STATE OF CALIFORNIA

DEPARTMENT OF TRANSPORTATION

INSTRUCTIONS TO PROPOSERS

MADERA 99 CHOWCHILLA REHAB DESIGN-BUILD PROJECT

FOR DESIGN AND CONSTRUCTION ON STATE HIGHWAY IN

MADERA COUNTY, IN AND NEAR MADERA FROM 0.3 MILE SOUTH OF SOUTH MADERA OVERCROSSING TO 0.4 MILE NORTH OF AVENUE 16 OVERCROSSING

DISTRICT 06, ROUTE 99

CONTRACT NO. 06-0E0404
06-Mad-99-9.5/13.1
Project ID 0600000043

Federal Aid Project
NH-P099(538)N

TABLE OF CONTENTS

Page

1 INTRODUCTION AND SUMMARY 4
1.1 GENERAL INFORMATION 4
1.2 DATA ROOM 4
1.3 PROPOSAL CONTENTS 4
1.4 INCLUSION OF PROPOSAL IN CONTRACT 5
1.5 COMMITMENTS IN THE PROPOSAL 5
1.6 PROPERTY OF DEPARTMENT 5
1.7 PROJECT DESCRIPTION 5
1.8 PROCUREMENT METHOD 6
1.9 PROJECT GOALS 6
1.10 CHANGE IN PROPOSER'S ORGANIZATION 7
1.11 PROPOSAL VALIDITY AND ISSUANCE OF NOTICE TO PROCEED 1 7
1.12 ESTIMATED COST; MAXIMUM TIME ALLOWED 7
1.13 DBE/UDBE PARTICIPATION 7
1.14 FEDERAL LOBBYING RESTRICTIONS 8
1.15 U.S. DEPARTMENT OF TRANSPORTATION "HOTLINE" 8
1.16 PROPOSER CONDUCT 8
1.16.1 PROPOSER MISCONDUCT 8
1.16.2 NON-COLLUSION 9
1.16.3 ORGANIZATIONAL CONFLICTS OF INTEREST 9
1.16.4 RESTRICTIONS ON PARTICIPATION 9
1.16.5 PARTICIPATION ON MORE THAN ONE PROPOSER TEAM 10
2 PROCUREMENT SCHEDULE 10
3 PROCUREMENT PROCESS 10
3.1 CONFIDENTIALITY DURING EVALUATION AND SELECTION PROCESS 10
3.2 EXAMINATION OF RFP 11
3.3 COMMUNICATIONS BETWEEN DEPARTMENT AND PROPOSERS 11
3.3.1 DESIGNATED CONTACT 11
3.3.2 RULES OF CONTACT 12
3.4 SUBMISSION OF REQUESTS FOR CLARIFICATION 13
3.4.1 FORM OF REQUESTS 13
3.4.2 TIMING OF REQUESTS 13
3.4.3 RESPONSES AND CONFIDENTIAL INFORMATION 13
3.5 RFP ADDENDA AND CLARIFICATION NOTICES 14
3.6 ONE-ON-ONE MEETINGS 14
3.6.1 GENERAL 14
3.6.2 MEETING NOTICE, CONFIRMATION AND CONTRACT 14
3.6.3 STATEMENTS AT ONE-ON-ONE MEETINGS 15
3.6.4 USE OF ONE-ON-ONE MEETING INFORMATION 15
4 PROPOSAL SUBMITTAL REQUIREMENTS 15
4.1 FORMAT 15
4.2 CONTENTS AND ORGANIZATION 15
4.2.1 VOLUMES 1 – ADMINISTRATIVE INFORMATION 1515
4.2.2 RESERVED 15
4.2.3 VOLUME 3 – PRICE PROPOSAL 16
4.2.4 VOLUME 4 – CONFIDENTIAL PROPRIETARY INFORMATION 16
4.3 SUBMISSION ON PRICE PROPOSAL DUE DATE 16
4.4 PROPOSAL DELIVERY 16
4.5 SIGNATURES AND CERTIFIED COPIES 17
4.6 LANGUAGE AND UNITED STATES DOLLAR REQUIREMENTS 1717
4.7 DISQUALIFICATION 1717

4.8 WITHDRAWAL AND LATE SUBMITTALS OF PROPOSAL 17
4.8.1 WITHDRAWAL AND VALIDITY OF PROPOSALS 17
4.8.2 LATE PROPOSALS 18
4.9 PROPOSAL SECURITY 18
4.9.1 PROPOSAL SECURITY 1818
4.9.2 FORFEITURE OF PROPOSAL SECURITY 1818
4.10 COST OF PREPARING PROPOSAL 1818
4.11 COMPLIANT PROPOSAL 1818
4.12 INSURANCE REQUIREMENTS 1919
5 PROPOSAL EVALUATION PROCESS 19
5.1 GENERAL 19
5.2 PROPOSAL OPENING 19
5.3 RESPONSIVENESS REVIEW 19
5.3.1 RESPONSIVENESS EVALUATION 19
5.3.2 LOWEST PRICE SELECTION 20
6 FINALIZATION OF AGREEMENT, AWARD AND EXECUTION 20
6.1 NO OBLIGATION TO AWARD 20
6.2 ESCROWED PROPOSAL DOCUMENTS 20
6.3 FINALIZATION OF CONTRACT 20
6.4 POST-SELECTION DELIVERABLES 21
6.5 CONTRACT AWARD AND EXECUTION 21
7 DEPARTMENT'S RIGHTS AND DISCLAIMERS 22
7.1 DEPARTMENT'S RIGHTS 22
7.2 DISCLAIMERS 23
7.3 PROTEST 23
7.3.1 PROTESTS REGARDING RFP REQUIREMENTS 24
7.3.2 PROTESTS REGARDING THE AWARD DECISION 24

APPENDICES

A - Acronyms and Definitions

B - Administrative Submittal Requirements

C - RESERVED

D - Price Proposal Submittal Requirements

E - RESERVED

F - ITP Required Forms

Form 1 Design-Build Price Proposal Letter

Form 2 Key Personnel Commitment

Form 3 Non-Collusion Affidavit

Form 4 Conflict of Interest Disclosure Statement

Form 5	Equal Employment Opportunity Certification
Form 6	Debarment and Suspension Certification
Form 7	Certification Regarding Use of Contract Funds for Lobbying
Form 8	Buy America Certification
Form 9	Proposal Price
Form 10	RESERVED
Form 11	Form of Proposal Bond
Form 12	RESERVED
Form 13	RESERVED
Form 14	Bridge Cost Estimate for Federal and State Reporting
Form 15	Form of Opinion of Counsel
Form 16	Form of Guaranty
Form 17	UDBE Certification

G - RESERVED

H - RESERVED

I - Proposal Checklist

J - Restriction on Participation

1 INTRODUCTION AND SUMMARY

1.1 General Information

This Instructions to Proposers ("ITP") is issued by the California Department of Transportation (Department) to all firms and teams of firms ("Proposers") that Department has prequalified for Department's Request for Proposals ("RFP") for the Madera 99 Chowchilla Rehab ("Project"). Department hereby invites such Proposers to submit competitive sealed proposals ("Proposals") for design and construction of the Project as more specifically described in the RFP. This ITP provides instructions to be followed by Proposers in their responses to the RFP. Proposals must comply with ITP requirements.

The RFP consists of the following documents:

(a) Instructions to Proposers ("ITP")

(b) Contract Documents

- Book 1 ("Design-Build Contract")
- Book 2 ("Project Requirements")
- Book 3 ("Applicable Standards")

(c) Reference Information Documents ("RID")

The Design-Build Contract ("Book 1"), Project Requirements ("Book 2"), and Applicable Standards ("Book 3") plus Addenda to these documents (if any) are the Contract Documents. The ITP and the RID are not Contract Documents and will not form a part of the Contract. Although the RID have been developed with the appropriate due diligence in accordance with industry standards, the Department makes no representation or guarantee as to the accuracy, completeness, or fitness of the RID. The Department takes no responsibility for the RID. Proposers are responsible for any conclusions they may draw from the RID. The Department is making the RID available to the Proposers for the sole purpose of providing information in the possession of the Department, regardless of whether such information is accurate, complete, pertinent, or of any value.

Capitalized terms and acronyms not otherwise defined herein shall have the meaning set forth in Appendix A of this ITP.

1.2 Data Room

The Department has established an electronic data room ("Data Room") for the distribution of RFP Documents and Addenda and the posting of other documents in the Department's discretion at the following website address: http://www.dot.ca.gov/hq/oppd/designbuild/madera-rfp.htm. Access to the Data Room will be permitted on approximately the date set out in Section 2. The Department may add, delete or amend documents in the Data Room at any time. Each Proposer is solely responsible to ensure that it has the appropriate software which allows the Proposer to access and download the materials from the Data Room. The Department will contact the Proposers by email to notify him/her of any updates or new documents uploaded to the Data Room, however, each Proposer is solely responsible for checking the Data Room frequently for the addition, deletion or amendment of the materials in the Data Room.

1.3 Proposal Contents

Proposals shall be composed of the Proposer's Administrative Submittals and Price Proposal. Detailed

instructions regarding the Administrative Submittals and Price Proposal are provided in Appendices B and D. Forms required for inclusion in the Proposals are included in this ITP. Each Proposal component shall be clearly titled and identified and shall be submitted without reservations, qualifications, conditions or assumptions. Any failure to provide all the information and all completed forms in the format specified by the ITP may result in Department's rejection of the Proposal depending on the nature of the omission. All blank spaces in the Proposal forms must be filled in as noted. No substantive change(s) shall be made to the Proposal forms.

1.4 Inclusion of Proposal in Contract

As specified in Section 3.7.3, Department will append portions of the Proposal to the Contract. Other portions of the Proposal may in Department's discretion be incorporated into the Contract Documents by reference.

1.5 Commitments in the Proposal

Except where noted, Department will give no consideration to tentative or qualified commitments in the Proposals. For example, Department will give no consideration to phrases such as "we may" or "we are considering" in the evaluation process because they do not indicate a firm commitment.

1.6 Property of Department

All documents submitted by the Proposer in response to the RFP shall become the property of Department and will not be returned to the Proposer.

1.7 Project Description

The Department is procuring and developing the Project using the Low Bid design-build project delivery method contemplated under the Design-Build Demonstration Program. On February 24, 2010, the CTC authorized the Project for one of the ten state design-build project slots authorized under Public Contract Code section 6802(b). The Project is located in Madera County, California, in the vicinity of the city of Madera.

The proposed Project is to design and construct a rehabilitation of the existing 4-lane freeway. Within the limits of PM 9.5 to 10.0 and 11.7 to 13.1, the project proposes to replace failed PCC panels with full depth Asphalt Concrete (AC), cold plane AC/PCC on the northbound (NB) and southbound (SB) No. 2 (truck) lanes and replace with AC, and overlay all lanes and shoulders with AC. From PM 10.0 to 11.7, the project proposes to reconstruct existing PCC lanes and AC shoulders with PCC and reconstruct the No. 2 (truck) lanes with Continuously Reinforced Concrete Pavement (CRCP). Guardrail, lights, signs and drainage will be upgraded or repaired as needed. Project also includes signals, lighting, signing, and minor drainage work. Construction staging will be required to shift freeway traffic due to the bar reinforcement placement and concrete curing time.

The Project limits generally begin at 0.3 mile south of the South Madera Overcrossing to 0.4 mile north of the Avenue 16 Overcrossing.

The Federal Highway Administration (FHWA) review process required under the National Environmental Policy Act (NEPA) has been concluded. The review process required under the California Environmental Quality Act (CEQA) has also been concluded.

The Project is funded with State and Federal funds.

Proposers are advised that the Project will require the use of federal funds. Accordingly, applicable federal law and FHWA regulations will govern the Project's procurement and Contract Documents.

Proposers' attention is directed to Book 1, Exhibit E, for the prevailing wage rates.

1.8 Procurement Method

Department will use a two-phase process to select a design-builder ("Design-Builder") to deliver the Project. As part of the first phase, Department prequalified Proposers for the Project based on Statements of Qualifications ("SOQ") it received in response to Department's Request for Qualifications datedApril 29, 2010, as amended ("RFQ").

The RFP is issued as part of the second phase. Department will accept Proposals only from such prequalified Proposers of SOQs. Pursuant to California Public Contract Code §§ 6800 *et seq.* , Department will award the Contract (if at all) to the responsive and responsible Proposer offering a Proposal that meets the standards established by Department and that is determined by Department to provide the lowest price.

1.9 Project Goals

Department's primary goals in connection with this procurement and the Project include:

1. Safety
   - 1.1 Provide a safe project area for the traveling public and workers during execution of the project
   - 1.2 Provide a solution consistent with the Department's Design Standards
2. Mobility
   - 2.1 Minimize impacts to traffic on Route 99 during construction
   - 2.2 Maintain traffic flows during construction
   - 2.3 Provide for local and emergency vehicle access to the Route 99 during project execution
   - 2.4 Provide a completed project that meets the typical design and construction standards for California Highway projects
3. Quality
   - 3.1 Provide a Quality Management System that ensures the requirements of the project will be met or exceeded
   - 3.2 Provide a high quality project that minimizes future maintenance
4. Environmental Compliance
   - 4.1 Adhere to local, State and Federal environmental regulations and permits that are required in executing and completing the project
   - 4.2 Incorporate best management practices to control sediment, stormwater run/off discharge, water quality treatment, or other environmental parameters that are established for the project
5. Budget
   - 5.1 Complete the project within programmed budget

5.2 Implement innovative solutions to maximize the return on taxpayer investment by reducing costs or improving quality of the transportation system

6. Schedule

6.1 Complete construction within eighteen (18) months after beginning the design

1.10 Change in Proposer's Organization

If a Proposer wishes to change its organization from that described in its SOQ, Proposer shall obtain written approval of the change from Department no later than 14 days prior to submitting its Administrative Submittals. This includes any changes in the form of organization of Proposer, Key Personnel, or Major Participants identified in the SOQ (including additions, deletions, and reorganization). To qualify for the Department's approval, the written request shall document that the proposed removal, replacement, or addition of Key Personnel or Major Participant will be equal to or better than the Key Personnel or Major Participant identified in the SOQ. The Department will use the criteria specified in the RFQ to evaluate all requests. Any such request shall be addressed to the Designated Contact at the address set forth in Section 3.3, accompanied by the information specified for such entities or individuals in the RFQ.

The Department is under no obligation to approve such requests and may approve or disapprove a portion of the request or the entire request at its sole discretion. The Department shall have the sole discretion to grant or withhold approval of any requested change and to waive such requirement that the Proposer submit such change no later than 14 days prior to the Price Proposal due date. The Department shall respond to any requests under this Section 1.10 within three Business Days of the receipt of all information required to be submitted by the requesting Proposer.

1.11 Proposal Validity and Issuance of Notice to Proceed 1

Proposals shall remain valid until 60 Days after the Public Opening Date (identified in Section 2). Department has the right to defer issuance of NTP1 for up to 14 Days after the events listed in Book 1, Section 4.2.1 have been fully satisfied with respect to the Work proposed to be constructed.

1.12 Estimated Cost; Maximum Time Allowed

The estimated cost of the Project is $ 35,000,000.

Substantial Completion of the Project will be required to be achieved no later than 360 Working Days from Award.

Final Acceptance of the Project will be required to be achieved no later than 90 Days after Substantial Completion.

1.13 DBE/UDBE Participation

It is the policy of Department to encourage the participation of DBE, women-owned business enterprises and minority business enterprises in all facets of its business activities, consistent with applicable laws and regulations. Pursuant to the provisions of 49 CFR Part 26, Department has adopted rules to provide certified DBEs opportunities to participate in the business activities of Department as service providers, vendors, contractors, Subcontractors, advisors, and consultants. Proposers are advised that, as required by federal

law, Department is implementing new DBE requirements for Underutilized Disadvantaged Business Enterprises ("UDBE"). To ensure there is equal participation of the DBE groups specified in 49 CFR Section 26.5, Department specifies a goal for UDBEs, which are firms that meets the definition of DBE and are a member of one of the following groups:

1. Black Americans;

2. Native Americans;

3. Asian-Pacific Americans; or

4. Women

The goal is as follows: UDBE 13.5 %.

The above percentage is based on the cost of design and construction. The UDBE goal apply to all of Department's contracts and purchases paid with funds received from the U.S. Department of Transportation through FHWA, the Federal Transit Administration, and the Federal Aviation Administration. Because Department has programmed federally-sourced funds for the Project, the UDBE goal will apply to the Project and Design-Builder is obligated to comply with applicable federal laws and regulations related to UDBEs and DBEs. For further information regarding Department's DBE program and Design-Builder's DBE and UDBE obligations, Proposers may contact the Designated Contact.

1.14 Federal Lobbying Restrictions

Section 1352, Title 31, United States Code (U.S.C.), prohibits federal funds from being expended by the recipient or any lower tier subrecipient of a federal-aid contract to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the awarding of any federal-aid contract, the making of any federal grant or loan, or the entering into of any cooperative agreement. Section 1352 also requires Proposers to disclose any funds expended for lobbying in connection with a federal-aid contract, as well as requiring disclosure by lower-tier contractors of funds expended for lobbying in connection with subcontracts exceeding $100,000.

1.15 U.S. Department of Transportation "Hotline"

The U.S. Department of Transportation (USDOT) provides a toll-free "hotline" service to report bid rigging activities. Bid rigging activities can be reported Monday through Friday, between 8:00 a.m. and 5:00 p.m., Eastern time, telephone (800) 424-9071. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report these activities. The "hotline" is part of the USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse, and it is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

1.16 Proposer Conduct

1.16.1 Proposer Misconduct

If the Proposer, or anyone representing the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe, or loan of any sort to Department, including agents or anyone representing Department at any time during the Project procurement process: (1) Department shall immediately disqualify the Proposer;

(2) the Proposer shall forfeit its Proposal Security; (3) the Proposer shall not be entitled to payment of the Stipend, if offered; and (4) Department may sue the Proposer for damages.

1.16.2 Non-Collusion

The Proposer shall not undertake any of the prohibited activities identified in the Non-Collusion Declaration (Appendix F, Form 3).

1.16.3 Organizational Conflicts of Interest

Proposers' attention is directed to California Government Code section 14135 and the organizational conflict of interest rules found in 23 CFR § 636, Subpart A, including 23 CFR § 636.116, which apply to this procurement. 23 CFR § 636.103 defines an "organizational conflict of interest" as follows:

> Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

Proposer shall provide information concerning organizational conflicts of interest and disclose all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest. Proposer shall state how its interests or those of any of its team members, consultants, contractors or Subcontractors, including the interests of any chief executives, directors or key personnel thereof, may result in, or could be viewed as, an organizational conflict of interest.

Proposer is prohibited from receiving any advice or discussing any aspect relating to the Project or the procurement of the Project with any person or entity with an organizational conflict of interest, including, but not limited to the entities listed in Appendix J; and any parent, affiliate, or subsidiary of any of the foregoing entities, or an entity that is under common ownership, control or management with any of the foregoing entities. Such persons and entities are prohibited from participating on a Proposer team as a Key Personnel, Major Participant, Subcontractor or Subconsultant.

Proposer shall agree that, if after award, an organizational conflict of interest is discovered, Proposer must make an immediate and full written disclosure to the Department that includes a description of the action that Design-Builder has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Department may, at its discretion, cancel the Contract. If Proposer was aware of an organizational conflict of interest prior to award of the Contract and did not disclose the conflict to Department, the Department may terminate the Contract for default.

1.16.4 Restrictions on Participation

Proposers are advised that the following entities and individuals are precluded from submitting a Proposal and from participating as a Key Personnel or Major Participant or Subcontractor to a Proposer:

A) Any consultant firm listed in Appendix J ("Restriction on Participation"). Department has contracted with these firms to aid in the development of the RFQ, RFP, estimates or scope of services for the Project, or to participate in the SOQ or Proposal evaluation process;

B) Any entity that is a parent, affiliate, or subsidiary of any of the entities listed in Appendix J, or that is under common ownership, control or management with any of the foregoing entities;

C) Any consultant firm or its affiliate that is under contract with Department to provide Construction Engineering and Inspection ("CEI") services on the Project;

D) Any entity that is currently suspended, debarred or voluntarily excluded under 49 CFR Part 29 or is otherwise determined to be ineligible to participate in the federal-aid highway program.

1.16.5 Participation on More Than One Proposer Team

To ensure a fair procurement process, except as provided in Section 3.3.2, Key Personnel and Major Participants of Proposer teams are forbidden from participating, in any capacity, on another Proposer team during the course of the Project procurement. This prohibition extends to affiliated entities of Key Personnel and Major Participants. Department reserves the right to disqualify any Proposer that fails to comply with this prohibition.

2 PROCUREMENT SCHEDULE

The deadlines and due dates shown in Table 2-1 apply to this ITP. Department may at its sole discretion amend this schedule. To the extent such dates are changed, Department shall formally notify the Proposers.

TABLE 2-1 **PROCUREMENT SCHEDULE**	
Issuance of RFQ	April 29, 2010
SOQ Due Date	June 10, 2010
Prequalification Announcement	July 9, 2010
Issuance of RFP by Department to Prequalified Proposers	February 2, 2011
Data Room, Access Permitted	February 2, 2011
One-on-One Meetings	February 22-23, 2011
Pre-Bid Conference	February 23, 2011
Request for Clarifications Submittal Deadline	March 22, 2011
Price Proposal Due Date	April 5, 2011
Public Opening Date	April 6, 2011
NTP1	May 15, 2011

3 PROCUREMENT PROCESS

3.1 Confidentiality during Evaluation and Selection Process

Subject to the California Records Act (California Government Code §§ 6250 *et seq*.), the Department has taken measures to protect the confidentiality of all submitted Proposals during the entire evaluation and selection process. Every person involved in the process shall sign a confidentiality and nondisclosure agreement. However, under no circumstances will the Department be responsible or liable to a Proposer or any other party as a result of disclosing any materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of Department or its respective officers, employees, contractors, or consultants.

In the event Department is requested to disclose any of the materials identified by the Proposer as confidential, Department will promptly notify the Proposer so that Proposer may seek a protective order or other appropriate remedy. If it wishes to protect the materials from disclosure, the Proposer shall seek court protection immediately on an emergency basis. In the event that such protective order or other remedy is not sought by the Proposer within seven days after the Proposer receives notice from Department, Department will be free to release the requested information. Department will consider the Proposer to have waived any claim of confidentiality and exemption from public disclosure for any materials not identified as confidential. Proposers are advised to consult with their legal counsel regarding the scope and provisions of the Public Records Act.

3.2 Examination of RFP

Proposer shall be solely responsible for (1) reviewing and examining, with appropriate care, all RFP documents, including any supplements, Addenda, and clarification notices issued, (2) requesting clarification or interpretation of any material discrepancy, deficiency, ambiguity, error, or omission in the RFP documents, or of any provision Proposer fails to understand and (3) informing itself with respect to any and all conditions that may in any way affect the cost or nature of the Proposal or the performance of the Work after Contract award. Failure of Proposer to inform itself as described herein shall be at its sole risk, and no relief for error or omission will be provided by Department.

3.3 Communications Between Department and Proposers

3.3.1 Designated Contact

Department will make available to all Proposers a copy of the RFP, including Addenda, and other Project-related documents and materials in electronic format at no cost. All Proposers responding to the RFP will be required to acknowledge that they have received and reviewed all such documents and materials.

The Proposer Representative will be the "contact person" identified in the Statement of Qualifications submitted in response to the RFQ. Each Proposer is solely responsible to ensure that all contact information of the Proposer Representative is accurate and updated at all times during the procurement. Proposer may update or revise the Proposer Representative's information by notifying the Designated Contact, in writing. The Designated Contact is the sole Department designated contact person and addressee for receiving clarification requests and all other communications about the Project, the RFP, and Proposal submittal. Contact information for the Designated Contact is:

State of California
Department of Transportation
Office of Special Projects
Design-Build Program
1120 N Street, MS-28
Sacramento, CA 95814
Attention: Design-Build Program
Telephone: (916) 653-3348
Fax: (916) 654-5881

Email Address: DBProgram@dot.ca.gov

From time to time during the procurement process or during the term of the Contract, the Department may

designate another Designated Contact or other representatives to carry out some or all of Department's obligations pertaining to the Project.

3.3.2 Rules of Contact

Except for communications expressly permitted by this ITP, the Designated Contact, or a representative hereafter designated in writing by the Designated Contact, is Department's single contact and source of information for this procurement. The rules of contact set forth in this Section 3.3.2 shall apply during the Project procurement process. These rules are designed to promote a fair, unbiased, and legally defensible procurement process. Contact includes face-to-face, telephone, electronic-mail (e-mail) or formal written communication.

The specific rules of contact are as follows:

A) After Department's announcement of the prequalified Proposers, neither a Proposer nor any of its team members may communicate with another Proposer or members of another Proposer's team with regard to the RFP or either team's Proposal. This prohibition does not apply to (1) Proposer communication with an entity such as a Subcontractor, etc., that is on both its team and another Proposer's team, provided that the entity shall not act as a conduit of information between the two Proposers; and (2) public discussion regarding the RFP at Department-sponsored informational meetings.

B) Unless otherwise specifically noted in this ITP or authorized by the Designated Contact, all Proposer communication with Department will be between the Proposer Representative and the Designated Contact. All such communication must be in writing (by mail or e-mail).

C) Under normal circumstances, the Designated Contact will contact a Proposer in writing through the Proposer Representative.

D) Commencing with Department's announcement of the prequalified Proposers and continuing until the earliest of (1) execution and delivery of the Contract, (2) Department's rejection of all Proposals or (3) cancellation of the Project procurement, neither a Proposer nor its agents may have ex parte communications with State officials, Department employees, members of the Proposal Evaluation Team or any other person who will evaluate Proposals, California Transportation Commission or its staff, Federal Highway Administration, U.S. Department of Transportation, or any person identified in ITP Section 1.16.4, regarding the Project, except for communications expressly permitted in this ITP or through the process identified above. The foregoing restriction shall not, however, preclude or restrict communications regarding matters unrelated to the Project or from participating in public meetings or any public or Department workshops related to the Project. Department may, in its sole discretion, disqualify any Proposer engaging in such prohibited communications.

E) Any contact by a Proposer determined to be improper may result in disqualification of the Proposer.

F) Department will disseminate written communications regarding the Project from Department on Department letterhead. The Designated Contact will sign such communications. Alternatively, the Designated Contact may communicate via e-mail originating from Department's server.

G) Department will not be responsible for or bound by (1) any oral communication or (2) any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the Designated Contact.

H) If Proposer has meetings or discussions with agencies or entities other than Department during the procurement phase, Proposer shall be responsible for verifying with Department's Designated Contact any Project-related information it so receives.

3.4. Submission of Requests for Clarification

3.4.1 Form of Requests

Comments/questions may be submitted at any time prior to the applicable date specified in Section 2 or such later date as may be specified in any Addendum and shall: (i) be sequentially numbered; (ii) identify the document (i.e., the Design-Build Contract, Project Requirements, etc); (iii) identify the relevant section number and page number (i.e., Design-Build Contract Section 1.2, page 2) or, if it is a general question, indicate so; (iv) not identify the Proposer's identity in the body of the question or contain proprietary or confidential information; and (v) indicate whether the question is a Category 1, 2, 3 or 4 question. Each page of questions shall be marked with the Proposer's name and date of submission.

As used above, "Category 1" means a potential "go/no-go" issue that, if not resolved in an acceptable fashion, may preclude the Proposer from submitting a Proposal. "Category 2" means a major issue that, if not resolved in an acceptable fashion, will significantly affect price or, taken together with the entirety of other issues, may preclude the Proposer from submitting a Proposal. "Category 3" means an issue that may affect price, or another material issue, but is not at the level of a Category 1 or Category 2 issue. "Category 4" means an issue that is minor in nature, a clarification, or a comment concerning a conflict between documents or within a document, etc.

Proposers will be limited to 50 comments/questions per RFP version issued, including Addenda. If a question has more than one subpart, each subpart will be considered a separate question. Corrections of typographical errors, incorrect cross references or inconsistencies within or among the RFP documents will be excluded from the 50 question limitation.

3.4.2 Timing of Requests

All inquiries and comments regarding the Project shall be made by e-mail to Department's Designated Contact as specified in Section 3.3 by 1:00 p.m., Pacific Time, on the Request for Clarification Submittal Deadline (identified in Section 2). Department does not commit to answer any questions submitted by the Proposers after this deadline. Only written inquiries will be accepted. No oral requests for clarification or interpretation, whether in person or by telephone, will be accepted. Requests submitted by e-mail shall include at least one version of the requests in "Word" format in addition to any other formats.

3.4.3 Responses and Confidential Information

Department may, in its sole discretion, respond to all, some, or none of the questions submitted under this Section 3.4. Any responses to questions submitted under this Section 3.4 will be in writing and Department will make available these responses electronically to all Proposers, except that Department may in its discretion respond individually to those questions identified by a Proposer or deemed by Department as containing confidential or proprietary information. Department reserves the right to disagree with a Proposer's characterization of the confidentiality of any information it may provide. Department may rephrase or consolidate questions as it deems appropriate.

3.5 RFP Addenda and Clarification Notices

If Department determines at its sole discretion that interpretation or clarification of the RFP or any other consideration requires a revision of the RFP, Department will prepare and issue a written addendum. A copy of any such RFP revision will be sent by e-mail to all prequalified Proposers.

Department may issue clarification notices listing questions received from Proposers and the responses given by Department. Any such written clarification notice will be sent by e-mail to all prequalified Proposers. Department will not be bound by, and Proposers shall not rely on, any oral communication regarding the Project or RFP documents; and Proposer shall not rely on any Department or other communication except the RFP documents, Addenda, and clarification notices. To allow receipt of any Addenda, clarification notices, or other information regarding the RFP, Proposer is solely responsible for ensuring that Department's Designated Contact has Proposer Representative's name and e-mail address.

3.6 One-on-One Meetings

Department anticipates conducting one-on-one meetings with each Proposer on the dates specified in ITP Section 2 and may hold additional one-on-one meetings as it deems necessary. FHWA, and in the Department's sole discretion other third-party stakeholders, may also participate in all one-on-one meetings. Participation at such meetings by Proposers shall be mandatory, and each one-on-one meeting shall be attended by the Proposer Representative and DB Project Manager, and any members of the Proposer team appropriate to the subject matter of the one-on-one meeting.

3.6.1 General

The purpose of the one-on-one meetings with Proposers is for Department to discuss issues and clarifications regarding the RFP and Proposer's ATCs, as applicable. No negotiation or decision-making shall take place during any one-on-one meetings. Department reserves the right to hold one-on-one meetings on matters it deems appropriate in its sole discretion. The one-on-one meetings are subject to the following rules:

- The meetings are intended to provide Proposers with a better understanding of the RFP.
- Department will not discuss with any Proposer any Proposal or ATC other than its own.
- Proposers shall not seek to obtain commitments from Department in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer.
- No aspect of these meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers, and no part of the evaluation of Proposals will be based on the conduct or discussions that occur during these meetings.

3.6.2 Meeting Notice, Confirmation and Contract

Department shall notify each Proposer in writing of the scheduled time, place, date and duration of any one-on-one meeting. This notice may also include procedural details regarding allowed contact with Department's representatives and any identification the Proposers will be required to bring. The notice may also request the Proposer to provide a proposed agenda for the one-on-one meeting. Attached to the notice will be a form of agreement, which addresses, among other things, the Proposer's agreement to the rules regarding the one-on-one meeting and a waiver of protest rights related to these meetings. In order to qualify to attend these meetings, Proposers are required to return an executed version of this agreement and confirm their attendance at this meeting within five days of receiving this notice.

3.6.3 Statements at One-on-One Meetings

During one-on-one meetings, Proposers may ask questions and responses may be provided. However, any responses during one-on-one meetings may not be relied upon unless questions were submitted in writing and Department provided written responses in accordance with Section 3.4. The questions and responses will be provided in writing to all Proposers, except to the extent such questions are deemed by Department to contain confidential or proprietary information relating to a particular Proposer's Proposal.

3.6.4 Use of One-on-One Meeting Information

Department reserves the right to disclose to all Proposers any issues raised during the one-on-one meetings, except to the extent that Department determines, in its sole discretion, such disclosure would impair the confidentiality of an ATC or reveal confidential or proprietary information.

4 PROPOSAL SUBMITTAL REQUIREMENTS

4.1 Format

To facilitate the evaluation of Proposals and to help protect the confidentiality of proprietary information, the volumes of the Proposal submittal described below shall be submitted in separate sealed packages.

Unless otherwise specified in this ITP, all written submittals must be prepared on 8-1/2" x 11" or A4 sized, white paper. All written submittals, regardless of paper size, must be prepared on white paper and included in the applicable binder. Any submittal requested on paper larger than 8-1/2" x 11" or A4 format will be considered one page. Each section within a volume shall have sequentially numbered pages (i.e., "Vol. 3 – Section 2, p.2," for page 2 of Section 2 in Volume 3), shall be separated by a divider with a tab, and shall be prepared using no smaller than twelve-point font size, except for tables, which may be prepared using ten point font size. Department may disregard documents not complying with these page limitations. Proposers shall not include standard corporate brochures, awards, licenses and marketing materials and Department will not evaluate such materials.

4.2 Contents and Organization

Proposers shall clearly index their Proposals using pages with tabs and organize them in the order set forth in this ITP Section 4.2 and in Appendix I. The Proposal shall contain 3 separately bound and labeled volumes, each in a separate loose-leaf three ring binder, including the information described in this section. Proposers may subdivide each volume as needed. The electronic submittals (CDs and/or DVDs) shall follow equivalent organizational standards, and shall use a searchable format with appropriate bookmarks.

4.2.1 Volume 1 – Administrative Information

Volume 1 of the Proposal will contain the administrative information the Proposer is required to submit under Appendix B, separated and labeled appropriately and organized in accordance with Appendix I. Volume 1will be submitted with the Price Proposal on the Price Proposal Due Date (identified in Section 2).

4.2.2 RESERVED

4.2.3 Volume 3 – Price Proposal

Volume 3 of the Proposal will contain the Price Proposal. This volume should not contain any confidential or proprietary information. The Price Proposal will contain the components described in Appendix D or otherwise specified in Appendix I, separated and labeled appropriately and organized in accordance with Appendix I.

4.2.4 Volume 4 – Confidential Proprietary Information

Volume 4 shall contain all confidential and proprietary Proposal information. The first page of the Volume 4 binder shall be a page executed by the Proposer that sets forth the specific items the Proposer deems confidential, trade secret or proprietary information protected from public disclosure under the Public Records Act. Each entry shall list the specific statute within the Public Records Act that the Proposer believes would protect that item from public disclosure. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for Department to treat the entire Proposal as public information. Notwithstanding the foregoing, the list required under this Section 4.2.4 is intended to provide input to Department as to the confidential nature of a Proposer's Proposal, but in no event shall such list be binding on Department or determinative of any issue relating to confidentiality.

Department will consider the Proposer to have waived any claim of confidentiality and exemption from public disclosure for any materials placed in any other location in the Proposal than in Volume 4, even if the Proposer includes that item in the list described above.

4.3 Submission on Price Proposal Due Date

Proposers shall submit the following to Department in accordance with Appendix I to this ITP, and in the manner and at the location set forth in Section 4.4, on or before the Price Proposal Due Date set forth in Section 2:

- One original of each of Volume 1, Volume 3, and Volume 4 (each volume marked "ORIGINAL");
- 4 copies of Volume 3- Price Proposal (each marked "Copy ___ of 4");
- 1 electronic copy of Volume 3 (in original file format) and Volume 4 (in original file format), each on a separate CD or DVD; and
- 4 copies of Volume 4 (each marked "Copy ___ of 4").

In addition to the above, Proposers shall also include with the Price Proposal three electronic copies of the entire Proposal (Volumes 1, 3, and 4) in "PDF" format, each on a separate CD or DVD. If there are any discrepancies between the hard copy and the electronic copy of any quantitative information provided in the Proposal, the hard copy version will prevail. If there are any differences between the sum of individual line amounts and totals, the individual line amounts will prevail.

4.4 Proposal Delivery

Proposals shall be mailed or delivered to Department as set forth below:

Department of Transportation
Bidder's Exchange (MS26)
1727 30th St
Sacramento, CA 95816

Acknowledgment of receipt of Price Proposals will be evidenced by the issuance of a receipt by a member of Department staff. Department will not accept facsimile or other electronically submitted Proposals. Department will not accept any Price Proposals delivered after the Price Proposal Due Date. Any Price Proposals received after the Price Proposal Due Date, will be rejected and not considered. Proposers are solely responsible for assuring that Department receives their Proposals by the Price Proposal Due Dates, as applicable, at the address listed above. Department shall not be responsible for delays in delivery caused by weather, difficulties experienced by couriers or delivery services, misrouting of packages by courier or delivery services, improper, incorrect or incomplete addressing of deliveries and other occurrences beyond the control of Department. Proposals shall be received between 7:00 a.m. and 2:00 p.m., Pacific Time, on the Due Dates identified in Section 2.

4.5 Signatures and Certified Copies

The original Proposal Letters shall be signed in blue ink by all parties making up the Proposer, together with evidence of authorization (see Appendix F, Form 1).

4.6 Language and United States Dollar Requirements

All correspondence regarding the RFP, Proposal, and Contract is to be in the English language. If any original documents required for the Proposal are in any other language, the Proposer shall provide an English translation, certified by an individual authorized as a translator by one of the superior courts of the State, which shall take precedence in the event of conflict with the original language. The Proposer shall exclusively use United States dollars in its Proposal, except in pre-printed or reference materials. In the evaluation of Proposals, Department may choose to disregard any financial figures provided by the Proposer in denominations other than United States dollars.

4.7 Disqualification

Failure to use a sealed package or to properly identify and label any Proposal package may result in failure of the Proposal to be timely delivered and/or an inadvertent opening prior to the appointed time and place. Any Proposal that is not timely delivered will not be considered. Proposer will be entirely responsible for any consequences, including disqualification of the Proposal that result from Proposer's failure to follow the instructions in the RFP. It is Proposer's sole responsibility to see that its Proposal is received as required. Proposers shall provide responses to all information requested in the ITP. Failure to respond or to provide requested information may result in a determination by Department, in its sole discretion, that a Proposal is non-responsive.

4.8 Withdrawal and Late Submittals of Proposal

4.8.1 Withdrawal and Validity of Proposals

The Proposer may withdraw its Proposal at any time prior to the Price Proposal Due Date by means of a written request signed by the Proposer or its properly authorized representative. Such written request shall be delivered to the address in Section 3.3. A withdrawal of a Proposal will not prejudice the right of a Proposer to file a new Proposal provided that the Price Proposal is received before the Price Proposal Due Date. Proposers may not withdraw a valid Proposal after the Price Proposal Due Date. Any attempt by a Proposer to withdraw its Proposal after the time due on the Proposal Due Date will result in a draw by Department upon the Proposal Bond.

4.8.2 Late Proposals

Department will not consider any late Price Proposals. Proposals and/or modification or withdrawal requests received after the applicable time for submittal of Proposals will be returned to the Proposer.

4.9 Proposal Security

4.9.1 Proposal Security

Each Proposer shall submit a Proposal Bond, as described in Appendix B and in the form provided in Appendix F, Form 11, as applicable, with the Price Proposal. The Proposal Bond shall be in the sum of ten percent (10%) of the total amount of the Price Proposal. The Proposal Bond shall be from a surety rated in the top two categories by two nationally recognized rating agencies or at least A-: VIII or better according to A.M. Best's Financial Strength Rating and Financial Size.

4.9.2 Forfeiture of Proposal Security

Each Proposer understands and agrees that if it has submitted and not withdrawn its Proposal as of the Price Proposal Due Date and should withdraw any part or all of its Proposal while the Proposal is valid without the consent of Department; should refuse or be unable to enter into the Contract as provided herein; should refuse or be unable to perform all of the acts or furnish all of the documents as provided in ITP Sections 6.4 and 6.5; or, prior to execution of the Contract, should refuse or be unable to furnish any commitments made in its Proposal, Department shall be entitled to draw on the Proposal Security in its entirety and the Proposer shall not be entitled to the Stipend.

Department will retain the Proposal Security for all Proposers until the Contract has been fully executed, Department has canceled the RFP, or the conclusion of the validity period described in ITP Section 1.11 after which Department will return the Proposal Security for each unsuccessful Proposer, except any Proposal Security drawn upon by Department. Department shall return the Proposal Security for the successful Proposer at such time as the successful Proposer has satisfied all conditions of execution and award, including, without limitation, those set forth in ITP Sections 6.4 and 6.5.

The Proposer understands that any material alteration, as determined by Department in its sole discretion, of documents specified in this ITP Section 4, the Form of Proposal Bond (Appendix F, Form 11) will render the Proposal non-responsive and non-compliant, unless such alteration was authorized by Department in writing prior to the Price Proposal Due Date.

4.10 Cost of Preparing Proposal

The cost of preparing the Proposal and any costs incurred at any time before or during the Proposal process shall be borne by the Proposer.

4.11 Compliant Proposal

The Proposer shall submit a Proposal that provides all the information required by the ITP. If the Proposal does not fully comply with these requirements, Department may deem the Proposal non-responsive in which case the Proposer shall be disqualified. In addition, Department may consider Proposals non-responsive and the Proposer disqualified for the following reasons:

A) If the Proposal is not submitted in the format specified in this ITP or is illegible;

B) If the Proposal contains multiple, conditional or alternate Proposals or contains any omission, erasures, alterations, unauthorized additions or other irregularities of any kind;

C) If any mandatory portion of the Proposal is conditioned on a revision or change to any of the Contract Documents; or

D) If the Proposer is in arrears in the payment of any obligation due and owing the State, including the payment of taxes and employee benefits.

4.12 Insurance Requirements

Proposers are cautioned to carefully review the minimum insurance requirements set forth in the Contract and to take these minimum requirements into account in putting together their Proposal.

5 PROPOSAL EVALUATION PROCESS

5.1 General

Department will award the Contract (if at all) to the responsive Proposer that has complied with all of the requirements of the RFP and has the lowest price Proposal, as set forth in this Section 5. Department's Designated Contact will notify the Preferred Proposer and the unsuccessful Proposers.

Department reserves the right to request clarification or supporting documentation at any time at its sole discretion.

5.2 Proposal Opening

The Price Proposals will remain sealed in a secure location until they are opened publicly at 2:00 p.m., Pacific Time, on the Public Opening Date (identified in Section 2) at:

Department of Transportation
Bidder's Exchange, MS 26
1727 30th St
Sacramento, CA 95816
1st Floor Conference Room

5.3 Responsiveness Review

5.3.1 Responsiveness Evaluation

The Process Oversight Committee will review the Proposals and determine if, on a whole, the Proposals are responsive to the RFP requirements. Proposals will be evaluated based on the following criteria:

(a) Business form of Proposers and team members shall meet Project requirements.

(b) The Major Participants and Key Personnel listed in the Proposal shall not have changed since submission of its SOQ, or Proposer shall have previously advised Department of a change and received the Department's written approval thereto.

(c) Proposer has delivered commitment letters from a surety or an insurance company meeting the requirements of Book 1, indicating that the surety will issue a Payment and Performance Bond and Warranty Bond, as required by Book 1, if Proposer is awarded the Contract.

(d) The terms, conditions, ideas, concepts, and techniques of the Proposal comply with all Governmental Rules.

(e) Proposer information, certifications, and documents as listed in Appendix B, Section 3 are included in the Proposal and are complete, accurate, and responsive, and they do not identify any material adverse changes from the information provided in the SOQ information.

(f) Proposal meets the requirements of the DBE Federal regulations at 49 C.F.R. Part 26.

5.3.2 Low Bid Price Selection

Unless all Proposals are rejected or Department otherwise elects not to award the Contract, the Contract will be awarded to the responsive and responsible Proposer with the lowest Price Proposal.

The Department will issue a Notice of Intent to Award to the Preferred Proposer with the Low Bid.

6 FINALIZATION OF AGREEMENT, AWARD AND EXECUTION

6.1 No Obligation to Award

Department reserves the right to cancel the award of the Contract at any time before the execution of the Contract by all parties without any liability against Department or the State.

6.2 Escrowed Proposal Documents

The Preferred Proposer shall submit Escrowed Proposal Documents ("EPD") in accordance with Book 1, Section 22.1.

6.3 Finalization of Contract

Unless Department rejects all Proposals or cancels this procurement, Department will proceed with the Preferred Proposer to finalize the Contract, including incorporation of Preferred Proposer's Proposal commitments. Department may agree to incorporation of unsuccessful Proposers' work product, subject to agreement with the Preferred Proposer; however, any decision to commence discussions regarding incorporation of such work product is at Department's sole discretion By submitting its Proposal, each Proposer commits to enter into the form of Contract included in the RFP, without negotiation or variation, except discussions as provided in the immediately preceding sentence and to fill in blanks and include information that the form of Contract indicates is required from the Proposal.

If a Contract satisfactory to Department cannot be reached with the Preferred Proposer after seven days where the parties have attempted to finalize the Contract in good faith, Department may formally end discussions with that Proposer and take action consistent with the direction provided by the Director. Such action may include (a) rejection of all Proposals, (b) issuance of a request for Proposal Revisions to Proposers; or (c) proceeding to the next lowest Price Proposal to finalize a Contract with that Proposer in accordance with this Section 6.3 and applicable law. A failure to finalize the Contract in good faith includes, but is not limited to: (a) failure of the Preferred Proposer to attend and actively participate in reasonably scheduled meetings with Department, or (b) the Preferred Proposer's insistence upon terms or conditions that are inconsistent with the RFP Documents.

The final form of Contract will be conformed to include any items provided in the successful Proposal and

Approved or required by Department for inclusion in the Contract.

6.4 Post-Selection Deliverables

Within 45 days of the Notice of Intent to Award issued under Section 5.3.2 the Preferred Proposer shall:

A) Notify Department in writing of the name and address of its agent for service of legal process for this Project. The Proposer shall not change this authorized agent without prior written notice to Department;

B) Notify Department in writing of the Proposer's Federal Internal Revenue Service Employer Identification Number;

D) Provide evidence that the Proposer and Key Personnel hold all qualifications and licenses for the performance of the Work; and

E) Deliver drafts of the deliverables for final award for review and pre-approval by Department prior to delivery, as identified in Section 6.5.

The foregoing are conditions to award. Should the Preferred Proposer fail to comply with any of the above requirements, Department shall call upon the Proposal Bond in its entirety. Department shall have three Business Days to review and respond to subsequent submittals of the deliverable.

6.5 Contract Award and Execution

Following selection of a Preferred Proposer by Department and verification that Preferred Proposer has complied with the requirements of the RFP, Department will award the Contract and will deliver five sets of execution copies of the Contract and five sets of execution copies of each available Master Utility Agreement (if any) to the selected Preferred Proposer within 5 days of the conclusion of the discussions between Department and the Preferred Proposer. Within five days of Department's award of the Contract, the Preferred Proposer shall provide the following:

(a) Executed Contract;

(b) Executed Master Utility Agreement(s) (if any);

(c) Evidence of authorization to execute the Contract, in the form of a certified resolution of the governing body of Proposer expressly stating such body's authorization to execute the Contract and, if Proposer is a partnership, joint venture, or unincorporated association, of the governing bodies of the entity's partners or members;

(d) Payment and Performance Bond in the forms shown in Book 1, Exhibits K and L (Forms of Payment and Performance Bond for Design-Build Contracts) and a Warranty Bond in the form shown in Book 1, Exhibit M, (Warranty Bond) and issued by the surety listed in the Proposal, or an equivalent surety meeting the requirements stated in Book 1, Section 8;

(e) The insurance policies, endorsements, and/or certificates required under Book 1, Section 9;

(f) Evidence that Proposer, its Major Participants, and other identified Subcontractors hold all licenses

as of award necessary to perform the Work;

(g) If any entity described in Appendix B that is a corporation, or limited partnership is not organized or formed in the State of California, a Certificate of Status dated no earlier than 90 Days before the Proposal Due Date from the California Secretary of State for each such entity;

(h) A written opinion from counsel for Design-Builder, which counsel shall be Approved by Department (which may be in-house or outside counsel, provided that the enforceability opinion shall be provided by an attorney licensed in the State of California), in substantially the form attached hereto as Form 15 (Form of Opinion of Counsel); and

(i) If applicable, Guaranty in the form attached hereto as Form 16 (Form of Guaranty), together with appropriate evidence of authorization thereof.

Department shall have three Business Days to review and respond to subsequent submittals of the deliverable. Delivery of the preceding is a condition precedent to execution. Should the Preferred Proposer fail to comply with any of the above requirements, Department shall call upon the Proposal Bond in its entirety.

Subject to the mutual agreement of the parties otherwise, if Department does not execute the Contract within four days following receipt from the Preferred Proposer of the information and documents listed in this Section 6.5, the Proposer shall have the right to withdraw the Proposal without penalty.

If the Preferred Proposer fails to execute the Contract within the time periods identified above, Department may award the Contract to the Proposer whose Proposal was the next apparent Low Bid Proposal, re-advertise and complete the work under a different contract, cancel the Project or pursue any other option it chooses in its sole discretion. The Contract will not be effective until it has been fully executed and delivered by both of the parties thereto.

7 DEPARTMENT'S RIGHTS AND DISCLAIMERS

7.1 Department's Rights

In connection with this procurement, Department reserves to themselves all rights (which rights shall be exercisable by Department in its sole discretion) available to it under applicable law, including without limitation, with or without cause and with or without notice, the right to:

(a) investigate the qualifications of any Proposer;
(b) seek or obtain data from any source related to the Proposals;
(c) require confirmation of information furnished by a Proposer;
(d) require additional information from a Proposer concerning its Proposal;
(e) seek and receive clarifications to a Proposal;
(f) require additional evidence of qualifications to perform the Work;
(g) modify the RFP process;
(h) reject any or all of the Proposals;
(i) issue a new RFP;
(j) cancel a Contract signed by the Preferred Proposer but not yet executed by Department; and/or
(k) not issue NTP1 after execution of the Contract;
(l) cancel, modify, withdraw the RFP in whole or in part ay any time prior to the execution of the Contract by the Department, including adding or deleting Proposer responsibilities contained in

the RFP;

(m) issue Addenda;

(n) disqualify any Proposer who changes its Proposal, members of its team or Key Personnel without Department approval;

(o) appoint evaluation committees to review Proposals and seek the assistance of outside technical experts and consultants in evaluating the Proposals;

(p) accept and review non-conforming Proposals or seek and receive clarifications or supplements to a Proposal;

(q) waive minor irregularities in Proposals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Proposers. Minor irregularities are defined as those that will not have an adverse effect on Department's interest and will not give a Proposer an advantage or benefit not enjoyed by other Proposers;

(r) suspend and terminate the procurement at any time; and/or

(s) exercise any other right reserved or afforded to Department under this ITP and applicable Law.

7.2 Disclaimers

The RFP does not commit the Department to enter into the Contract, nor does it obligate Department to pay for any costs incurred in preparation and submission of Proposal(s) or in anticipation of the Contract. By submitting a Proposal, a Proposer disclaims any right to be paid for such costs, except for payments related to Stipends. The execution and performance of the Contract pursuant to the RFP is contingent upon sufficient appropriations and authorizations being made by the California State Legislature for performance of the Contract between the successful Proposer and Department. In no event shall Department be bound by, or be liable for, any obligations regarding the Work or the Project until such time (if at all) as Department has executed, authorized and delivered the Contract. In submitting a Proposal in response to the RFP, the Proposer is specifically acknowledging these disclaimers.

7.3 Protest

This Section 7.3 sets forth the exclusive protest remedies available with respect to the RFP, including this ITP and the award, if any, of the Contract. Each Proposer, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, shall be final and conclusive. These provisions are included in this ITP expressly in consideration for such waiver and agreement by the Proposers. The submission of a Proposal shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

All protests and related statements described in this Section 7.3 shall be submitted for filing by hand delivery to the following address:

State of California
Department of Transportation
Legal Division
1120 N Street, MS 57
Sacramento, CA 95814
Attention: Todd VanSanten, Assistant Chief Counsel
Telephone: (916) 654-2630
Fax: (916) 654-6128

7.3.1 Protests Regarding RFP Requirements

Proposers may protest the terms of this RFP, including the ITP, on the grounds that (a) a material provision in this RFP is ambiguous, (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement, or (c) this RFP in whole or in part exceeds the authority of Department. Protests regarding this RFP shall be filed only after the Proposer has informally discussed the nature and basis of the protest with Department in an effort to remove the grounds for protest.

Protests regarding the RFP documents shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.

Proposers shall file protests as soon as they know the basis for the protest, but in no event later than seven days before the Price Proposal Due Date. The Proposer filing the protest shall have the burden of proving its protest by clear and convincing evidence.

No hearing will be held on the protest, but it shall be decided, on the basis of the written submissions, by Department's Director or designee, whose decision shall be final and conclusive and not subject to legal challenge unless wholly arbitrary. Department's Director or designee shall issue a written decision regarding any protest to each Proposer. If necessary to address the issues raised in a protest, Department may, in its sole discretion, make appropriate revisions to the RFP documents by issuing Addenda.

Notwithstanding the existence of a protest, Department may, in its sole discretion, continue the procurement process or any portion thereof.

The failure of a Proposer to file a basis for a protest regarding the RFP documents within the applicable period shall preclude consideration of that ground in any protest of the Department's award decision (see Section 7.3.2 below) unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests. Department may extend the Price Proposal Due Dates, as applicable, if necessary, to address any such protest issues. If the protest is granted, Department shall not be liable for payment of the protestant's costs. Department shall not be liable for any damages to the Proposer filing the protest or to any participant in the protest, on any basis, expressed or implied.

7.3.2 Protests Regarding the Award Decision

Any protest regarding the Department's award decision must be filed within seven days after Department's posting of the Notice of Intent to Award. The Proposer filing the protest shall concurrently file a copy of the protest with the other Proposers, whose addresses may be obtained from Department. The notice of protest shall specifically state the grounds for the protest.

Within ten days after delivery of the notice of protest to Department, the protestant shall file a detailed statement of the grounds, legal authority and facts, including all documents and evidentiary statements in support of the protest. The protestant shall concurrently file a copy of the detailed statement with the other Proposers. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protestant shall have the burden of proving its protest by clear and convincing evidence. Failure to file a protest within the applicable period shall constitute a waiver of the right to protest the award decision other than any protest based on facts not reasonably ascertainable as of such date.

Other Proposers may file statements in support of or in opposition to the protest within seven days of the

filing of the detailed statement of protest. Department shall promptly forward copies of any such statements to the protestant. Any evidentiary statements shall be submitted under penalty of perjury. Department may also, at its option, submit a statement regarding the protest.

Department's Director or designee will only consider, based on a preponderance of the evidence, whether Department's determination is arbitrary, capricious or contrary to law, and will either affirm Department's original determination or recommend remedial steps, if appropriate, to address the issues raised in the protest. Department's Director or designee shall issue a written decision regarding the protest within 30 days after the filing of the detailed statement of protest. The decision shall be final and conclusive and not subject to legal challenge unless wholly arbitrary. Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole discretion of Department's Director or designee, a hearing or argument may be permitted if necessary for the protection of the public interest or an express, legally recognized interest of a Proposer.

If the protest is granted, Department shall not be liable for payment of the protestant's costs. Department shall not be liable for any damages to the entity filing the protest or to any participant in the protest, on any basis, express or implied.

APPENDIX A

ACRONYMS AND DEFINITIONS

As used in this ITP to which this Appendix A is attached the following acronyms and terms shall have the meanings set forth below (unless the context requires otherwise).

A.1 Acronyms

ADA	Americans with Disabilities Act
ATC	Alternative Technical Concept
CEI	Construction Engineering and Inspection
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CTC	California Transportation Commission
DB	Design-Build
DBE	Disadvantaged Business Enterprise
DVBE	Disadvantaged Veterans Business Enterprise
EPD	Escrowed Proposal Documents
FHWA	Federal Highway Administration
ITP	Instructions to Proposers
NEPA	National Environmental Policy Act
NTP1	Notice to Proceed 1
PDF	portable document format
PM	Post Mile
RFP	Request for Proposals
RFQ	Request for Qualifications
RID	Reference Information Documents
SBE	Small Business Enterprise
SOQ	Statement of Qualifications
UDBE	Underutilized Disadvantaged Business Enterprise
USC	United States Code
USDOT	United States Department of Transportation

A.2 Definitions

Addenda/Addendum	Supplemental additions, deletions, and modifications to the provisions of the RFP after the release of the RFP on February 1, 2011.
Administrative Submittals	Those submittals the Proposer is required to submit with its Proposal, as set forth in Appendix B to this ITP.
Affiliate	(a) Any Person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, Proposer or any Major Participant; and (b) Any Person for which 10 percent or more of the equity interest in such Person is held directly or indirectly, beneficially, or of record by, [i] Proposer, [ii] any Major Participant, or [iii] any Affiliate of Proposer under clause (a) of this definition. For purposes of this definition, the term "control" means the possession directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, family relation, or otherwise.
Alternative Technical Concept	A technical concept developed by a Proposer that deviates from the RFP requirements as provided in ITP Section 3.7.
Applicable Standards	Standards, including but not limited to those identified in Book 3, that apply to design and construction of Project.
Approve, Approved, or Approval	Formal conditional determination in writing by Department that a particular matter or item is good or satisfactory for the Project.
Book 1	The Contract Document designated as the Design-Build Contract (Book 1) in Section 1.1 of the ITP.
Book 2	The Contract Document designated as the Project Requirements (Book 2) in Section 1.1 of the ITP.
Book 3	The Contract Document designated as the Applicable Standards (Book 3) in Section 1.1 of the ITP.
Bridge	Any structure, with a bridge number, which carries a utility facility, or railroad, highway, pedestrian or other traffic, over a water course or over or under or around any obstruction.
Business Day	Day on which Department is officially open for business.
Calendar Day	Every day shown on the calendar, beginning and ending at midnight.
CEQA	The California Environmental Quality Act, as set forth in Section 21000 *et seq.* of the California Public Resources Code.
Completion Deadline	Each Intermediate Completion Deadline, Substantial Completion Deadline and/or Final Acceptance Deadline, depending on the context.
Conditional Approval or Conditionally Approved	A matter or item that is not Approved in its present form, but may be Approved upon satisfaction, in Department's sole judgment, of certain identified conditions that shall be met or certain clarifications or modifications that shall be made.
Contract	Depending on the context, (a) the Design-Build Contract, or (b) collectively, the Contract Documents.

Contract Documents	Shall have the meaning set forth in ITP Section 1.1.
Contract Price	The meaning set forth in Book 1, Section 11.1.1.
Data Room	The meaning set forth in ITP Section 1.2.
Day or day	Calendar Day unless otherwise specified.
DB Project Manager	Person identified in the SOQ as the DB Project Manager.
DBE/UDBE/SBE/DVBE Performance Plan	Proposer's plan to include firms designated as DBE, UDBE, SBE, and/or DVBE in the Work and to meet Project participation goals.
Department	The California Department of Transportation.
Department-Directed Changes	Any changes in the Work which Department has directed Design-Builder to perform as described in Book 1, Section 13.
Design-Build Contract	That certain Design-Build Contract (Book 1), as executed by Department and Proposer, and any and all amendments thereto.
Design-Build Demonstration Program	The State's design-build pilot program created under Senate Bill No. 4 (second extraordinary session), signed by Governor Schwarzenegger on February 20, 2009, and codified in California Public Contract Code section 6800 *et seq*.
Design-Builder	The Preferred Proposer who is chosen by the Department as having the Low Bid Proposal and who thereafter executes the Contract with the Department or the single purpose entity (if any) established by the chosen Preferred Proposer to execute the Contract with the Department.
Designated Contact	Shall have the meaning set forth in ITP Section 3.3.1
Director	The Director of the California Department of Transportation.
Disabled Veterans Business Enterprise	Means an enterprise that has been certified as meeting the qualifications established by subdivision (g) of Section 999 of the Military and Veterans Code
Disadvantaged Business Enterprise	A for-profit small business concern as defined in 49 CFR Part 26.
Effective Date	The date of execution of the Contract by Department.
Escrowed Proposal Documents	All documentary information used in preparation of the Proposal Price.
Event of Default	A default as described in Book 1, Section 16.1.1, following notice and opportunity to cure to the extent permitted by Book 1, Section 16.1.2 and issuance by Department of notice to Design-Builder and Surety that an Event of Default has occurred.
Final Acceptance	Acceptance of the Project as described in Book 1, Section 20.3.
Governmental Approval	Any approval, authorization, certification, consent, decision, exemption, filing, lease, license, permit, agreement, concession, grant, franchise, registration or ruling required by or with any Governmental Person (other than a Governmental Person in its capacity as a Utility Owner) in order to perform the Work.
Governmental Person	Any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity. The term includes the State and agencies and subdivisions thereof, other than

	Department.
Governmental Rule	All applicable federal, state and local laws, codes, ordinances, rules, regulations, judgments, decrees, directives, guidelines, policy requirements, orders and decrees of any Governmental Person having jurisdiction over the Project or Site, the practices involved in the Project or Site, any Work, or any Utility Work being performed by a Utility Owner. The term "Governmental Rule" does not include Governmental Approvals.
Guarantor	Each entity (if any) providing a Guaranty.
Guaranty	Each guaranty of Proposer's obligations under the Contract Documents (if any), provided on Proposal Form 16.
Intermediate Completion Deadline	The meaning set forth in Book 1, Section 4.3.1.
Key Contract	Any one, or an aggregate of more than one, of the following contracts for Work Design-Builder causes to be performed: (a) All Subcontracts for design, including the contract with the Lead Engineering Firm; (b) All Subcontracts for construction; (c) -All Subcontracts for project or program management services; and (d) All other Subcontracts with a single Subcontractor or Subconsultant which individually or in the aggregate total in excess of $2,000,000.
Key Personnel	The persons listed on Book 1, Exhibit G, subject to revision in accordance with the Contract.
Low Bid Proposal	Proposal meeting the standards set by the RFP that Department determines, through the evaluation process and evaluation criteria described in this ITP, to present the lowest price.
Major Participant	Any of the following entities: all general partners or joint venture members of Proposer; all individuals, persons, proprietorships, partnerships, corporations, professional corporations, business associations, or other legal entity however organized, holding (directly or indirectly) a 15 percent or greater interest in Proposer; any Subcontractor that will perform Work valued at 15 percent or more of the overall Contract amount; the lead engineering/design firm(s); and each engineering/design Subconsultant that will perform 20 percent or more of the design Work.
Master Utility Agreement	A contract made among Department, Proposer and a Utility Owner that provides a general framework for addressing Utility conflicts associated with the Project.
National Environmental Protection Act	The National Environmental Protection Act, 42 U.S.C. § 4321 *et seq.*, as amended and as it may be amended from time to time.
Notice of Intent to Award	The notice issued by Department under ITP Section 5.3.2.
Notice to Proceed 1	A first written notice issued by Department to Proposer to proceed with certain limited Work as specified therein on the date specified therein.
Organizational Conflict of Interest	Because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage in connection with Department's procurement of the Project. As

	used in this definition, the term "person" includes both individuals and entities.
Payment Bond	The payment bond described in Book 1, Section 8.1.
Performance Bond	The performance bond described in Book 1, Section 8.1.
Person	Any individual, corporation, company, voluntary association, partnership, trust, unincorporated organization or Governmental Person, including Department.
Post-Selection Deliverable	Any of the deliverables set forth in ITP Section 6.4.
Preferred Proposer	The Proposer that submits the Low Bid Proposal.
Price Proposal	The portion of the Proposal described in Appendix D to this ITP.
Process Oversight Committee	Committee of Department employees that observe the evaluation process and provide support, as necessary.
Project	The Madera 99 Chowchilla Rehab, as more specifically described in Book 2, Section 1, and all other Work product to be provided by Design-Builder as a condition to Final Acceptance in accordance with the Contract Documents.
Project Requirements	Book 2 of the Contract Documents, consisting of Sections 1 through 23 of Book 2, as such provisions may be changed, added to or replaced pursuant to the Contract, together with such documents as may be incorporated into Book 2 by reference therein.
Proposal	A proposal submitted by a Proposer in response to the RFP, which includes all required components, including the Administrative Submittals and Price Proposal.
Proposal Bond	Shall mean the security that Proposers may submit to Department with their Proposals as further described in ITP Section 4.9.1.
Proposal Due Date	The date the Proposal was due as specified in the Instructions to Proposers.
Proposal Evaluation Team	Shall mean the team formed by Department to evaluate the Proposal.
Proposal Price	The "Proposal Price" offered for the Work set forth in Form 9 (Proposal Price).
Proposal Security	The Proposal Bond.
Proposer or Proposers	An individual, firm, partnership, corporation, joint venture or combination thereof that was pre-qualified under Department's RFQ and that submits a proposal in response to the RFP.
Proposer Representative	The meaning set forth in ITP Section 3.3.
Public Opening Date	The date the Price Proposal is opened as specified in ITP Section 2.
Public Records Act	The California Public Records Act (California Government Code §§ 6250 *et seq.*)
Quality Assurance	The total effort of developing, documenting, implementing policies and procedures and defining roles and responsibilities in order to achieve and verify quality in accordance with specified requirements.
Quality Control	The acts of examining, witnessing, inspecting, checking and testing, and when necessary, revising in-process or completed design work, including in progress plan sheets, studies, charting and reports to determine conformity with contract requirements.

Reference Information Documents	The documents designated as Reference Information Documents in the RFP.
Relocation	As related to Utilities, each removal, transfer of location, In-Place/Out-of-Service and/or Protection of Existing Utilities (including provision of temporary services as necessary) of any and all Utilities that is necessary or advisable in order to accommodate or permit construction of the Project.
Request for Proposals	The Request for Proposals for the Project issued by Department, including all addenda and clarifications thereto.
Request for Qualifications	The Request for Qualifications for the Project issued by Department, including all addenda thereto.
Site	The Project right of way, temporary construction easement and any other temporary rights or interests that Department or Design-Builder may acquire in connection with the Project, including for construction, staging, lay down, storage, stockpiling and borrow areas.
Small Business Enterprise	Means a small business as defined in Government Code 14837.
State	The State of California acting through its elected officials and their authorized representative, or the State of California in the geographic sense, depending on the context.
Statement of Qualifications	Those documents constituting Proposer's response to the Request for Qualifications.
Stipend	The compensation Department may pay to certain Proposers as described in ITP, Appendix H.
Subcontractor or Subconsultant	Any Person with whom Design-Builder has entered into any subcontract and any other Person with whom any Subcontractor or Subconsultant has further subcontracted any part of the Work, at any tier.
Submittal	Any document, work product or other written or electronic end product or item required under the Contract Documents to be delivered or submitted to the Department. Notwithstanding the foregoing, an invoice submitted by Design-Builder seeking payments pursuant to the Contract is not a Submittal.
Substantial Completion	Completion of the Project as described in Book 1, Section 20.2.
Substantial Completion Deadline	The meaning set forth in Book 1, Section 4.3.2.
Surety	Each properly licensed surety company approved by Department which has issued the Payment and Performance Bonds.
UDBE Certification	Proposer's commitment to meet or make good faith efforts to meet Project participation goals as set forth in Form 17.
Underutilized Disadvantaged Business Enterprise	Firms that meet the definition of DBE and are a member of one of the following groups: (1) Black Americans; (2) Native Americans; (3) Asian-Pacific Americans; or (4) Women.
Utility or Utilities	A privately, publicly or cooperatively owned line, facility and/or system for supplying power, light, gas, telecommunications, telegraph, telephone, water, pipeline or sewer service if such lines, facilities or systems are authorized by law to use public highways for the location of their facilities. The necessary appurtenances to each utility facility shall be considered part of such utility. Without limitation, any service line connecting directly to a utility shall be considered an appurtenance to that utility, regardless of the ownership of

such service line. The term "Utility" is sometimes also used to refer to a "Utility Owner." The term "Utility" shall specifically exclude existing storm water facilities connected with drainage of the roadway.

Utility Owner The owner or operator of any Utility.

Utility Work (a) The work associated with Relocation of Utilities, including the design, construction, installation, manufacture, supply, testing and inspection, adjustments (including manholes and valves), and otherwise required by the Contract Documents, including all labor, materials, equipment, supplies, utilities and subcontracted services provided or to be provided by Design-Builder and/or the Utility Owners, and (b) any betterments added to the Work pursuant to Book 2, Section 6.4.6 and Book 1, Section 6.2.4. The term also includes any reimbursement of Utility Owners which is Design-Builder's responsibility pursuant to Book 1, Section 6.2. Any Utility Work furnished or performed by Design-Builder is part of the Work; any Utility Work furnished or performed by a Utility Owner is not part of the Work.

Warranty Any warranty made by Proposer in Book 1, Section 21 and Book 1, Exhibit C.

Work All duties and services to be furnished and provided by Proposer as required by the Contract Documents, including the administrative, design, engineering, quality control, quality assurance, Relocation, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, documentation and all other efforts necessary or appropriate to achieve Final Acceptance except for those efforts which the Contract Documents specify will be performed by Department or other Persons. In certain cases the term is also used to mean the products of the Work.

Working Day Any Calendar Day other than Saturday, Sunday, or a holiday.

APPENDIX B

ADMINISTRATIVE SUBMITTAL REQUIREMENTS

1 General Instructions

This Appendix B describes the required information and submission format regarding Administrative Submittals. Proposers shall submit the administrative information required by this Appendix B, separated and labeled appropriately and organized in accordance with Appendix I. The administrative Submittals shall be limited to the page limitations (if any) specified for that submittal.

2 Contents of the Administrative Submittals

The required contents and organization of the Administrative Submittals are presented in this Appendix B and summarized in the Proposal checklist provided in Appendix I. Proposers are to provide all information set out in this Appendix B. A copy of the checklist for the Administrative Submittals shall be included with these submittals. Proposers shall not amend the order or change the contents of the checklist except to provide the required cross reference to their respective Proposal.

Refer to the List of Appendices in the Contract for the contents of the Administrative Submittals that will be appended to the Contract with the Design-Builder.

3 Volume 1 – Administrative Submittals due on Price Proposal Due Date

Proposer shall provide the following forms and other information:

3.1 Design-Build Price Proposal Form and Signature Page (Form 1): The Proposer shall attach to the Price Proposal Letter evidence of authorization to execute and deliver the Proposal and the Contract, shall identify its authorized representative(s) and shall include all necessary authorization documents (as requested in the Design-Build Proposal Form – Form 1). If Proposer is a joint venture, Form 1 shall be executed by all joint venture members. The executed Form 1 shall be included in Volume 1.

3.2 Key Personnel Commitment (Form 2): The Proposal shall include a completed Form 2 confirming the availability of Key Personnel and other individuals named in the Proposal. Form to be signed by the Proposer's authorized representative as defined in ITP Section 3.3. The executed Form 2 shall be included in Volume 1.

3.3 Non-Collusion Affidavit (Form 3): The Proposal shall include Form 3, certifying that the Proposal is not the result of and has not been influenced by collusion. Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed by and on behalf of all partners, members, joint venture members, and Major Participants of the Proposer. The executed Form 3 shall be included in Volume 1.

3.4 Conflict of Interest Disclosure Statement (Form 4): The Proposal shall include a certification on Form 4 describing potential Organizational Conflicts of Interest, including disclosure of all relevant facts concerning any past, present, or currently planned interest that may present an Organizational Conflict of Interest. Form to be signed by the Proposer's authorized representative as defined in ITP Section 3.3. The executed Form 4 shall be included in Volume 1.

3.5 Equal Employment Opportunity Certification (Form 5): The Proposal shall include an executed copy of Form 5, regarding participation in contracts subject to federal equal employment opportunity requirements. One copy of Form 5 must be executed by each of the Proposer, each Major Participant and any proposed non-exempt Subcontractors. Form 5 should be duplicated and executed by the Proposer, Major Participants and proposed non-exempt Subcontractors. The executed Form 5 shall be included in Volume 1.

3.6 Debarment and Suspension Certification (Form 6): The Proposal shall include an executed copy of Form 6, regarding debarment and suspension of contractors. Form 6 to be signed by the Proposer's authorized representative as defined in ITP Section 3.3. The executed Form 6 shall be included in Volume 1.

3.7 Certification Regarding Use of Contract Funds for Lobbying (Form 7): The Proposal shall include executed copies of Form 7, regarding use of contract funds for lobbying. One copy of Form 7 must be executed by each of the Proposer, each Major Participant, any proposed Subcontractors. Form 7 should be modified and duplicated as needed and must be executed by Proposer, Major Participants, all proposed Subcontractors. If applicable, provide Standard Form – LLL, "Disclosure of Lobbying Activities," included in Form 7 (Part 3). The executed Form 7 shall be included in Volume 1.

3.8 Buy America Certification (Form 8): The Proposal shall include an executed copy of Form 8, regarding federal "Buy America" requirements. Form to be signed by the Proposer's authorized representative as defined in ITP Section 3.3. The executed Form 8 shall be included in Volume 1.

3.9 RESERVED

3.10 Form of Proposal Bond (Form 11): Provide a Proposal Bond in the form of Form 11 by a Surety licensed as surety and qualified to do business in the State. The Surety shall have a "Best's Rating" of A- or better and Financial Size Category of VIII or better by A.M. Best Co. The executed Form 11 shall be included in Volume 1.

3.11 Form of Guaranty (Form 16): If a Guaranty is required, provide (i) an irrevocable letter signed by the Guarantor committing to provide a Guaranty in Form 16, concurrently with execution and delivery of the Contract by Proposer; (ii) evidence of authorization of the signatory to that letter; (iii) such other information concerning the Guarantor as Department may request. The Guarantor must have a credit rating for senior unsecured debt of at least Baa1 by Moody's Investors Services or BBB+ by Standard & Poors Corporation. A Guaranty is required if (a) Proposer's organization is a newly formed corporation (b) Proposer is a limited liability entity or (c) the form of organization of Proposer and/or the financially responsible parties comprising Proposer changes and Department determines, in its sole discretion, to require a Guarantor as a condition to approving such change under Section 1.10. The executed Form 16 shall be included in Volume 1.

3.12 UDBE Certification (Form 17): The Proposal shall include an executed copy of Form 17 confirming, among other things, that Proposer will make a good faith effort to obtain UDBE commitments equal to or exceeding the UDBE participation goal in ITP Section 1.13. Form to be signed by the Proposer's authorized representative as defined in ITP Section 3.3. The Proposal shall also include a DBE/UDBE Performance Plan. This Plan should be attached to Form 17 and shall include (a) an estimated dollar amount to be awarded to DBE/UDBE firms; (b) an identification of the areas of work to be subcontracted to DBE/UDBEs, specifying the areas in which DBE/UDBE firms have already been selected and the areas in which DBE/UDBE firms are anticipated to be used; and (c) a description of the Good Faith Efforts the Proposer has made to date and will make in the future to meet the UDBE goal.. The executed Form 17 shall be included in Volume 1.

3.13 Changes in Proposer's Organization: The Proposal shall include a copy of the letter(s) (if any) issued by Department approving changes to the composition of the Proposer's team (including additions to a Proposer team) or one or more Major Participant of its team following Department's decision to prequalify the Proposer. Such approval is required under Section 3-1.04 of the RFQ. If the Proposer includes any such letter(s), it shall also include a brief description (two (2) page maximum) of these changes. The information requested in this Section 3.13 shall be included in Volume 1.

3.14 Provide evidence that Proposer and its general partners and joint venture members are qualified to do business by providing evidence for each such entity that is a corporation, or limited partnership

that it is currently in good standing in the state of its respective organization/formation. Such evidence shall be in the form of good standing certificates dated no earlier than fifteen Days before the Price Proposal Due Date (identified in Section 2). The information requested in this Section 3.14 shall be included in Volume 1.

3.15 Describe in detail the legal structure of the entity making the Proposal. If Proposer is a partnership or joint venture, attach full names and addresses of all partners or joint ventures and the equity ownership interest of each entity and provide the aforementioned incorporation, formation, and organization information for each general partner or joint venture. If Proposer is a joint venture, attach a letter from each joint venture stating that the joint venture agrees to be held jointly and severally liable for any and all of the duties and obligations of Proposer under the Proposal and under any contract arising therefrom. If Proposer is a limited liability entity, attach full names and addresses of all equity holders and other financially responsible entities and the equity ownership interest of each entity. Attach evidence to the Proposal and to each letter that the person signing has authority to do so. The information requested in this Section 3.15 shall be included in Volume 1.

3.16 With respect to authorization of execution and delivery of the Proposal and the Contract, if any signature is provided pursuant to a power of attorney, provide a copy of the power of attorney as well as a certified copy of corporate or other appropriate resolutions authorizing said power of attorney. If Proposer is a corporation, provide evidence in the form of a resolution of its governing body certified by an appropriate officer of the corporation. If Proposer is a partnership or a joint venture, such evidence shall be provided for the governing body of Proposer and for the governing bodies of each of its general partners/joint venture members, at all tiers, and in all cases certified by an appropriate officer. The information requested in this Section 3.16 shall be included in Volume 1.

3.17 Provide a letter or other written documentation from a surety or insurance company providing evidence of the Proposer's ability to obtain insurance meeting the requirements stated in Book 1, Section 9. The information requested in this Section 3.18 shall be included in Volume 1.

3.18 The Proposal shall include a properly executed Proposal Bond in the amount described in ITP Section 4.9.1 and in the form provided in Appendix F, Form 11 (Form of Proposal Bond). The Proposal Security shall be included in Volume 1. The information requested in this Section 3.18 shall be included in Volume 1.

3.19 Provide a letter or other written documentation from a surety or insurance company meeting the requirements stated in Book 1, Section 8, committing to provide payment and performance bonds substantially in the forms of Book 1, Exhibits K and L (Form of Payment and Performance Bond for Design-Build Contracts) in the amount of the Proposal Price under Parts A and B and naming Proposer as obligor. If multiple surety letters are provided, the Proposal shall identify which surety will be the lead surety. The commitment letter may not include conditions, qualifications, or reservations for underwriting or otherwise, other than a statement that the commitment is subject to award of the Contract to Proposer within 60 Days of the Public Opening Date and to reasonable approval of any material changes to the Contract Documents. The information requested in this Section 3.19 shall be included in Volume 1.

APPENDIX C

RESERVED

APPENDIX D

PRICE PROPOSAL SUBMITTAL REQUIREMENTS

1 General Instructions

The total price offered by Proposer for its Proposal for all Work is referred to herein as the "Proposal Price" and is indicated on Line 27 of Form 9 (Proposal Price). Payments to Design-Builder under the Contract will be made based on the Proposal Price in accordance with Book 1, Section 11.

2 Content

The Price Proposal shall be organized to correspond to the items listed in this Section 2. Proposer is encouraged to use tabbed dividers to separate the contents of the Price Proposal.

A. Proposal Price

Provide a hardcopy and electronic copy of Form 9 (Proposal Price).

B. Bridge Cost Estimate

Provide Form 14 (Proposed Bridge Information) for each bridge on the Project. The value shown on Form 9, Line 18 shall equal the summation of the Bridge Total Costs on Form 14 for all the bridges on the Project.

APPENDIX E

RESERVED

APPENDIX F

ITP REQUIRED FORMS

Form 1	Design-Build Price Proposal Letter
Form 2	Key Personnel Commitment
Form 3	Non-Collusion Affidavit
Form 4	Conflict of Interest Disclosure Statement
Form 5	Equal Employment Opportunity Certification
Form 6	Debarment and Suspension Certification
Form 7	Certification Regarding Use of Contract Funds for Lobbying
Form 8	Buy America Certification
Form 9	Proposal Price
Form 10	RESERVED
Form 11	Form of Proposal Bond
Form 12	RESERVED
Form 13	RESERVED
Form 14	Bridge Cost Estimate for Federal and State Reporting
Form 15	Form of Opinion of Counsel
Form 16	Form of Guaranty
Form 17	UDBE Certification

FORM 1

DESIGN-BUILD PRICE PROPOSAL LETTER

for the Design-Build Project with Price Proposals received until , 20 .

PROPOSAL OF

_____

Name of Firm)

_____

(Street Address)

_____

(City, State, ZIP) *(Telephone Number)*

TO FURNISH AND DELIVER ALL MATERIALS AND TO PERFORM ALL WORK IN ACCORDANCE WITH THE CONTRACT AND THE REQUEST FOR PROPOSALS (RFP) DATED _____, AS AMENDED, FOR:

Contract No.: E.A.

District – County – Route - PM:

Type of Work:

Approximate Length: miles

Anticipated Starting Date: , 20

Substantial Completion Deadline:

NOTICE TO PROPOSERS: In submitting a Proposal, Proposers must return this complete Proposal form and acknowledge Addenda on the signature page below.

BID RIGGING IS A SERIOUS CRIME

IF YOU HAVE ANY INFORMATION CONCERNING COLLUSIVE BIDDING, EVEN A REQUEST TO SUBMIT A COMPLIMENTARY BID, CALL THE U.S. DEPARTMENT OF TRANSPORTATION AT 800-424-9071.

The undersigned hereby represents that it will keep this Proposal open for acceptance for Days after the Public Opening Date without unilaterally varying or amending its terms and without any member or partner withdrawing or any other change being made in the composition of the partnership/joint venture/consortium on whose behalf the Proposal is submitted without first obtaining the prior written consent of Department, in Department's sole discretion.

If selected by Department, Proposer agrees to (a) execute the Contract with Department in good faith to develop the Project in accordance with the Contract Documents, including this Proposal and (b) to satisfy all other conditions to award of the Contract.

This Proposal includes the following:

- Price Proposal
- Administrative Submittals

Proposer certifies the following: the Proposal is submitted without reservation, qualification, assumptions, or conditions; that it has carefully examined and is fully familiar with all of the provisions of all of the Request for Proposal (RFP) documents, and is satisfied that such provisions provide sufficient detail regarding the Work (as defined in the RFP) to be performed and do not contain internal inconsistencies; that it has carefully checked all the words, figures, and statements in this Proposal; that it has conducted such other field investigations and additional design development which are prudent and reasonable in preparing this Proposal, including a thorough review of all of the RFP documents; and that it has notified Department of any deficiencies in or omissions from any RFP documents or other documents provided by Department and of any unusual site conditions observed prior to the date hereof.

Proposer agrees that Department will not be responsible for any errors, omissions, inaccuracies or incomplete statements in this Proposal.

Proposer understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFP process will be borne solely by the Proposer.

This Proposal shall be governed by and construed in all respects according to the laws of the State of California.

The undersigned affirms that the information provided herein is true and accurate and that any misrepresentations are made under penalty of perjury.

PROPOSAL SECURITY: A bond, payable to the Department of Transportation, in an amount equal to ten percent of the Proposal Price is submitted herewith as a Proposal Security.

RECEIPT OF ADDENDA AND CLARIFICATIONS: The undersigned hereby acknowledges receipt of and has considered:

Addendum No.	dated	, 20		Clarification No.	dated	, 20	
Addendum No.	dated	, 20		Clarification No.	dated	, 20	
Addendum No.	dated	, 20		Clarification No.	dated	, 20	
Addendum No.	dated	, 20		Clarification No.	dated	, 20	
Addendum No.	dated	, 20		Clarification No.	dated	, 20	
Addendum No.	dated	, 20		Clarification No.	dated	, 20	
Addendum No.	dated	, 20	etc.	Clarification No.	dated	, 20	, etc.

[List all Addenda and clarifications and their respective dates.]

EXECUTION OF PROPOSAL

This Proposal is dated the day of , 20

[Insert appropriate signature block from following page.]

Sample signature block for corporation:

[Insert Proposer's name]

By:_____

Print Name:_____

Title:_____

By:_____

Print Name:_____

Title:_____

Sample signature block for partnership or joint venture company:

[Insert Proposer's name]

By: [*Insert general partner's or member's name]*

By:_____

Print Name:_____

Title:_____

By:_____

Print Name:_____

Title:_____

By: [*Insert general partner's or member's name]*

By:_____

Print Name:_____

Title:_____

By:_____

Print Name:_____

Title:_____

[Add signatures of additional general partners or members as appropriate.]

FORM 2

KEY PERSONNEL COMMITMENT

Proposer's Name: _____

Proposer hereby commits that, if awarded the Madera 99 Chowchilla Rehab Project (Project), the Proposer will use the Key Personnel listed below for their stated positions and that, to the extent within the Proposer's control, such individuals will be available on a full time basis for the periods necessary to fulfill their Project-related responsibilities. Changes to Key Personnel from those proposed in the Statement of Qualifications must be pre-approved by the Department.

Position	**Name**
DB Project Manager	
DB Quality Manager	
DB Design Manager	
DB Construction Manager	
DB Design Lead Engineer - Roadway	
DB Geotechnical Engineer	
DB Design Quality Assurance Manager	
DB Construction Quality Assurance Manager	
DB Traffic Engineer	
DB Safety Manager	
DB Utilities Design Engineering and Coordination Manager	
DB Environmental Compliance Manager	
DB Traffic Control Supervisor	
DB Survey Manager	
DB Hydraulics Engineer	
DB Public Information Coordinator	
DB Storm Water Pollution Prevention Manager	
DB Project Controls Manager	
DB Electrical Engineer	

Signed: _____

Printed Name: _____

Title: _____

Date: _____

FORM 3

NON-COLLUSION AFFIDAVIT*

STATE OF _____)
)SS:
COUNTY OF _____)

Each of the undersigned, being first duly sworn, deposes and says that:

A. _____ is the _____ of _____ and _____ is the _____ of _____, which entity(ies) are the _____ of _____, the entity making the foregoing Proposal.

B. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or a sham; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; the Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of the Proposer or any other Proposer, or to fix any overhead, profit or cost element included in the Proposal, or of that of any other Proposer, or to secure any advantage against Department or anyone interested in the proposed Contract; all statements contained in the Proposal are true; and, further, the Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.

C. The Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the Contract or rejection of all Proposals and cancellation of the Request for Proposals.

* Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Instructions to Proposers within the Request for Proposals for the Madera 99 Chowchilla Rehab Project.

_____	_____
(Signature)	(Signature)
_____	_____
(Name Printed)	(Name Printed)
_____	_____
(Title)	(Title)

Subscribed and sworn to before me this ___ day of _____, 2011.

_____
Notary Public in and for
said County and State

[Seal]

My commission expires: _____.

[Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed by and on behalf of all partners, members, and joint venture members of the Proposer.]

FORM 4

CONFLICT OF INTEREST DISCLOSURE STATEMENT

Proposer's Name: _____ ("Proposer")

Proposer's attention is directed to Instructions to Proposers (ITP) Section 1.16.3 regarding Organizational Conflicts of Interest and the restrictions applicable to such conflicts. Proposers are advised that certain firms will not be allowed to participate on any Proposer's team for the Project because of their work with the Department in connection with the Project procurement. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the ITP within the Request for Proposals for the Madera 99 Chowchilla Rehab Project.

1. Required Disclosure of Conflicts

In the space provided below, and on supplemental sheets as necessary, identify all relevant facts relating to past, present, or planned interest(s) of the Proposer's team (including the Proposer, Major Participants, proposed consultants and proposed Subcontractors, and their respective chief executives, directors, and other key personnel for the project) which may result, or could be viewed as, an Organizational Conflict of Interest in connection with this RFP.

Proposer should disclose (a) any current contractual relationships with Department, (b) any past, present, or planned contractual or employment relationships with any officer or employee of Department, and (c) any other circumstances that might be considered to create a financial interest in the contract by any Department member, officer or employee if Proposer is awarded the Contract. Proposer should also disclose matters such as ownership of 10% or more of the stock of, or having directors in common with, any of the individuals or entities involved in preparing the RFP. Proposer should also disclose contractual relationships (i.e. joint ventures) with any of the individuals or entities involved in preparing the RFP, as well as relationships wherein such individual or entity is a contractor or consultant (or Subcontractor or Subconsultant) to Proposer or a member of Proposer's team. The foregoing is provided by way of example, and shall not constitute a limitation on the disclosure obligations.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

2. Explanation

In the space provided below, and on supplemental sheets as necessary, identify steps the Proposer or other entities have taken or will take to avoid, neutralize, or mitigate any Organizational Conflicts of Interest described herein.

_____

_____

_____

_____

_____

_____

_____

_____

_____

3. Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Conflict of Interest Disclosure Statement, other than as disclosed above.

_____
Signature

_____
Name

_____
Title

_____
Company Name

_____, 2011
Date

FORM 5
EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Key Personnel, Major Participants, proposed Subconsultants and proposed Subcontractors]

The undersigned certifies on behalf of _____, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: _____

_____

Date: _____

If not Proposer, relationship to Proposer: _____

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.) Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Major Participants, proposed Subconsultants or proposed Subcontractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM 6

DEBARMENT AND SUSPENSION CERTIFICATION

The undersigned Proposer certifies on behalf of itself and all Major Participants, Subconsultants and Subcontractors the following:

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

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (federal, State or local) terminated for cause or default.

Where the Proposer is unable to certify to any of the statements in this certification, it shall attach a certification to its proposal or bid stating that it is unable to provide the certification and explaining the reasons for such inability.

Date: _____

Proposer: _____

Signature: _____

Title: _____

FORM 7

CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

The undersigned certifies the following:

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 any Federal 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 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 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.

3. 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. 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.

4. Proposer shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

5. The truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 USC §3801, et seq., apply to this certification and disclosure, if any.

[Note: Pursuant to 31 USC §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 expenditure or failure.]

Date: _____

Proposer: _____

Signature: _____

Title: _____

[Copy this form and modify as needed for execution by Proposer, Major Participants, and all proposed Subconsultants and Subcontractors]

FORM SF-LLL

DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action:

☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:

☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:

☐ a. initial
b. material change

For Material Change Only:

year ____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity

☐ Prime ☐ Subawardee
Tier _____ , if known

Congressional District, if known

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, if known

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, if applicable _____

8. Federal Action Number, if known:

9. Award Amount, if known:

10. a. Name and Address of Lobby Entity
(If individual, last name, first name, MI)

b. Individuals Performing Services (including address if different from No. 10a)
(last name, first name, MI)

(attach Continuation Sheet(s) if necessary)

11. Amount of Payment (check all that apply)

$ _____ ☐ actual ☐ planned

12. Form of Payment (check all that apply):

☐ a. cash

☐ b. in-kind; specify: nature _____

value_____

13. Type of Payment (check all that apply)

☐ a. retainer

☐ b. one-time fee

☐ c. commission

☐ d. contingent fee

☐ e. deferred

☐ f. other, specify _____

14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) if necessary)

15. Continuation Sheet(s) attached: Yes ☐ **No** ☐

16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature:_____

Print Name: _____

Title:_____

Telephone No.: _____ Date:_____

Authorized for Local Reproduction
Standard Form - LLL

Federal Use Only:

Standard Form LLL Rev. 09-12-97

INSTRUCTIONS FOR COMPLETION OF SF-LLL

DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to Title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee (e.g., the first subawardee of the prime is the first tier). Subawards include, but are not limited to, subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in Item 1 (e.g., Request for Proposal [RFP] number, Invitation for Bid [IFB] number, grant announcement number, the contract grant or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes (e.g., "RFP-DE-90-001)."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (Ml).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made

(planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04-90

FORM 8

BUY AMERICA CERTIFICATION

The undersigned Proposer hereby certifies on behalf of itself and all contractors (at all tiers) the following:

A. Proposer shall comply with the Federal Highway Administration ("FHWA") Buy America Requirements of 23 CFR 635.410, which permits FHWA participation in the Contract only if domestic steel and iron will be used on the Project. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1% of the design-build contract price.

B. A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this Contract be investigated, Proposer has the burden of proof to establish that it is in compliance.

C. At Proposer's request, Department may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist. However, Proposer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by Department.

Date: _____

Signature: _____

Title: _____

Proposer's Name: _____

FORM 9

PROPOSAL PRICE

Proposer Name:_____

Item/Line No.	Description	Unit	Item Total
PART A	**PROJECT MANAGEMENT**		
1	Contract Management	Lump Sum	$
2	Quality Management	Lump Sum	$
3	Safety Management	Lump Sum	$
4	Public Information Management	Lump Sum	$
5	Mobilization	Lump Sum	$
6	Time Related Overhead	Lump Sum	$
7	Bonds and Insurance (sum of 7a, 7b, and 7c).	Lump Sum	$
	7a Warranty Bond	$	
	7b Payment and Performance Bond	$	
	7c Insurance	$	
8	**Project Management Subtotal** *(Sum of Lines 1 through 7)*	**Lump Sum**	$
PART B	**ENGINEERING & CONSTRUCTION**		
9	Design Services	Lump Sum	$
10	Environmental Management	Lump Sum	$
11	Utilities	Lump Sum	$
12	Geotechnical	Lump Sum	$
13	Surveys	Lump Sum	$
14	Concrete Pavement	Lump Sum	$
15	Hot Mix Asphalt Pavement	Lump Sum	$
16	Grading and Roadways	Lump Sum	$
17	Drainage	Lump Sum	$
18	Bridges *(must equal summation of all Form 14s)*	Lump Sum	$
19	Minor Structures	Lump Sum	$
20	Highway Planting and Irrigation	Lump Sum	$
21	Signing, Striping, Signals, Lighting	Lump Sum	$

22	ITS	Lump Sum	N/A
23	Maintenance of Traffic	Lump Sum	$
24	Maintenance During Construction	Lump Sum	$
25	Final Acceptance	Lump Sum	$
26	**Engineering and Construction Subtotal** *(Sum of Lines 9 through 25)*	**Lump Sum**	$
27	**PROPOSAL PRICE (A+B)** (Sum of Lines 8 and 26)	**Lump Sum**	$
28	On-the-Job Training Reimbursement (2800 hours utilizing at least 3 trainees @ $_____ per hour [up to $1.00/hour], not included in Proposal Price)	Lump Sum	$

FORM 10

RESERVED

FORM 11

PROPOSAL BOND

Contract No. _____
Bond No. _____

We, _____
_____
_____ as Principal, and
_____

as Surety are bound unto the State of California, Department of Transportation, hereafter referred to as "Obligee," in the penal sum of ten percent (10%) of the total amount of the Price Proposal of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a Price Proposal to the Obligee, for _____

_____
(Copy here the exact description of work, including location, as it appears on the proposal)

For which Price Proposals are to be opened at _____
(Insert place where Price Proposals will be opened)

_____ on _____
(insert date of Price Proposal opening)

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the Request for Proposal, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the Price Proposal, and file two bonds with the Obligee, one to guarantee faithful performance (if specified in the contract) of the contract and the other to guarantee payment for labor and materials as provided by law, then the obligation shall be null and void, otherwise, it shall remain in full force.

In the event a suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: _____, 20_____.

Correspondence or claims relating to this bond should be sent to the surety at the following address: _____
_____
_____
_____

_____
_____
Principal

_____
Surety

By _____
Attorney-in-Fact

NOTE: Signatures of those executing for the Surety must be properly acknowledged, and a Power of Attorney attached.

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of _____

County of _____ On this _____day of_____ in the year of _____ before me, a notary public in and for the county and state aforesaid, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within the instrument and acknowledged to me that he/she executed the same in his/her authorized capacity(ies), and that by his/her signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal:

_____(SEAL)_____

Signature of Notary Public

ADA Notice: For individuals with sensory disabilities, this document may be 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.

FORM 12

RESERVED

FORM 13

RESERVED

FORM 14

BRIDGE COST ESTIMATE FOR FEDERAL AND STATE REPORTING

Fill out section each time a superstructure or deck type changes.

Bridge Number_____ Date _____

Location/Description _____

(Stationing, NB, SB, Ramp, Etc.)

Anticipated Bridge Type _____

(prestressed concrete, steel girder, etc.)

Estimated Deck Area (ft^2) _____

Estimated Beam Spans Configuration (ft) _____

Bridge Cost – Total : ($) _____

(Cost associated with bridge construction, including the summation of lines a), b), and c) below)

a) General Bridge Construction ($)_____

b) ($)_____

c) ($)_____

Bridge Cost for Federal Reporting : ($)_____

(exclude "Federal Excluded Items" listed below)

Bridge Cost for State Reporting : ($)_____

(exclude "State Excluded Items" listed below)

Federal Excluded Items	State Excluded Items
Mobilization Demolition of Existing Bridges Approach Slabs (except integral abutment bridges) Stream Channel Work Riprap Slope Paving Earthwork (except structural excavation and backfill) Clearing and Grubbing Retaining Walls not attached to the Abutment Guardrail Transitions to Bridges Maintenance and Protection of Traffic Detour Costs Signing and Marking Lighting Electrical Conduit Inlet Frames and Grates Field Office Construction Engineering Items Training Right-of-Way Utility Relocation Contingencies	Mobilization Approach Slabs (except integral abutment bridges) Stream Channel Work Earthwork (except structural excavation and backfill) Clearing and Grubbing Retaining Walls not attached to the Abutment Guardrail Transitions to Bridges Maintenance and Protection of Traffic Detour Costs Signing and Marking Inlet Frames and Grates Field Office Construction Engineering Items Training Right-of-Way Utility Relocation Contingencies

Signature_____

FORM 15

FORM OF OPINION OF COUNSEL LETTER

[Letterhead of Independent Law Firm or In-house Counsel]
[SEE SECTION 6.5(h) OF THE ITP FOR LEGAL COUNSEL REQUIREMENTS]

State of California
Department of Transportation
Legal Division
1120 N Street, MS 57
Sacramento, CA 95814
Attention: Dan Near, Assistant Chief Counsel

Re: Design-Build Contract ("Contract") for Madera 99 Chowchilla Rehab Project dated as of _____, 2011, by and between California Department of Transportation and _____ (the "Proposer")

Gentlemen:

[Describe relationship to Proposer and its joint venture members, general partners, members, as applicable, and any other entities whose approval is required in order to authorize delivery of the proposal and execution of the Contract Documents.] This letter is provided to you pursuant to Section 6.5(h) of the Instructions to Proposers of that certain Request for Proposals issued by the California Department of Transportation ("Department") onFebruary 1, 2011, as amended.

In giving this opinion, we have examined _____. We have also considered such questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement process as we have deemed necessary or advisable. [if certificate used/obtained from Proposer or Guarantor, such certificate should also run in favor of Department and should be attached to opinion]

In giving this opinion, we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. [opinion regarding organization/formation and existence of Proposer and that Proposer has corporate power to own its properties and assets, carry on its business, make the Proposal, enter into the Contract Documents and to perform its obligations under the Contract Documents] [if Proposer is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]

2. [opinion regarding good standing and qualification to do business in State of California for Proposer] [if Proposer is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]

3. [opinion regarding organization/formation and existence of Guarantor and that Guarantor has corporate power to own its properties and assets, to carry on its business, to enter into the Guaranty and to perform its obligations under the Guaranty] [if Guarantor is a partnership/joint venture, these opinions are

also required for each of its joint venture members and general partners] [if there is no Guaranty, this opinion may be omitted]

4. [opinion that Proposal and Contract Documents and each Key Contract to which the Proposer is a party have been duly authorized by all necessary corporate action on the part of the Proposer and the Proposal and Contract Documents have been duly executed and delivered by Proposer] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners after the first and second "Proposer"]

5. [opinion that each person executing the Contract Documents and such Key Contracts on Proposer's behalf has been duly authorized to execute and deliver each such document on Proposer's behalf] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners after the first and second "Proposer"]

6. [opinion that Guaranty has been duly authorized by all necessary corporate action on the part of Guarantor and the Guaranty has been duly executed and delivered by Guarantor] [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners after the first and second "Guarantor"] [if there is no Guaranty, this opinion may be omitted]

7. [opinion that the Contract Documents constitute a legal, valid and binding obligation of the Proposer enforceable against the Proposer in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners after the second "Proposer"]

8. [opinion that the Guaranty constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms]; [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners after the second "Guarantor"] [if there is no Guaranty, this opinion may be omitted]

9. [opinion that there is no action, suit, proceeding, investigation or litigation pending and served on Proposer which challenges Proposer's authority to execute, deliver or perform, or the validity or enforceability of, the Contract Documents and the Key Contracts to which Proposer is a party, or which challenges the authority of Proposer's representative executing the Contract Documents or such Key Contracts; and Proposer has disclosed to the Department any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Proposer is aware]

10. [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the Proposal and the Contract Documents and Key Contracts to which the Proposer is a party; and that neither the Proposal nor the Contract Documents nor such Key Contracts conflict with and have not resulted and will not result in a default under or a violation of any agreements or instruments to which Proposer is a party][if Proposer is a partnership/joint venture, add: and its joint venture members/general partners are a party] or any orders, judgments or decrees by which Proposer is bound [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners are bound]

11. [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the Guaranty; and that the Guaranty does not conflict with and have not resulted and will not result in a default under or a violation of any agreements or instruments to which Guarantor is a party [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners are a party] or any orders, judgments or decrees by which Guarantor is bound] [if Guarantor is a

partnership/joint venture, add: and its joint venture members/general partners are bound] [if there is no Guaranty, this opinion may be omitted]

12. [opinion that execution, delivery and performance of all obligations by Proposer under the Proposal and the Contract Documents and Key Contracts to which the Proposer is a party do not conflict with, and are authorized by, the articles of incorporation and bylaws of Proposer [if Proposer is a partnership, replace articles of incorporation and bylaws with partnership agreement and (if applicable) certificate of limited partnership); if Proposer is a joint venture, replace articles of incorporation and bylaws with joint venture agreement; if Proposer is a limited liability company, replace articles of incorporation and bylaws with operating agreement and certificate of formation]

13. [opinion that execution, delivery and performance of all obligations by Guarantor under the Guaranty does not conflict with, and is authorized by, the articles of incorporation and bylaws of Guarantor] [if Guarantor is a partnership, replace articles of incorporation and bylaws with partnership agreement and (if applicable) certificate of limited partnership); if Guarantor is a joint venture, replace articles of incorporation and bylaws with joint venture agreement; if Guarantor is a limited liability company, replace articles of incorporation and bylaws with operating agreement and certificate of formation] [if there is no Guaranty, this opinion may be omitted]

1. [opinion that execution and delivery by the Proposer of the Proposal and the Contract Documents do not, and the Proposer's performance of its obligations under the Proposal and the Contract Documents will not violate any Laws applicable to the Proposer or to transactions of the type contemplated by the Proposal or the Contract Documents that are valid and in effect on the date of execution and delivery]

15. [opinion that execution and delivery by the Guarantor of the Guaranty do not, and the Guarantor's performance of its obligations under the Guaranty will not, violate any Laws applicable to the Guarantor or to transactions of the type contemplated by the Guaranty that are valid and in effect on the date of execution and delivery] [if there is no Guaranty, this opinion may be omitted]

FORM 16

GUARANTY

THIS GUARANTY (this "**Guaranty**") is made as of _____, 20 by _____, a _____ ("**Guarantor**"), in favor of the **California Department of Transportation** ("**Department**").

R E C I T A L S

A. _____ ("**Design-Builder**"), and Department are parties to that certain Design-Build Contract of even date herewith (the "**Contract**") pursuant to which the Design-Builder has agreed to design, construct, maintain, and repair the Project. Initially capitalized terms used herein without definition will have the meaning given such terms in the Contract.

B. To induce Department to (i) enter into the Contract; and (ii) consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.

C. Design-Builder is a _____ [describe relationship with Guarantor]. The execution of the Contract by Department and the consummation of the transactions contemplated thereby will materially benefit Guarantor. Without this Guaranty, Department would not have entered into the Contract with Design-Builder. Therefore, in consideration of Department's execution of the Contract and consummation of the transactions contemplated thereby, Guarantor has agreed to execute this Guaranty.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. **Guaranty**. Guarantor guarantees to Department and its successors and assigns the full and prompt payment and performance when due of all of the obligations of the Design-Builder arising out of, in connection with, under or related to (a) the Contract (and the documents executed or to be executed in connection therewith), and (b) each and every other document and agreement executed by the Design-Builder in connection with the consummation of the transactions contemplated by the Contract (the documents described in clauses (a)-(b) shall collectively be referred to herein as the "**Project Documents**"). The obligations guaranteed pursuant to this Guaranty are collectively referred to herein as the "**Guaranteed Obligations**."

2. **Unconditional Obligations.** This Guaranty is a guaranty of payment and performance and not of collection and is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred, whether or not recovery may be, or hereafter may become, barred by any statute of limitations or otherwise, and whether or not enforceable against the Design-Builder. If any payment made by the Design-Builder or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor's obligations hereunder will not be released, discharged or otherwise affected by (a) any change in the Project Documents or the obligations thereunder, or any insolvency, bankruptcy or similar proceeding affecting the Design-Builder, Guarantor or their respective assets, and (b) the existence of any claim or set-off which the Design-Builder has or Guarantor may have against Department, whether in connection with this Guaranty or any unrelated transaction, provided that nothing in this Guaranty will be deemed a

waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit. This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefore or any other circumstances relating to the Guaranteed Obligations which might otherwise constitute a defense to the Guaranteed Obligations or this Guaranty.

3. Independent Obligations. Guarantor agrees that the Guaranteed Obligations are independent of the obligations of the Design-Builder and if any default occurs hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not the Design-Builder is joined therein. Department may maintain successive actions for other defaults of Guarantor. Department's rights hereunder will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been paid and fully performed.

a. Guarantor agrees that Department may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against the Design-Builder. Guarantor hereby waives the right to require Department to proceed against the Design-Builder, to exercise any right or remedy under any of the Project Documents or to pursue any other remedy or to enforce any other right.

b. Guarantor will continue to be subject to this Guaranty notwithstanding: (i) any modification, agreement or stipulation between the Design-Builder and Department or their respective successors and assigns, with respect to any of the Project Documents or the Guaranteed Obligations; (ii) any waiver of or failure to enforce any of the terms, covenants or conditions contained in any of the Project Documents or any modification thereof; (iii) any release of the Design-Builder from any liability with respect to any of the Project Documents; or (iv) any release or subordination of any collateral then held by Department as security for the performance by the Design-Builder of the Guaranteed Obligations.

c. The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Project Documents or the pursuit by Department of any remedies which Department either now has or may hereafter have with respect thereto under any of the Project Documents.

4. Liability of Guarantor.

a. Department may enforce this Guaranty upon the occurrence of a breach by the Design-Builder of any of the Guaranteed Obligations, notwithstanding the existence of any dispute between Department and the Design-Builder with respect to the existence of such a breach.

b. Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

c. Department, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability hereunder, from time to time may (i) with respect to the financial obligations of the Design-Builder, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of such financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the

Guaranteed Obligations or any agreement relating thereto, (iii) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment and performance of this Guaranty or the Guaranteed Obligations, (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (v) enforce and apply any security hereafter held by or for the benefit of Department in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that Department may have against any such security, as Department in its discretion may determine, and (vi) exercise any other rights available to it under the Project Documents.

d. This Guaranty and the obligations of Guarantor hereunder will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than indefeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Project Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Project Documents or any agreement or instrument executed pursuant thereto; (iii) Department's consent to the change, reorganization or termination of the corporate structure or existence of the Design-Builder; (iv) any defenses, set-offs or counterclaims that the Design-Builder may allege or assert against Department in respect of the Guaranteed Obligations, including but not limited to failure of consideration, breach of warranty, payment, statute of frauds, accord and satisfaction and usury; and (v) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.

5. **Waivers.** To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of: (a) any right to require Department to proceed against the Design-Builder or any other Person or to proceed against or exhaust any security held by Department at any time or to pursue any right or remedy under any of the Project Documents or any other remedy in Department's power before proceeding against Guarantor; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereof by Guarantor, the Design-Builder or any other Person or the failure of Department to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person; (c) any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof; (d) any right or defense arising out of an election of remedies by Department even though the election of remedies, such as nonjudicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor's rights of subrogation and reimbursement against the Design-Builder by the operation of law or otherwise; (e) all notices to Guarantor, to the Design-Builder or to any other Person, including, but not limited to, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of the Design-Builder under any of the Project Documents, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto; (f) any requirements of diligence or promptness on the part of Department; (g) any defense arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of the Design-Builder or any other Person from any cause other than indefeasible performance in full of the Guaranteed Obligations; (h) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger

in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (i) any defense based upon any act or omission of Department which directly or indirectly results in or aids the discharge or release of the Design-Builder, Guarantor or any security given or held by Department in connection with the Guaranteed Obligations; (j) any and all suretyship defenses under applicable law; and (k) discharge under any other defenses based on suretyship or impairment of collateral.

6. Waiver of Subrogation and Rights of Reimbursement; Subordination. Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against the Design-Builder that arises from the performance of Guarantor hereunder, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of Department against the Design-Builder, or any other security or collateral that Department now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. All existing or future indebtedness of Design-Builder or any shareholders, partners, members, joint venturers of Design-Builder to Guarantor is subordinated to all of the Guaranteed Obligations. Whenever and for so long as the Design-Builder shall be in default in the performance of a Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by Design-Builder or any shareholders, partners, members, joint venturers of Design-Builder to Guarantor without the prior written consent of Department. Any payment by Design-Builder or any shareholders, partners, members, joint venturers of Design-Builder to Guarantor in violation of this provision shall be deemed to have been received by Guarantor as trustee for Department.

7. Cumulative Rights. All rights, powers and remedies of Department hereunder will be in addition to and not in lieu of all other rights, powers and remedies given to Department, whether at law, in equity or otherwise.

8. Representations and Warranties. Guarantor represents and warrants that:

a. it is a _____ duly [organized][formed], validly existing, and in good standing under the laws of the State of _____;

b. it has all requisite [corporate][partnership][limited liability company] power and authority to execute, deliver and perform this Guaranty;

c. the execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary corporate action on the part of Guarantor;

d. this Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;

e. neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an event of default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under (1) [the certificate of incorporation or by-laws][certificate of limited partnership or partnership agreement][certificate of formation or limited liability company agreement] of Guarantor, (2) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (3) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;

f. it now has and will continue to have full and complete access to any and all information concerning the transactions contemplated by the Project Documents or referred to therein, the

financial status of the Design-Builder and the ability of the Design-Builder to pay and perform the Guaranteed Obligations;

g. it has reviewed and approved copies of the Project Documents and is fully informed of the remedies Department may pursue, with or without notice to the Design-Builder or any other Person, in the event of default of any of the Guaranteed Obligations;

h. it has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of the Design-Builder and will keep itself fully informed as to all aspects of the financial condition of the Design-Builder, the performance of the Guaranteed Obligations of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of Department to disclose any matter, fact or thing relating to the business, operations or conditions of the Design-Builder now known or hereafter known by Department;

i. no consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date hereof; and

j. there is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Authority which challenges the validity or enforceability of this Guaranty.

9. **Governing Law.** The validity, interpretation and effect of this Guaranty are governed by and will be construed in accordance with the laws of the State of California applicable to contracts made and performed in such State and without regard to conflicts of law doctrines except to the extent that certain matters are preempted by Federal law or are governed by the law of the jurisdiction of organization of the respective parties.

10. **Entire Document.** This Guaranty contains the entire agreement of Guarantor with respect to the transactions contemplated hereby, and supersede all negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date hereof, written or oral, with respect to the subject matter hereof. No waiver, modification or amendment of any provision of this Guaranty is effective unless made in writing and duly signed by Department referring specifically to this Guaranty, and then only to the specific purpose, extent and interest so provided.

11. **Severability.** If any provision of this Guaranty is determined to be unenforceable for any reason by a court of competent jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties and all of the provisions not deemed unenforceable will be deemed valid and enforceable to the greatest extent possible.

12. **Notices.** Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Department: California Department of Transportation
Attn:
Project Manager
Telephone:

With copies to:

If to Guarantor: _____

_____

_____

Attention:_____

Telephone:_____

Either Guarantor or Department may from time to time change its address for the purpose of notices by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

All notices and other communications required or permitted under this Guaranty which are addressed as provided in this Section 12 are effective upon delivery, if delivered personally or by overnight mail, and, are effective five (5) days following deposit in the United States mail, postage prepaid if delivered by mail.

13. Captions. The captions of the various Sections of this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Guaranty.

14. Construction of Guaranty. Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party, but will be construed in the manner that most accurately reflects the parties' intent as of the date hereof.

15. No Waiver. Any forbearance or failure to exercise, and any delay by Department in exercising, any right, power or remedy hereunder will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.

16. Bankruptcy; Reinstatement of Guaranty. The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Design-Builder or by any defense which the Design-Builder may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. Department is not obligated to file any claim relating to the Guaranteed Obligations if the Design-Builder becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of Department so to file will not affect Guarantor's obligations under this Guaranty.

17. Attorneys' Fees. Guarantor agrees to pay to Department without demand reasonable attorneys' fees and all costs and other expenses (including such fees and costs of litigation, arbitration and bankruptcy, and including appeals) incurred by Department in enforcing, collecting or compromising any Guaranteed Obligation or enforcing or collecting this Guarantee against Guarantor or in attempting to do any or all of the foregoing.

18. Consent to Jurisdiction. GUARANTOR AND DEPARTMENT AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN GUARANTOR AND DEPARTMENT CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS GUARANTY MAY ONLY BE BROUGHT IN THE SECOND JUDICIAL DISTRICT COURT OF CALIFORNIA. EACH OF GUARANTOR AND DEPARTMENT ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. IF NOT A RESIDENT OF THE STATE OF

CALIFORNIA, GUARANTOR MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

_____
a _____

By: _____
Name:_____
Title:_____

By: _____
Name:_____
Title:_____

FORM 17

UDBE CERTIFICATION

UDBE REQUIREMENTS

The following goal for participation by UDBEs is established for design and construction work:

UDBE 13.5 percent

UDBE Certification

By signing below, the Proposer certifies that Design-Builder will provide a good faith effort to meet the goal.

Date: _____

Signature: _____

Title: _____

Proposer's Name: _____

APPENDIX G

RESERVED

APPENDIX H

RESERVED

APPENDIX I

PROPOSAL CHECKLIST

Summary and Order of Proposal Contents

Administrative Information – Volume 1		
Proposers should follow the order of this checklist in their submissions. A referenced copy of this document should be submitted with Volume 1 – Administrative Submittals.		
Proposal Component	**Form (if any)**	**ITP Cross-Reference**
A. Proposer Information, Certifications & Documents		
Price Proposal Letter	Form 1	§4.5; Appendix B §3.1
Authorization Documents	No forms provided	§4.5; Appendix B §3.1
Conflict of Interest Disclosure Statement	Form 4	§1.16.3; Appendix B §3.4
Key Personnel Commitment	Form 2	Appendix B §3.2
Equal Employment Opportunity Certification	Form 5	Appendix B §3.5
Debarment and Suspension Certification	Form 6	Appendix B §3.6
Changes in Proposer's Organization	Letter from Department approving the change	§1.10; Appendix B §3.13
Organizational Documents	No forms provided	Appendix B §3.15
Draft Special Purpose Entity Corporate Formation Documents	No forms provided	Appendix B §3.15
Executed copy of Partnering/Consortium Agreements	No forms provided	Appendix B §3.15
Non-Collusion Affidavit	Form 3	§1.16.2; Appendix B §3.3
Certification Regarding Contract Funds for Lobbying	Form 7	§1.14; Appendix B §3.7
UDBE Certification and DBE/UDBE Performance Plan Description	Form 17	§1.13; Appendix B §3.12
Buy America Certification	Form 8	Appendix B §3.8
Letter of Commitment from Surety or Bank	No forms provided	Appendix B §3.19
Insurance Certificates/Letters	No forms provided	§4.12; Appendix B §3.17
B. Proposal Security		
Proposal Bond or Proposal Letter(s) of Credit	Form 11	§4.9.1; Appendix B §3.10
C. Miscellaneous		
Three electronic copies of the entire Proposal (Volumes 1, 3, and 4) in "PDF" format, each on a separate CD or DVD.	No forms provided	§4.3

Price Proposal		
Proposers should follow the order of the Price Proposal Checklist in their submissions. A referenced copy of this document should be submitted with Volume 3 – Price Proposal.		
Proposal Component	**Form (if any)**	**ITP Cross-Reference**
A. Price Proposal		
Price Proposal	Form 9	Appendix D, §2(A)
Bridge Cost Estimate for Federal and State Reporting	Form 14	Appendix D §2(B)
Written confirmation of parent company Guarantee (if applicable)	Form 16	Appendix B §3.12

APPENDIX J

RESTRICTION ON PARTICIPATION

1. L-Pacific Group Incorporated