contractor shall perform the services identified in the Scope of Services. ~~SJRRC and/or SJJPA~~ shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written Amendment, and/or Change Order, to this Agreement. In no event shall the total compensation and costs payable to Contractor under this Agreement exceed the sum of Dollars (\$ \_\_\_\_\_ , \_\_\_\_\_ ) unless specifically approved in advance and in writing by ~~SJRRC and/or SJJPA~~.

3.2 Contractor shall perform all work to the highest professional standards of Contractor's profession and in a manner reasonably satisfactory to ~~SJRRC and/or SJJPA~~. Contractor shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.). This may also result in Contractor and or Contractor's employees being

subject to a category 1 disclosure under the Conflict of Interest Code if the services performed will influence a governmental decision. The disclosure requirement occurs by filling out a form 700.

3.3. Contractor represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. \_\_\_\_\_ [enter name of project administrator] shall be Contractor's project administrator and shall have direct responsibility for management of Contractor's performance under this Agreement. No change shall be made in Contractor's project administrator without ~~SJRRC's and/or~~ SJJPA's prior written consent.

3.4 All of the services required by this Agreement shall be performed by Contractor and all personnel engaged in the performance of such activities shall be full qualified and shall be authorized or permitted under federal, state, and local law to perform such services. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administrated of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of contract, which may result in the termination of this contract or such other remedy, as ~~SJRRC and/or~~ SJJPA deems appropriate.

3.5 Contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the Contractor receives from ~~SJRRC and/or~~ SJJPA. Failure by Contractor to carry out this provision of the contract will be

considered a material breach of this prime contract, which may result in the termination of the Agreement or other such remedy, as ~~SJRC and/or~~ SJJPA deems appropriate

4. ADDITIONAL SERVICES

4.1. Additional services may be required by the ~~SJRC and/or~~ SJJPA in connection with Project and with implementation of project. Said additional services shall be performed as set forth a written Amendment and/or Change Orders, which shall be authorized and issued by ~~SJRC and/or~~ SJJPA Executive Director. Contractor must report progress of work on a monthly basis or as determined by the ~~SJRC and/or~~ SJJPA Project Manager.

4.1.1. The Contractor shall perform or coordinate additional services as requested by ~~SJRC and/or~~ SJJPA, only after receipt of a written Amendment and/or Change Order from the ~~SJRC and/or~~ SJJPA, signed by the ~~SJRC and/or~~ SJJPA Executive Director.

4.1.2. Each a written Amendment and/or Change Order shall list the scope of services to be performed, state the time within which the work is to be completed, delineate any special conditions, and state the compensation in accordance with compensation terms as stated in Section 5, Compensation of this Agreement.

5. COMPENSATION

5.1. ~~SJRC and/or~~ SJJPA agrees to compensate Contractor for the services provided under this Agreement, and Contractor agrees to accept in full

satisfaction for such services, payment in accordance with the Approved monthly flat fee plus cost associated with Section 5.3.3 of this agreement.

5.2. Contractor shall submit monthly invoices to ~~SJRRRC and/or~~ SJJPA, specifying work completed for the month (pursuant to this Agreement, up to 100%). Each invoice must identify the beginning contract amount, the cumulative amount of prior invoices submitted, subtotal, current invoice and a remaining balance. Each invoice shall itemize the services rendered during the billing period and the amount due. Contractor will provide receipts for all direct expenses.

5.3. Monthly billings shall comply with the following format:

5.3.1. Direct Labor and Fringe Benefits: all direct labor charges should be billed by class of employee, rate per hour and number of hours.

5.3.2. Overhead: The basis for billing shall be specified. This section is not applicable.

5.3.3. All Project related expenses for travel, lodging, meals, telephones and incidental charges shall be itemized per employee per event. Any additional direct costs not specifically identified in the Agreement must be approved by the ~~SJRRRC and/or~~ SJJPA before any request for reimbursement can be made by the Contractor.

5.3.4. ~~SJRRRC and/or~~ SJJPA Agreement number must be listed on all invoices.

~~5.3.5—Contractor must submit separate invoices between the services provided for the SJRRRC and/or SJJPA.~~

5.4. ~~All costs charged to this Agreement by Contractor shall be supported by properly executed payrolls, time records, invoices and vouchers, evidencing in proper detail the nature and propriety of the charges. Contractor shall also comply with Title 49, Code of Federal Regulations, Part 18 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) in the procurement of services, supplies or equipment. This section is not applicable.~~

5.5. The ~~SJRRC and/or~~ SJJPA will make best efforts to reimburse Contractor within thirty (30) days of receipt of an acceptable invoice approved by the ~~SJRRC and/or~~ SJJPA Project Manager. ~~SJRRC and/or~~ SJJPA shall notify Contractor, in writing, of any disputed amounts included on the invoice. ~~SJRRC and/or~~ SJJPA shall pay all undisputed amounts included on the invoice. ~~SJRRC and/or~~ SJJPA shall not withhold applicable taxes or other authorized deductions from payments made to Contractor.

5.6. Payments for any services requested by ~~SJRRC and/or~~ SJJPA that are not included in the Scope of Services must have prior written approval from ~~SJRRC and/or~~ SJJPA and shall be made to Contractor by ~~SJRRC and/or~~ SJJPA on a time-and-materials basis using Contractor's standard fee schedule.

5.7. Each monthly invoice shall be accompanied by a monthly progress report describing the consulting services or project work completed to date and since the date of the preceding billing. Contractor will be required to formally report on study progress, findings and recommendations at ~~SJRRC and/or~~ SJJPA meetings, as determined by the ~~SJRRC and/or~~ SJJPA Project Manager.

5.8. The Contractor and ~~SJRRC and/or~~ SJJPA mutually understand that this Agreement may have been written before ascertaining the availability of legislative and local appropriation of funds. The Agreement is valid and enforceable only if sufficient funds are made available to the ~~SJRRC and/or~~ SJJPA by the ~~Local Transportation Authority~~ State of California for the purpose of this project. In addition, the Agreement is subject to any additional restrictions, limitations or conditions enacted by the State Legislature or any statute enacted by the Legislature that may affect the provisions, terms or funding of the contract in any manner. The Contractor and ~~SJRRC and/or~~ SJJPA mutually agree that, if sufficient funds are not appropriated for this project, or the project becomes subject to additional restrictions, limitations or conditions, the Agreement shall be amended to reflect such changes or any reductions in funds.

6. PROJECT SCHEDULE

The time for performance by CONTRACTOR will begin upon the issuance of a Notice to Proceed by ~~SJRRC and/or~~ SJJPA. The project schedule will include reviews by the ~~SJRRC and/or~~ SJJPA. The date of completion for additional services required pursuant to Section will be outlined in a written Amendment and/or Change Order for said additional services. This Project Schedule may be extended by the written consent of Contractor and ~~SJRRC and/or~~ SJJPA Executive Director and only in the event that such extension is necessary due to revisions in the Project scope and/or schedule caused by ~~SJRRC and/or~~ SJJPA or other reviewing agency.

7. FAILURE TO MAKE REASONABLE PROGRESS

~~The SJRRC and/or SJJPA reserves the right to suspend reimbursement in the event Contractor fails to make reasonable progress on a project. Reasonable~~



~~progress is defined as having the total percentage of work completed fall within 25 percentage points of the total percentage of task budget spent as of billing date. This section is not applicable.~~

8. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products") developed by Contractor in the performance of this Agreement shall be and remain the property of ~~SJRRC and/or~~ SJJPA without restriction or limitation upon its use or dissemination by ~~SJRRC and/or~~ SJJPA. Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Contractor.

9. RELATIONSHIP OF PARTIES

Contractor is, and shall at all times remain as to ~~SJRRC and/or~~ SJJPA, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of ~~SJRRC and/or~~ SJJPA or otherwise to act on behalf of ~~SJRRC and/or~~ SJJPA as an agent. Neither ~~SJRRC and/or~~ SJJPA nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner employees of ~~SJRRC and/or~~ SJJPA.

10. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without prior written

consent by ~~SJRRC and/or~~ SJJPA. Upon request, all ~~SJRRC and/or~~ SJJPA data shall be returned to ~~SJRRC and/or~~ SJJPA upon the termination or expiration of this Agreement.

11. INDEMNIFICATION

11.1. To the fullest extent permitted by law, Consultant shall indemnify, hold harmless and defend ~~SJRRC and/or~~ SJJPA, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, or any of its officers, employees, servants, agents, or subcontractors in the performance (or non-performance) of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of ~~SJRRC's and/or~~ SJJPA's choice.

11.2. ~~SJRRC and/or~~ SJJPA shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due ~~SJRRC and/or~~ SJJPA from Consultant as a result of Consultant's failure to pay ~~SJRRC and/or~~ SJJPA promptly any indemnification arising under this Section 11 and related to Consultant's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

11.3. The obligations of Consultant under this Section 11 will not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to ~~SJRRC and/or~~ SJJPA, its officers, agents, employees and volunteers.

11.4. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, hold harmless and defend ~~SJRRC and/or~~ SJJPA, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of ~~SJRRC and/or~~ SJJPA's choice.

11.5. ~~SJRRC and/or~~ SJJPA does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by ~~SJRRC and/or~~ SJJPA or the deposit with ~~SJRRC and/or~~ SJJPA, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

## 12. INSURANCE

12.1. Consultant will not commence any work until all required insurance is obtained at Consultant's own expense. Consultant shall furnish certification of insurance within five (5) days after AGREEMENT is executed and prior to issuance of the Notice to Proceed. Such insurance must have the approval of

~~SJRC~~ and/or SJPA as to limit, form and amount. During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

12.1.1. Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

12.1.2. Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident.

12.1.3. Worker's Compensation insurance as required by the laws of the State of California.

12.1.4. Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000).

12.2. Consultant shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.

12.3. The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A: VII in the latest edition of Best's Insurance Guide.

12.4. Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, ~~SJRRC and/or~~ SJJPA may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant's expense, the premium thereon.

12.5. At all times during the term of this Agreement, Consultant shall maintain on file with ~~SJRRC and/or~~ SJJPA a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the ~~SJRRC and/or~~ SJJPA and its officers, employees, agents and volunteers as additional insureds. Consultant shall, prior to commencement of work under this Agreement, file with ~~SJRRC and/or~~ SJJPA such certificate(s).

12.6. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverage's.

12.7. The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming ~~SJRRC and/or~~ SJJPA and its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled except on thirty days' prior written notice to ~~SJRRC and/or~~ SJJPA. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of

cancellation imposes no obligation, and to delete the word “endeavor” with regard to any notice provisions.

12.8. The insurance provided by Consultant shall be primary to any coverage available to ~~SJRC and/or~~ SJJPA. Any insurance or self-insurance maintained by ~~SJRC and/or~~ SJJPA and/or its officers, employees, agents or volunteers, shall be in excess of Consultant’s insurance and shall not contribute with it.

12.9. All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant’s employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the ~~SJRC and/or~~ SJJPA.

12.10. Any deductibles or self-insured retentions must be declared to and approved by the ~~SJRC and/or~~ SJJPA. At the option of ~~SJRC and/or~~ SJJPA, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to ~~SJRC and/or~~ SJJPA, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

12.11. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant’s liability or as full performance of Consultant’s duties to indemnify, hold harmless and defend under Section 11 of this Agreement.

13. SETTLEMENT OF DISPUTES

13.1. The Parties hereto shall make every effort to settle any dispute arising out of the Agreement without resorting to arbitration.

3.2. In the event a dispute arises and the parties mentioned herein are unable to resolve the dispute, the parties agree that the dispute shall be settled by arbitration in accordance with the rules of the American Arbitration Association. Such Arbitration shall take place in San Joaquin County, California. Any award made by the arbitrator(s) shall be final and binding upon the parties, and judgment thereon may be entered in any court of competent jurisdiction.

14. MUTUAL COOPERATION

14.1. ~~SJRRRC and/or~~ SJJPA shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

14.2. In the event any claim or action is brought against ~~SJRRRC and/or~~ SJJPA relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that ~~SJRRRC and/or~~ SJJPA may require.

15. RECORDS AND INSPECTIONS

Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. ~~SJRRRC and/or~~ SJJPA shall have the right to access and examine such records, without charge, during normal business hours. ~~SJRRRC~~

~~and/or~~ SJJPA shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

16. PERMITS AND APPROVALS

~~Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.~~

17. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and ~~SJRC and/or~~ SJJPA's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to SJJPA:

Stacey Mortensen  
949 E. Channel St.  
Stockton, CA 95202  
(209) 944-6236

If to Consultant:

(Consultant Name)  
(Consultant Contact)  
(Consultant Address)  
(Address Cont.)  
Phone (XXX) XXX-XXXX  
Fax (XXX) XXX-XXXX



18. SURVIVING COVENANTS

The parties agree that the covenants contained in Section **10**, Section **11**, Paragraph **14.2** and Section **15** of this Agreement shall survive the expiration or termination of this Agreement.

19. TERMINATION

19.1. ~~SJRRC and/or~~ SJJPA shall have the right to terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant shall have the right to terminate this Agreement for any reason on thirty calendar days' written notice to ~~SJRRC and/or~~ SJJPA. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All ~~SJRRC and/or~~ SJJPA data, documents, objects, materials or other tangible things shall be returned to ~~SJRRC and/or~~ SJJPA upon the termination or expiration of this Agreement.

19.2. If ~~SJRRC and/or~~ SJJPA terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement.

20. GENERAL PROVISIONS

20.1. Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without ~~SJRRC's and/or~~ SJJPA's prior written consent, and any attempt to do so shall be void and of no effect. ~~SJRRC~~

~~and/or~~ SJJPA shall not be obligated or liable under this Agreement to any party other than Consultant.

20.2. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

20.3. The captions and headings (collectively "Headings") in this Agreement are intended to be descriptive only and for convenience in reference in this Agreement. Should there be any conflict between the Heading and the specific content of a section or paragraph, the specific content of the section and paragraph shall control and govern in the construction and interpretation of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

20.4. The waiver by ~~SJRRC and/or~~ SJJPA or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by ~~SJRRC and/or~~ SJJPA or Consultant unless in writing.

20.5. Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in ~~SJRRC's and/or~~ SJJPA's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

20.6. Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be San Joaquin County, California.

20.7. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

20.8. This Agreement shall be governed and construed in accordance with the laws of the State of California.

20.9. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy

between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between SJRC and/or SJPA and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments and/or Change Orders hereto or deviations herefrom shall be effective and binding only if made in writing and executed by SJRC and/or SJPA and Consultant.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the date first written above.

“SJPA”

“Consultant”

(Name of Company)

By \_\_\_\_\_

By: \_\_\_\_\_

Stacey Mortensen, Executive Director

(Name and Title)

## **SECTION 8 - REQUIRED FORMS**

### **8.1 California Levine Act Statement**

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

**SJRRRC BOARD MEMBERS include:**

Bob Johnson, City of Lodi  
Kathy Miller, City of Stockton  
Steve Dresser, City of Lathrop  
Vince Hernandez, City of Manteca  
Christina Fagazi, City of Stockton  
Michael Maciel, City of Tracy

**SJJPA BOARD MEMBERS include:**

John Pedrozo, Merced County  
Henry Perea, Fresno County  
Don Tatzin, City of Lafayette  
Patrick Hume, City of Elk Grove  
Vito Chiesa, Stanislaus County  
Scott Haggerty, Alameda County

Allen Ishida, Tulare County  
Bob Johnson, City of Lodi  
Doug Verboon, Kings County  
David Rogers, Madera County  
Rodrigo Espinoza, City of Livingston (Alternate)  
Nathan Magsig, City of Clovis (Alternate)  
Federal Glover, Contra Costa County (Alternate)  
Don Nottoli, Sacramento County (Alternate)  
Richard O'Brien, City of Riverbank (Alternate)  
Tom Blalock, BART (Alternate)  
Bob Link, City of Visalia (Alternate)  
Mike Maciel, City of Tracy (Alternate)  
Russ Curry, City of Hanford (Alternate)  
Andrew Madellin, City of Madera (Alternate)

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any SJRRC and/or SJJPA Board Member commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

YES       NO

If yes, please identify the commissioner: \_\_\_\_\_

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any SJRRC and/or SJJPA Board Member in the three months following the award of the contract?

YES       NO

If yes, please identify the commissioner: \_\_\_\_\_

Answering yes to either of the two questions above does not preclude SJRRC and/or SJJPA from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

---

DATE

---

(SIGNATURE OF AUTHORIZED OFFICIAL)

---

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

---

(TYPE OR WRITE NAME OF COMPANY)

## 8.2 Lobbying Certification

The undersigned \_\_\_\_\_ certifies, to the best of his or her knowledge and belief, that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

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



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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

### **8.3 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

#### **Instructions for Certification**

1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
  
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, SJRRC and/or SJJPA may pursue available remedies, including suspension and/or debarment.
  
3. The prospective lower tier participant shall provide immediate written notice to SJRRC and/or SJJPA if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
  
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact SJRRC and/or SJJPA for assistance in obtaining a copy of those regulations.
  
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by SJRRC and/or SJJPA.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, SJRRC and/or SJJPA may pursue available remedies including suspension and/or debarment.

**"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

