



**METROLINK.**

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

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# CONTRACTS & PROCUREMENT

**CONTRACT NO.**

**SP472B-17**

**PUBLIC AFFAIRS SUPPORT SERVICES**



Metro



cta  
THE PUBLIC AND PRIVATE  
TRANSPORTATION COMPANY



## CONTRACT AGREEMENT

between

Arellano Associates, LLC  
5851 Pine Avenue, Suite A  
Chino Hills, CA 91709  
(hereinafter "CONSULTANT")

Project Manager  
Laura Muna-Landa  
Telephone: (909) 627-2974  
Email: Landa@ArellanoAssociates.com

And

Southern California Regional Rail Authority  
One Gateway Plaza, Floor 12  
Los Angeles, California 90012  
(hereinafter "AUTHORITY")

### CONTRACT DOCUMENTS

CONTRACT NO. SP472B-17

### PUBLIC AFFAIRS SUPPORT SERVICES

### CONTRACT TASK ORDER

#### SCRRA Project Manager:

Name: Sherita Coffelt  
Title: Director, Public Affairs  
Telephone: (213) 452-0318  
Email: CoffeltS@scrra.net

#### Contract Administrator:

Name: Manchi Yi  
Title: Principal Contract and  
Compliance Administrator  
Telephone: (213) 452-0469  
Fax: (213) 452-0425  
Email: yim@scrra.net

**This Contract Agreement may be funded in whole or in part by grants issued by  
the U.S. Department of Transportation, Federal Transit Administration**

**SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY  
METROLINK COMMUTER RAIL SYSTEM**

**CONTRACT NO. SP472B-17**

**PUBLIC AFFAIRS SUPPORT SERVICES**

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This Agreement is made and entered into as of this 13<sup>th</sup> day of April, 2017 by and between the SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (hereinafter referred to as "Authority") and MBI MEDIA (hereinafter referred to as "Consultant").

## **RECITALS**

WHEREAS, Authority is a joint powers Authority organized under Sections 6500 et seq. of the California Government Code and Section 130255 of the California Public Utilities code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A - Scope of Services" (hereinafter referred to as "Services");

WHEREAS, Authority desires to hire consultant(s) to perform the Public Affairs Support Services in the area of event planning/management;

WHEREAS, Consultant has indicated it is qualified to perform such Services and (1) has reviewed all the available data furnished by Authority pertinent to the Services to be rendered; (2) has inspected and reviewed the Services to be rendered; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility of performing the Services set forth in this Agreement for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

### **1. SCOPE OF SERVICES**

- A. Consultant will perform the Services and related tasks as described in Attachment A - Scope of Services, attached hereto and incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby Authority may, at its sole discretion, augment or supplant the Services with its own forces or forces of another consultant or entity. Consultant will cooperate fully with Authority's staff or other Consultant or entity that may be providing similar or the same Services for Authority.

### **2. PERIOD OF PERFORMANCE**

The period of performance shall be from May 1, 2017 to June 30, 2018 to align with the fiscal year, with three one-year options that may be exercised at the sole discretion of Authority, unless amended by mutual agreement of both parties through a written amendment to this Agreement or unless earlier terminated pursuant to the provisions of this agreement.

### 3. PAYMENT

- A. For Consultant's full and complete performance of its obligations under this Agreement, the Authority shall pay Consultant on a time and material basis at the fully burdened fixed rates shown in Exhibit 1, Cost Schedule, plus reimbursement of any direct costs agreed to in an approved Contract Task Order in accordance with the provisions of this Article, and subject to the maximum cumulative payment obligation.

Authority's maximum cumulative payment obligation under this Agreement shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) for all firms on the bench, including all amounts payable to Consultant for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including but not limited to leases, materials, taxes, insurance, and profit.

#### B. Invoicing

Consultant shall invoice Authority on a monthly basis no later than the 15<sup>th</sup> of each month. Consultant shall furnish information as may be requested by Authority to substantiate the validity of an invoice.

Consultant shall submit invoices by email with attention to Accounts Payable via [accountspayable@scrra.net](mailto:accountspayable@scrra.net) and cc the Authority's Project Manager and Contract Administrator as identified on the cover page.

Each invoice shall include the following information:

- Contract number
- CTO identification number(s)
- PO Number
- Detail description of the services rendered
- Time period covered by the invoice
- Amount of payment requested
- Information as requested by AUTHORITY

#### C. Payment

Authority shall remit payment within thirty (30) calendar days of approval of the invoices by Authority's Project Manager. Payment may be delayed if the invoice lacks the required information.

At its sole discretion, Authority may decline to make full payment for any Services until such time as Consultant has documented, to Authority's satisfaction, that Consultant has fully completed all required Services.

In the event the Authority should overpay Consultant, such overpayment shall not be construed as a waiver of Authority's right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of Authority, Consultant shall immediately reimburse Authority the entire overpayment.

#### **4. CONTRACT TASK ORDER**

Consultant shall perform Services under this Agreement as specified in written Contract Task Orders (hereinafter referred to as "CTO" Exhibit 2) issued by Authority. The Authority, at its discretion, may require Consultant to initiate Services prior to the approval of a CTO on a Letter of Intent basis, for a limited period of time and limited compensation.

##### **A. CTO Proposal Preparation**

The Authority will issue a written Request for Proposal (Exhibit 3) via upload to the Authority's e-procurement website as follows: [http://www.metrolinktrains.com/doing\\_business](http://www.metrolinktrains.com/doing_business), including a project specific scope of services, to the Consultant. Upon receipt, CONSULTANT shall submit a detailed CTO Cost Proposal (Exhibit 4) via upload to the Authority's e-procurement website as follows: [http://www.metrolinktrains.com/doing\\_business](http://www.metrolinktrains.com/doing_business). The request will include, as needed, a description of the Services to be performed, the required schedule, and any special conditions related to the performance of the Services.

The Consultant's proposal shall be detailed and respond completely to the Authority's request. The proposal shall include, but not be limited to:

1. A description of the Services to be performed for the CTO, in sufficient detail to allow for the Authority's evaluation and/or an independent cost estimate, if required.
2. A list of the Consultant's personnel, by function and labor title, to be used in the performance of the Services, estimated labor hours for each and specific fully burdened labor rate. (If a subconsultant is used to perform services, the same information is to be provided for subconsultants).
3. If it is the usual practice of partners or principals to perform certain basic technical work, they may be compensated for the time when they are actually engaged in the work, but only at a rate of pay commensurate with the type of work performed, as agreed upon by the Authority and the Consultant in paragraph 3.A. Payment.



4. A schedule for completion of the Services, including a breakdown of milestone completion dates if required by the Authority's request.
5. A detailed cost breakdown for the proposed Services which includes (1) the fully burdened labor rate for the Consultant personnel, by labor title, to be used in the performance of the CTO, and (2) other direct costs (e.g., material, facility rental, audio taping). If required by the Authority's request, the cost breakdown shall be detailed by milestone and/or deliverables.
6. The negotiated not-to-exceed cost for the CTO will be in effect for the duration of the CTO.
7. No "percentage of ..." costs are permitted under this Agreement, except the negotiated or audited overhead rates that are included as part of the fully burdened labor rate.

The process for revising an approved CTO shall include all the requirements of this Article. The CTO forms for revisions and Request for Proposal are included as Exhibits 2 and 3.

8. Where the Request for Proposals and responses identify specific tasks and pricing, the CTO process may be streamlined to the issuance of a CTO based on the tasks and pricing called out in the Scope of Services and RFP response.

## **5. NOTIFICATION**

All notices hereunder concerning this Agreement and the Services to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To the AUTHORITY:  
Southern California Regional Rail Authority  
One Gateway Plaza, Floor 12  
Los Angeles, CA 90012  
Attn: Manchi Yi  
Principal Contract and Compliance  
Administrator

To the CONSULTANT:  
Arellano Associates, LLC  
5851 Pine Avenue, Suite A  
Chino Hills, CA 91709  
Attn: Laura Muna-Landa  
Project Manager

## **6. AUTHORITY AND CONSULTANT'S REPRESENTATIVES**

### **A. Authority's Project Manager**

The AUTHORITY's Project Manager under this Agreement shall be Sherita Coffelt, Director, Public Affairs.

## **B. Consultant's Key Personnel**

The following are Consultant's key personnel, shown with their roles in the Services to be provided:

| <u>Name</u>        | <u>Role</u>          |
|--------------------|----------------------|
| Chester Britt      | Exec. Vice President |
| Cheryl Donahue     | Sr. Proj. Mngr.      |
| Laura Muna-Landa   | Sr. Proj. Mngr.      |
| Elsa Argomaniz     | Sr. Proj. Coord.     |
| Kathy Ortiz-Cobian | Sr. Proj. Coord.     |
|                    |                      |
|                    |                      |

Authority awarded this Agreement to Consultant based on Authority's confidence and reliance on the expertise of Consultant's key personnel described above. Consultant shall not reassign key personnel or assign other personnel to key personnel roles until Authority approves a replacement in writing.

## **7. TERMINATION FOR CONVENIENCE**

Authority may terminate this Agreement for Authority's convenience at any time by giving Consultant ten (10) days written notice thereof. Upon receipt of said notice, Consultant shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. Authority shall pay Consultant its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by Consultant to effect such termination. Thereafter, Consultant shall have no further claims against Authority under this Agreement. All finished or unfinished documents and materials procured for or produced under this Agreement shall become Authority property upon date of such termination.

## **8. TERMINATION FOR BREACH OF AGREEMENT**

- A. If Consultant fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, Authority may give Consultant written notice of such default. If Consultant does not cure such default or provide a plan to cure such default which is acceptable to the Authority within the time permitted by Authority, then Authority may terminate this Agreement due to Consultant's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against Consultant, or if Consultant makes an assignment for the benefit of creditors, then Authority may immediately terminate this Agreement.

- C. If Consultant violates Article 22.0, Compliance with Lobbying Policies, then Authority may immediately terminate this Agreement.
- D. In the event Authority terminates this Agreement as provided in this Article, Authority may procure, upon such terms and in such manner as Authority may deem appropriate, Services similar in scope and level of effort to those so terminated, and Consultant shall be liable to Authority for all of its costs and damages, including, but not limited, any excess costs for such Services.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become Authority property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Article, it is determined for any reason that Consultant was not in default under the provisions of this Article, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Article 8, Termination for Convenience.
- G. The rights and remedies of Authority provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

#### 9. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by Consultant either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by Consultant, without the prior written consent of Authority. Consent by Authority shall not be deemed to relieve Consultant of its obligations to comply fully with all terms and conditions of this Agreement.

#### 10. SUBCONTRACTING

Authority hereby consents to Consultant's subcontracting of portions of the Services to the parties identified below for the functions described in Consultant's proposal. Consultant shall include in each subcontract agreement the stipulation that Consultant, not Authority, is solely responsible for payment to the subconsultant for the amounts owing and that the subsubconsultant shall have no claim, and shall take no action against Authority, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by Consultant.

**Subconsultants Names and  
Addresses**

**Services to Be Performed**

None.

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## **11. INDEPENDENT CONSULTANT**

Consultant's relationship to Authority in the performance of this Agreement is that of an independent consultant. Consultant's personnel performing Services under this Agreement shall at all times be under Consultant's exclusive direction and control and shall be employees of Consultant and not employees of Authority. Consultant shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

## **12. INSURANCE**

Throughout the duration of this Agreement, Consultant shall maintain the following insurance, which shall be full-coverage insurance not subject to self-insurance provisions. Consultant shall not of its own initiative cause such insurance to be canceled or materially changed during the course of this Agreement.

- A. Commercial General Liability to include Products/Completed Operations, independent consultant, Contractual Liability, and Personal Injury Liability; with at least the following limits of liability:
  - 1. Primary Bodily Injury Liability Limits of \$1,000,000 per occurrence, and
  - 2. Primary Property Damage Liability Limits of \$1,000,000 per occurrence,
  - 3. Aggregate liability for both injury and property damage liability of \$2,000,000.
- B. Automobile Liability with the following limits:
  - 1. Primary Bodily Injury with limits of \$1,000,000 per occurrence; and
  - 2. Primary Property Damage with limits of \$1,000,000 per occurrence; or
  - 3. Combined single limits of Liability for Primary Bodily and Primary Property Damage of \$2,000,000 per occurrence.
- C. Workers' Compensation Insurance with the limits established and required by the State of California.
- D. Employer's Liability with limits of \$1,000,000 per occurrence.

Prior to commencement of any work hereunder, Consultant shall furnish to Authority's Contract Administrator an endorsement showing the required insurance coverages for Consultant and further providing that:

- a. Authority, its officers, directors, employees and agents are named as an additional insured via endorsement on Commercial General Liability and Automobile Liability insurance with respect to performance hereunder;
- b. The coverage shall be primary and noncontributory as to any other insurance with respect to liability hereunder; and
- c. Thirty (30) days prior written notice of cancellation or of material change in coverage be given to Authority by endorsement.

### **13. INDEMNITY**

Consultant shall indemnify, defend and hold harmless Authority, and its member agencies, and their officers, directors, employees and agents from and against any and all liability, expense (including but not limited to defense costs and attorneys' fees), claims, causes of action, and lawsuits for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage (including property of Consultant) arising from or connected with any alleged act and/or omission of Consultant, its officers, directors, employees, agents, subconsultants or suppliers. This indemnity shall survive termination of this Agreement and/or final payment thereunder.

### **14. REVISIONS IN SCOPE OF WORK**

By written notice or order, Authority may, from time to time, order work suspension or make changes to this Agreement. Changes in the Services shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, Consultant shall perform the Services, as amended.

### **15. RIGHTS IN TECHNICAL DATA**

- A. No material or technical data prepared by the Consultant under this Agreement is to be released by Consultant to any other person or entity except as necessary for the performance of the Services. All press releases or information concerning the Services that might appear in any publication or dissemination, including but not limited to newspapers, magazines, electronic media, shall first be authorized in writing by the Authority.
- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of the Authority without restriction or limitation on their use and shall be made available upon request to the Authority at any time. Original copies of such shall be delivered to the Authority upon completion of the work or termination of the work. The Consultant shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of the Authority.

## **16. OWNERSHIP OF REPORTS AND DOCUMENTS**

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of Authority. Copies may be made for Consultant's records, but shall not be furnished to others without written authorization from Authority. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by Authority.

## **17. SUBMITTAL OF CLAIMS BY CONSULTANT**

Consultant shall file any and all claims with Authority's Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable Authority to ascertain the claim's basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by Consultant.

Even though a claim may be filed and/or in review by Authority, Consultant shall continue to perform in accordance with this Agreement.

## **18. EQUAL OPPORTUNITY**

Consultant shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical handicap, mental condition, political affiliation, sexual orientation or marital status. Consultant shall take action to ensure that applicants and employees are treated without regard to the above.

## **19. STANDARD OF PERFORMANCE**

- A. Consultant shall perform and exercise, and require its subconsultants to perform and exercise due professional care and competence in the performance of the Services in accordance with the requirements of this Agreement. Consultant shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Services, it being understood that Authority will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Services. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.
- B. All workers shall have sufficient skill and experience to perform the Services assigned to them. Authority shall have the right, at its sole discretion, to require the removal of Consultant's personnel at any level assigned to the performance of the Services at no additional fee or cost to Authority, if Authority considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed

from performing Services under this Agreement under this Article shall not be re-assigned to perform Services under this Agreement without Authority's prior written authority.

**20. NOTIFICATION OF EMPLOYMENT OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY BOARD MEMBERS/ALTERNATES AND EMPLOYEES**

To ensure compliance with Authority's Ethics Policy, Consultant shall provide written notice to Authority disclosing the identity of any individual who Consultant desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of the Authority, or (2) served as a Board Member/Alternate or an employee of the Authority within the previous 12 months of the date of the proposed employment or retention by Consultant. Consultant's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of the Agreement.

**21. DISQUALIFYING POLITICAL CONTRIBUTIONS**

In the event of a proposed amendment to this Agreement, Consultant shall provide a written statement disclosing any contribution(s) of \$250 or more made by Consultant or its subconsultant within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of Consultant or subconsultant.

**22. COMPLIANCE WITH LAW**

Consultant shall familiarize itself with and perform the Services required under this Agreement in conformity with requirements and standards of Authority, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and services may be affected by Services under this Agreement. Consultant shall also comply with all Federal, California and local laws and ordinances.

**23. COMPLIANCE WITH LOBBYING POLICIES**

- A. Consultant agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by Authority in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with Authority's Ethics Policy.
- B. If Consultant (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with Authority's Ethics Policy, such failure shall be considered a material breach of this Agreement and Authority shall have the right to immediately terminate or suspend this Agreement.

## **24. PUBLIC RECORDS ACT**

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of Authority's business, including materials submitted by Consultant in its proposal and during the course of performing the Services under this Agreement, shall become the exclusive property of Authority and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. Authority's use and disclosure of its records are governed by this Act.
- B. Authority will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. Authority will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by Consultant. Authority will endeavor to notify Consultant of any request of the disclosure of such materials. Under no circumstances, however, will Authority be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistakes or negligence on the part of Authority or its officers, employees and/or Consultants.
- C. In the event of litigation concerning the disclosure of any material submitted by Consultant, Authority's sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. Consultant, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold Authority harmless from all costs and expenses, including attorneys' fees, in connection with such action.

## **25. WAIVER/INVALIDITY**

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

## **26. FORCE MAJEURE**

Performance of each and all Consultant's and Authority's covenants herein shall be subject to such delays as may occur without Consultant's or Authority's fault from acts of God, strikes, riots, or from other similar causes beyond Consultant's or Authority's control.



## **27. GOVERNING LAW**

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California.

## **28. ★APPLICABILITY OF FEDERAL GRANT CONTRACT**

This Contract may be subject to one or more financial assistance contracts between Authority and the U.S. Department of Transportation (DOT), which incorporate the current FTA Master Agreement and Circular 4220.1D. The Consultant and its Subconsultants are required to comply with all terms and conditions prescribed for third party contracts in these documents. Federal laws, regulations, policies and administrative practices may be modified or codified after the date this contract is established and may apply to this Contract. To assure compliance with changing federal requirements, acceptance of contract award indicates that the Consultant agrees to accept all changed requirements that apply to this Contract.

## **29. ★INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and the Master Grant Agreement, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any Authority request that would cause Authority to be in violation of the FTA terms and conditions.

## **30. ★FEDERAL FUNDING LIMITATION**

Consultant understands that funds to pay for Consultant's performance under this Contract are anticipated to be made available from the United States Department of Transportation through the Federal Transit Administration (FTA). All funds must be approved and administered by FTA. A portion of the Authority's obligation hereunder may be payable from funds that are appropriated and allocated by FTA for the performance of this Contract. If funds are not allocated, or ultimately are disapproved by FTA, Authority may terminate or suspend Consultant's services without penalty. Authority shall notify Consultant promptly in writing of the non-allocation, delay, or disapproval of funding.

## **31. ★NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

- A. The Consultant acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Consultant or any other party

(whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

- B. The Consultant agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subconsultant who will be subject to its provisions.

### **32. ★FEDERAL CHANGES**

In the event local, State or federal laws or regulations that were not announced or enacted at the time of the Contract award are enacted before performance of the Work and such laws or regulations make standards more stringent or compliance more costly under this Contract, the Consultant shall notify Authority in writing of such laws or regulations and their effects on the pricing or delivery schedule promptly after the Consultant first becomes aware of the laws and regulations and prior to incurring any such expenses.

The Authority will make a determination as to whether the Consultant should be reimbursed for any such expenses or any time extensions should be granted.

The Consultant shall be deemed to have had notice of any federal law or regulation announced or enacted at the time of contract award, even though such law or regulation did not take effect or become operative until some date after the Contract award.

The Consultant shall, immediately upon becoming aware of any such imposition or change of requirement, provide the Authority with full and detailed particulars of the changes required in the Work and of cost involved therein, or shall be deemed to have waived any rights under this Article. In the event any governmental requirements are removed, relaxed, or changed in any way after the date of contract award so as to make the Consultant's performance less expensive, or less difficult, then the Authority shall have the option either to require the Consultant to perform pursuant to the more rigorous requirements or to receive a reduction in the price of the Work affected for all savings in direct costs which may be realized by the Consultant by reason of such change and appropriate adjustments in deductions for overhead and profit made so as to reflect actual savings made by the Consultant. The Authority shall give the Consultant notice of the Authority's determination, and anticipated savings.

### **33. INTEREST OF MEMBERS OF, OR DELEGATES TO, CONGRESS**

No member of, or delegate to, the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising therefrom.

### **34. ★PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

- A. The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this Contract Work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the federal government deems appropriate.
- B. The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under a contract connected with a project that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the Consultant, to the extent the federal government deems appropriate.
- C. The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subconsultant who will be subject to the provisions.

### **35. ★FEDERAL LOBBYING RESTRICTIONS**

Consultant certified in their Proposal that it has not and shall not use federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. §1352 (Certification Form is included as Exhibit 1A). Each and every Subconsultant at all tiers also certified to the tier above that it will not and has not used federal appropriated funds for such purpose. Each Consultant and Subconsultant at all tiers also disclosed the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 U.S.C. §1352. Such disclosures are forwarded from tier to tier up to the Authority.

The Consultant and Subconsultant at all tiers shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of a previously filed disclosure form (Form is included as Exhibit 1B). An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence this federally funded Contract; or
- (2) A change in the person(s) influencing or attempting to influence this federally funded Contract; or
- (3) A change in the officer(s), employee(s) or member contracted to influence or attempt to influence this federally funded Contract.

### **36. ★ENERGY CONSERVATION REQUIREMENTS**

Consultant shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6321 et seq.).

### **37. ★CLEAN WATER REQUIREMENTS**

The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251, et seq. The Consultant agrees to report any violation of these requirements resulting from any project implementation activity to FTA and the appropriate U.S. EPA Regional Office.

### **38. ★CLEAN AIR**

The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§7401, et seq. The Consultant agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

### **39. ★REQUIREMENTS OF AMERICANS WITH DISABILITIES ACT**

The Consultant is also required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

- a. U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37.
- b. U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27.

- c. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local federal government Services," 28 CFR Part 35.
- d. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36.
- e. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19.
- f. U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630.
- g. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F.
- h. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.
- i. Any implementing requirements that the FTA may issue.

#### **40. ★CIVIL RIGHTS REQUIREMENTS**

The following requirements apply to this Contract:

- A. Nondiscrimination: In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Consultant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity:
  - (a) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. §5332, the Consultant agrees to comply with all applicable equal opportunity requirements of the U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity", 42 U.S.C. §2000e note), and with any applicable Federal statutes, executive

orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Contract. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay other forms of compensation; and selection for training, including apprenticeship. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

- (b) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§623 and Federal transit law at 49 U.S.C. §5332, the Consultant agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.
- (c) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Consultant agrees that it will comply with the requirements of the U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

#### **41. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Southern California Regional Rail Authority (Authority) has adopted a Disadvantaged Business Enterprise (DBE) Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." This DOT-assisted project is subject to these stipulated regulations, which are hereby incorporated in their entirety by this reference. Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Please see Exhibit A for DBE Program requirements and forms.

#### **42. PREFERENCE FOR RECYCLED PRODUCTS**

To the extent practicable and economically feasible, the Consultant agrees to provide a competitive preference for recycled products to be used in the work pursuant to the U.S. Environmental Protection Agency Guidelines at 40 CFR Part 247-253, implementing Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6962.

The Consultant should use both sides of paper sheets for copying and printing where practicable.

Credit for sale of scrap materials will be the actual amount, without markup or fee.

**43. ★AUDIT AND INSPECTION OF RECORDS**

- A. Consultant shall maintain a complete set of records relating to this Contract in accordance with generally accepted accounting procedures. Consultant agrees that Authority or any duly authorized representative the U.S. Department of Transportation and the Comptroller General of the United States shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records and proprietary data must be kept and maintained by Consultant for a period of three (3) years after final payment under this Agreement unless Authority's written permission is given to dispose of material prior to this time.
- B. Consultant further agrees to include in all of its subcontracts under this Contract a provision to the effect that the Subconsultant agrees that Authority, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their duly Authorized Representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the Subcontractor. The term "subcontract" as used in this Section excludes:
  - (1) Purchase orders not exceeding \$10,000.00 and
  - (2) Subconsultant or purchase orders for public utility services at rates established for uniform applicability to the general public.
- C. The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- D. The Consultant agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Consultant agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly Authorized Representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

#### **44. PROMPT PAYMENT TO SUBCONSULTANTS**

Consultant agrees to make prompt payment to all Subconsultants (both Disadvantaged and Non-disadvantaged Business Enterprises) for satisfactory work performed. For purposes of this agreement "prompt payment" shall mean payment of all invoices substantiated to Consultant's requirements no later than ten (10) working days from Consultant's receipt of payment from Authority.

Should Consultant retain partial payment of Subconsultant's invoice to insure performance or for any other reason, Consultant agrees to make payment of such retainage within 15 (fifteen) working days of satisfactory completion of the work or other obligation.

Failure of Consultant to make prompt payment as defined in this clause or to delay payment without prior written consent of Authority shall constitute noncompliance with this Contract, which may result in appropriate administrative sanctions which may include withholding of payment of Consultant's invoice by Authority until payment is made to the Subconsultant, or termination of the contract in accordance with the Article entitled TERMINATION FOR DEFAULT.

#### **45. ★PRIVACY**

- A. Should the Consultant, or any of its Subconsultants, or their employees administer any system of records on behalf of the federal government, the Privacy Act of 1974, 5 USC §552a, imposes information restrictions on the party administering the system of records.
- B. For purposes of the Privacy Act, when the Contract includes the operation of a system of records on individuals to accomplish a government function, Authority and any Consultants, third-party Consultants, Subconsultants, and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Privacy Act, including the civil and criminal penalties for violations of the Privacy Act, apply to those individuals involved. Failure to comply with the terms of the Privacy Act or this provision of this contract will make this contract subject to termination.

The Consultant agrees to include this clause in all subcontracts awarded under this Contract that require the design, development, or operation of a system of records on individuals subject to the Privacy Act.

#### **46. CONFIDENTIALITY**

Consultant agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by Consultant in the performance of this Agreement, shall be considered and kept as the private and privileged records of Authority and will not be divulged to any person, firm, corporation, or other entity except on the direct written authorization of Authority.



Further, upon expiration or termination of this Agreement for any reason, Consultant agrees that it will continue to treat as private and privileged any information, data, figures, records and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Authority.

#### **47. CONSULTANT'S INTERACTION WITH THE MEDIA AND THE PUBLIC**

- A. Authority shall review and approve in writing all Authority related copy proposed to be used by Consultant for advertising or public relations purposes prior to publication. Consultant shall not allow Authority related copy to be published in its advertisements and public relations programs prior to receiving such approval. Consultant shall ensure that all published information is factual and that it does not in any way imply that Authority endorses Consultant's firm, service, and/or product.
- B. Consultant shall refer all inquiries from the news media to Authority, and shall comply with the procedures of Authority's Public Affairs staff regarding statements to the media relating to this Agreement or the Services.
- C. If Consultant receives a complaint from a citizen or the community, Consultant shall inform Authority as soon as possible and inform Authority of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

#### **48. MODIFICATIONS TO AGREEMENT**

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by the Authority's Board of Directors, and in all instances require prior signature of an authorized representative of the Authority.

#### **49. PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, (2) Attachment A - Services, (3) provisions of RFP No. SP472-17 - Public Affairs Support Services and (4) Consultant's proposal dated March 9, 2017.

## **50. ENTIRE AGREEMENT**


This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement between Authority and Consultant and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date shown below, and effective on the date first hereinabove written.

ARELLANO ASSOCIATES, LLC

SOUTHERN CALIFORNIA  
REGIONAL RAIL AUTHORITY

  
Genoveva L. Arellano  
Principal

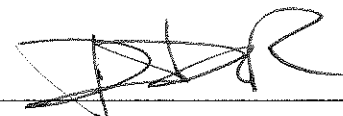
  
Arthur T. Leahy  
Chief Executive Officer

4-26-17  
Date

Tax I.D. No. 45-4181058

**APPROVED AS TO FORM:**

Don Del Rio  
General Counsel

By: 

**ATTACHMENT A**  
**SCOPE OF SERVICES**

**SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY  
METROLINK COMMUTER RAIL SYSTEM**

**CONTRACT NO. SP472B-17**

**PUBLIC AFFAIRS SUPPORT SERVICES**

**SCOPE OF SERVICES**

**1.0 BACKGROUND**

Metrolink is Southern California's regional commuter rail service in its 24<sup>th</sup> year of operation. Metrolink is governed by the Southern California Regional Rail Authority (Authority), a joint powers authority made up of an 11-member board representing the transportation commissions of Los Angeles, Orange, Riverside, San Bernardino and Ventura counties. Metrolink operates seven routes through a six-county, 536 route-mile network. Metrolink's passengers travel approximately 441 million miles each year, making Metrolink the second busiest public transportation provider in Southern California. Metrolink is the third largest commuter rail agency in the United States based on directional route miles and the eighth largest based on annual ridership.

**2.0 SCOPE OF SERVICES**

The Authority is seeking to retain a bench of up to five qualified firms to provide support services to our Communications/Public Affairs Department. Consultant must be available to provide support services related to specific requirement(s) through the Contract Task Order (CTO) process.

Specific requirements will be developed during the CTO process. Following are examples of the type of services that may be requested by the Authority.

**2.1 COMMUNITY RELATIONS SUPPORT**

Support Metrolink in planning and implementing measures to engage members of the communities in its 536-mile service area.

Consultant responsibilities shall include:

- Arrange and coordinate community meetings;
- Coordinate the preparation of collateral materials/informational packets;
- Develop and manage contact/mailling lists for communities in the Authority's service area;
- Facilitate and/or attend community meetings;
- Open-house meetings;

- Prepare materials for meetings such as fact sheets, presentations, sign-in sheets, etc.

## 2.2 EVENT PLANNING/MANAGEMENT

Plan, coordinate, and manage public events for project groundbreaking and dedication ceremonies as directed by the Authority's Public Affairs Department. These events will serve as media opportunities to highlight the Authority's value to the Southern California region.

Consultant shall perform the following tasks:

- Plan, coordinate, and manage all groundbreaking and dedication ceremonies for the assigned project(s);
- Coordinate with event stakeholders to establish and develop project-specific event task lists that assign duties to each involved staff member;
- Develop announcements, invitations and press releases to support event(s).

## 2.3 WRITING SUPPORT

Consultant(s) will assist the Authority with various writing projects including newsletters articles, speeches, website updates, annual reports, talking points, etc.

## 2.4 CRISIS COMMUNICATIONS SUPPORT

Consultant will provide the Authority strategic and tactical assistance to prepare for and/or following a major incident that causes service interruption or damage to the agency's reputation. These could include derailments, train incidents, leadership changes, budget issues, customer issues, etc.

Consultant may be asked to perform the following tasks:

- Assist with messaging and/or talking points in the event to prepare for a major service disruption or issue that negatively impacts the agency's reputation;
- Provide staffing assistance in the event of a major service interruption.

## 2.5 MEDIA RELATIONS SUPPORT

Media relations tasks are intended to maximize positive coverage in the media without utilizing direct advertising. These efforts should focus on identifying opportunities for media coverage on positive developments throughout the delivery the assigned project(s). The anticipated media relations tasks include, but are not limited to, public service announcements (PSAs), opinion editorials (op-eds), as well as mailings and paid advertising of activities and status of the projects. All information generated for these efforts will be incorporated into the project web page, newsletter, and other forms

of electronic communication. Media opportunities will be coordinated through SANBAG's Legislative and Public Affairs Department.

Consultant shall perform the following tasks:

- Develop PSAs/press releases and media advisories;
- Develop initial media package;
- Update media package as required;
- All media relations deliverables shall be approved by the Authority's Public Affairs Department prior to release.

**EXHIBIT 1**  
**COST SCHEDULE**



## EXHIBIT 1 – COST SCHEDULE

### Time and Material/Fully Burdened Labor Rates

Included below are complete hourly labor rate for all CONSULTANT staff and/or subconsultant(s) staff that may perform services required by the scope of services covered by this agreement. Auditable hourly rates for each named individual CONSULTANT or subconsultant(s) are fully burdened to include all costs and profit. Services performed under the Scope of Services on a time and materials basis will be priced at the identified hourly rates subject to an approved CTO. These rates will be used to establish the maximum not-to-exceed amount of each Contract Task Order (CTO) issued under this Contract.

Time for travel will not be reimbursed.

| <b>DETAILED DESCRIPTION OF COST ELEMENTS FOR</b><br><b>• Event Planning/Management</b> |                          |                 |               |  |
|--|--------------------------|-----------------|---------------|--|
| <b><u>YEAR ONE</u></b>   |                          |                 |               |  |
| <b>Direct Labor*</b><br><b>(NAME, TITLE, FUNCTION)</b>                                 | <b>Rate Per<br/>Hour</b> | <b>Overhead</b> | <b>Profit</b> | <b>Fully<br/>Burdened<br/>Hourly Rate*</b> |
| Chester Britt, Exec. Vice President  | \$ 120.00                | \$ 82.56        | \$ 20.26      | \$222.82                                   |
| Cheryl Donahue, Sr. Proj. Mngr.  | \$ 90.00                 | \$ 61.92        | \$ 15.19      | \$167.11                                   |
| Laura Muna-Landa Sr. Proj. Mngr.   | \$ 90.00                 | \$ 61.92        | \$ 15.19      | \$167.11                                   |
| Elsa Argomaniz, Sr. Proj. Coord.   | \$ 62.83                 | \$ 43.23        | \$ 10.61      | \$116.66                                   |
| Kathy Ortiz-Cobian, Sr. Proj. Coord.   | \$ 44.00                 | \$ 30.27        | \$ 7.43       | \$81.70                                    |
| Project Coordinator  | \$ 40.00                 | \$ 27.52        | \$ 6.75       | \$74.27                                    |
| Project Coordinator - Technology   | \$ 40.00                 | \$ 27.52        | \$ 6.75       | \$74.27                                    |
| Graphic/Creative Design  | \$ 35.00                 | \$ 24.08        | \$ 5.91       | \$64.99                                    |
| Assistant Project Coordinator  | \$ 25.00                 | \$ 17.20        | \$ 4.22       | \$46.42                                    |

\* Subtotal Rate + Overhead + Profit

Direct Costs: Other non-labor direct cost on page 2.

| DETAILED DESCRIPTION OF COST ELEMENTS FOR<br>• Event Planning/Management |                  |          |          |                                   |
|--|------------------|----------|----------|-----------------------------------|
| OPTION YEAR ONE  |                  |          |          |                                   |
| Direct Labor*<br>(NAME, TITLE, FUNCTION)                                 | Rate Per<br>Hour | Overhead | Profit   | Fully<br>Burdened<br>Hourly Rate* |
| Chester Britt, Exec. Vice President                                      | \$ 124.20        | \$ 85.45 | \$ 20.96 | \$ 230.62                         |
| Cheryl Donahue, Sr. Proj. Mngr.  | \$ 93.15         | \$ 64.09 | \$ 15.72 | \$ 172.96                         |
| Laura Muna-Landa Sr. Proj. Mngr.   | \$ 93.15         | \$ 64.09 | \$ 15.72 | \$ 172.96                         |
| Elsa Argomaniz, Sr. Proj. Coord.   | \$ 65.03         | \$ 44.74 | \$ 10.98 | \$ 120.75                         |
| Kathy Ortiz-Cobian, Sr. Proj. Coord.                                     | \$ 45.54         | \$ 31.33 | \$ 7.69  | \$ 84.56                          |
| Project Coordinator  | \$ 41.40         | \$ 28.48 | \$ 6.99  | \$ 76.87                          |
| Project Coordinator - Technology   | \$ 41.40         | \$ 28.48 | \$ 6.99  | \$ 76.87                          |
| Graphic/Creative Design  | \$ 36.23         | \$ 24.93 | \$ 6.11  | \$ 67.28                          |
| Assistant Project Coordinator  | \$ 25.88         | \$ 17.80 | \$ 4.37  | \$ 48.05                          |

\* Subtotal Rate + Overhead + Profit

Direct Costs: Other non-labor direct cost on page 2.

| DETAILED DESCRIPTION OF COST ELEMENTS FOR<br>• Event Planning/Management |                  |          |          |                                   |
|--|------------------|----------|----------|-----------------------------------|
| OPTION YEAR TWO  |                  |          |          |                                   |
| Direct Labor*<br>(NAME, TITLE, FUNCTION)                                 | Rate Per<br>Hour | Overhead | Profit   | Fully<br>Burdened<br>Hourly Rate* |
| Chester Britt, Exec. Vice President                                      | \$ 128.55        | \$ 88.44 | \$ 21.70 | \$ 238.69                         |
| Cheryl Donahue, Sr. Proj. Mngr.  | \$ 96.41         | \$ 66.33 | \$ 16.27 | \$ 179.01                         |
| Laura Muna-Landa Sr. Proj. Mngr.   | \$ 96.41         | \$ 66.33 | \$ 16.27 | \$ 179.01                         |
| Elsa Argomaniz, Sr. Proj. Coord.   | \$ 67.31         | \$ 46.31 | \$ 11.36 | \$ 124.98                         |
| Kathy Ortiz-Cobian, Sr. Proj. Coord.                                     | \$ 47.13         | \$ 32.43 | \$ 7.96  | \$ 87.52                          |
| Project Coordinator  | \$ 42.85         | \$ 29.48 | \$ 7.23  | \$ 79.56                          |
| Project Coordinator - Technology   | \$ 42.85         | \$ 29.48 | \$ 7.23  | \$ 79.56                          |
| Graphic/Creative Design  | \$ 37.50         | \$ 25.80 | \$ 6.33  | \$ 69.63                          |
| Assistant Project Coordinator  | \$ 26.79         | \$ 18.41 | \$ 4.52  | \$ 49.73                          |

\* Subtotal Rate + Overhead + Profit

Direct Costs: Other non-labor direct cost on page 2.

| DETAILED DESCRIPTION OF COST ELEMENTS FOR<br>• Event Planning/Management |                  |          |          |                                   |
|--|------------------|----------|----------|-----------------------------------|
| OPTION YEAR THREE  |                  |          |          |                                   |
| Direct Labor*<br>(NAME, TITLE, FUNCTION)                                 | Rate Per<br>Hour | Overhead | Profit   | Fully<br>Burdened<br>Hourly Rate* |
| Chester Britt, Exec. Vice President                                      | \$ 133.05        | \$ 91.54 | \$ 22.46 | \$ 247.05                         |
| Cheryl Donahue, Sr. Proj. Mngr.  | \$ 99.78         | \$ 68.65 | \$ 16.84 | \$ 185.27                         |
| Laura Muna-Landa Sr. Proj. Mngr.   | \$ 99.78         | \$ 68.65 | \$ 16.84 | \$ 185.27                         |
| Elsa Argomaniz, Sr. Proj. Coord.   | \$ 69.67         | \$ 47.93 | \$ 11.76 | \$ 129.36                         |
| Kathy Ortiz-Cobian, Sr. Proj. Coord.                                     | \$ 48.78         | \$ 33.56 | \$ 8.23  | \$ 90.57                          |
| Project Coordinator  | \$ 44.35         | \$ 30.51 | \$ 7.49  | \$ 82.35                          |
| Project Coordinator - Technology   | \$ 44.35         | \$ 30.51 | \$ 7.49  | \$ 82.35                          |
| Graphic/Creative Design  | \$ 38.81         | \$ 26.70 | \$ 6.55  | \$ 72.06                          |
| Assistant Project Coordinator  | \$ 27.73         | \$ 19.08 | \$ 4.68  | \$ 51.50                          |

\* Subtotal Rate + Overhead + Profit

Direct Costs: Other non-labor direct cost on page 2.

## Non-Labor Direct Costs

| DETAILED DESCRIPTION OF COST ELEMENTS - PAGE 2 |  |                                   |
|--|--|-----------------------------------|
| YEAR ONE                                       |  |                                   |
| OPTION YEAR ONE, TWO AND THREE                 |  |                                   |
| Item Number                                    | Item Description                                       | Cost Estimate                     |
|  | Photocopying/printing                                  | At cost with backup documentation |
|  | Postage  | At cost with backup documentation |
|  | Online Services (survey, mobile apps, data etc)        | At cost with backup documentation |
|  | Advertisements   | At cost with backup documentation |
|  | Interpretation/Translation (price varies per language) | At cost with backup documentation |
|  | Meeting supplies                                       | At cost with backup documentation |
|  | Rental Fees  | At cost with backup documentation |
|  | Travel Mileage   | IRS rate                          |
|  |  |                                   |
|  |  |                                   |
|  |  |                                   |
|  |  |                                   |
|  |  |                                   |
|  |  |                                   |

**EXHIBIT 2**  
**CONTRACT TASK ORDER (CTO) FORMS**

# METROLINK

## CONTRACT TASK ORDER (CTO)

[To Be Completed by SCRRRA]

|   |   |   |                               |
|---|---|---|-------------------------------|
| Contract No.: SP472B-17<br>Contract Title: Public Affairs Support Services<br>Consultant:                       |   | Task No.:<br>Task Name:<br>CTO Proposal Due Date:                                       |                               |
| <b>CTO SCOPE OF SERVICES – Attached</b>   |   |   |                               |
| Required Start Date:<br>Required Completion Date:   |   | Milestone Date(s):<br><input type="checkbox"/> See attached                             |                               |
| <b>SUMMARY COST ESTIMATE</b>  |   |   |                               |
|   | <b>Cost Components</b>                                    | <b>Total Authorization</b>  |                               |
| 1.  | Fully Burdened Direct Labor (Total Prime)                 | \$  |                               |
|   | DBE Portion of Prime (if applicable) (\$ )                |   |                               |
| 2.  | Subconsultants (attach detailed estimates in same format) | <b>Company Name</b>   |                               |
|   |   |   | \$                            |
|   |   |   | \$                            |
|   |   |   | \$                            |
|   |   |   | \$                            |
|   |   |   | \$                            |
|   |   |   | \$                            |
|   |   |   | \$                            |
| 3.  | Other Direct Costs  | \$  |                               |
| 4.  | Premium/Overtime Cost                                     | \$  |                               |
| 5.  | Total Fixed Fee   | \$  |                               |
| 6.  | <b>Total Not-to-Exceed Time and Material Cost</b>         | \$ 0.00   |                               |
| <b>ALL SUPPORTING DOCUMENTATION MUST BE ATTACHED</b>  |   |   |                               |
| <b>FUNDING SOURCE</b>   |   | <b>THRU</b>   |                               |
| <input type="checkbox"/> Federal  | <input type="checkbox"/> State                            | <input type="checkbox"/> MTA  | <input type="checkbox"/> OCTA |
| <input type="checkbox"/> Local  | <input type="checkbox"/> Recollectable                    | <input type="checkbox"/> SANBAG   | <input type="checkbox"/> VCTC |
| <input type="checkbox"/> Other  |   | <input type="checkbox"/> Other  | <input type="checkbox"/> RCTC |
| <b>FUNDS</b>  |   | <b>DISTRIBUTION</b>   |                               |
| Fed. Trans. Adm. Grant #  |   | <b>COST</b>   | <b>PROJECT</b>                |
| Fund Transfer Agt #   |   | <b>TASK</b>   | <b>TYPE</b>                   |
| Other   |   | <b>ORG</b>  |                               |
| Other   |   |   |                               |
|   |   |   |                               |
|   |   |   |                               |
| <b>AUTHORITY APPROVALS:</b><br><br>_____<br>Date: _____<br><br>_____<br>Date: _____<br><br>_____<br>Date: _____ |   | <b>CONSULTANT:</b><br><br>_____<br>Signature<br><br>_____<br>Title<br><br>_____<br>Date |                               |

cc: Project Manager  
Senior Contract Administrator

Project Administrator  
Accounts Payable

Administrative Assistant

# METROLINK CONTRACT TASK ORDER (CTO) REVISION

[To Be Completed by SCRRA]

| Contract No.: SP472B-17<br>Contract Title: Public Affairs Support Services<br>Contractor: _____        |   | Task No.: _____ Revision No.: _____<br>Task Name: _____<br>CTO Proposal Due Date: _____ |                               |                               |
|--|---|---|-------------------------------|-------------------------------|
| <b>CTO SCOPE OF SERVICES –Attached</b>   |   |   |                               |                               |
| Required Start Date: _____   |   | Milestone Date(s): _____  |                               |                               |
| Required Completion Date: _____  |   | <input type="checkbox"/> See attached   |                               |                               |
| <b>REVISED SUMMARY COST ESTIMATE</b>   |   |   |                               |                               |
|  | Cost Components   | Previous Authorization  | Current Authorization         | Revised Total Authorization   |
| 1.   | Fully Burdened Direct Labor (Total Prime)                 | \$ _____  | \$ _____                      | \$ 0.00                       |
|  | DBE Portion of Prime (if applicable) (\$ _____)           |   |                               |                               |
| 2.   | Subcontractors (attach detailed estimates in same format) |   |                               |                               |
|  | COMPANY NAME  | DBE   |                               |                               |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
|  |   | <input type="checkbox"/>  | \$ _____                      | \$ _____                      |
| 3.   | Other Direct Costs  | \$ _____  | \$ _____                      | \$ 0.00                       |
| 4.   | Total Not-to-Exceed Cost                                  | \$ 0.00   | \$ 0.00                       | \$ 0.00                       |
| <b>FORM 60(S) MUST BE ATTACHED</b>   |   |   |                               |                               |
| <b>FUNDING SOURCE</b>  |   | <b>THRU</b>   |                               |                               |
| <input type="checkbox"/> Federal   | <input type="checkbox"/> State                            | <input type="checkbox"/> MTA  | <input type="checkbox"/> OCTA | <input type="checkbox"/> RCTC |
| <input type="checkbox"/> Local   | <input type="checkbox"/> Recollectable                    | <input type="checkbox"/> SANBAG   | <input type="checkbox"/> VCTC |                               |
| <input type="checkbox"/> Other _____   |   | <input type="checkbox"/> Other _____  |                               |                               |
| <b>FUNDS</b>   |   | <b>DISTRIBUTION</b>   |                               |                               |
| Fed. Trans. Adm. Grant # _____   |   | <b>COST</b>   | <b>PROJECT</b>                | <b>TASK</b>                   |
| Fund Transfer Agt # _____  |   | <b>TYPE</b>   | <b>ORG</b>                    |                               |
| Other _____  | \$ _____  | _____   | _____                         | _____                         |
| Other _____  | \$ _____  | _____   | _____                         | _____                         |
| Other _____  | \$ _____  | _____   | _____                         | _____                         |
| <b>AUTHORITY APPROVALS:</b><br><br>_____ Date: _____<br><br>_____ Date: _____<br><br>_____ Date: _____ |   | <b>CONTRACTOR:</b><br><br>_____<br>Signature<br><br>_____<br>Title<br><br>_____<br>Date |                               |                               |

cc: Project Manager      Project Administrator      Administrative Assistant  
 Senior Contract Administrator      Accounts Payable



**EXHIBIT 3**  
**CONTRACT TASK ORDER (CTO) PROPOSAL FORM**

## REQUEST FOR CTO PROPOSAL

[To Be Completed by SCRRA]

|   |   |  |
|---|---|--|
| Contract No.: SP472B-17<br>Contract Title: Public Affairs Support Services<br><br>Consultant:   | Task No.: _____ Revision No.: _____<br>Task Name: _____<br>CTO Proposal Due Date: _____   |  |
| <b>Consultant shall prepare a proposal based on the following information.</b>  |   |  |
| Scope of Work:  |   |  |
| <input type="checkbox"/> Drawings attached # _____ <span style="margin-left: 200px;"><input type="checkbox"/> Additional Scope of Services attached.</span>   |   |  |
| Start Date: _____ <input type="checkbox"/> Estimated<br>Completion Date: _____ <input type="checkbox"/> Mandatory   |   |  |
| Milestones:   |   |  |
| Other Requirements:   |   |  |
| Vendor Selection: _____ <input type="checkbox"/> Multiple Proposals Requested   |   |  |
| <b>FUNDING SOURCE</b><br><input type="checkbox"/> Federal<br><input type="checkbox"/> State<br><input type="checkbox"/> Local<br><input type="checkbox"/> Recollectable<br><input type="checkbox"/> Other _____ | <b>THRU</b><br><input type="checkbox"/> MTA<br><input type="checkbox"/> OCTA<br><input type="checkbox"/> RCTC<br><input type="checkbox"/> SANBAG<br><input type="checkbox"/> VCTC<br><input type="checkbox"/> Other _____ | <b>FUNDS</b><br>Fed. Trans. Adm. Grant<br># _____<br>Fund Transfer Agt.<br># _____<br>Other _____<br>Other _____ |
| Prepared by: _____ Date: _____<br><br>_____ Date: _____   |   |  |

cc:

**EXHIBIT 4**  
**FORM 60, COST PROPOSAL**

|   |                            |   |                           |                                     |  |
|---|----------------------------|---|---------------------------|-------------------------------------|--|
| <b>Contract No. SP472B-17 CTO NO.</b><br><b>Contractor:</b>                 |                            | <b>Contractor Initials</b>                        |                           | <b>Page 1 of 2</b>                  |  |
| <b>Services to be furnished:</b>  |                            | <b>Location where work is to be performed:</b>    |                           |                                     |  |
| <b>DETAILED DESCRIPTION OF COST ELEMENTS</b>                                |                            |   |                           |                                     |  |
| <b>1. LABOR</b><br>(specify function/title)                                 | <b>ESTIMATED<br/>HOURS</b> | <b>FULLY<br/>BURDENED<br/>LABOR<br/>RATE/HOUR</b> | <b>ESTIMATED<br/>COST</b> | <b>TOTAL<br/>ESTIMATED<br/>COST</b> |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
|   |                            | \$  | 0.00                      |                                     |  |
| <b>TOTAL DIRECT LABOR:</b>  |                            |   | \$                        |                                     |  |
| <b>2. SUBCONTRACTORS (attach "Form 60" for all proposed subcontractors)</b> |                            |   |                           |                                     |  |
|   |                            | <b>DBE</b>  |                           |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
|   |                            | <input type="checkbox"/>                          | \$                        |                                     |  |
| <b>TOTAL SUBCONSULTANTS:</b>  |                            |   |                           | \$ 0.00                             |  |
| <b>3. OTHER DIRECT COSTS (itemize on Page 2 of Form 60)</b>                 |                            |   |                           | \$ 0.00                             |  |
| <b>4. PREMIUM COST (itemize on page 2 of Form 60)</b>                       |                            |   |                           | \$ 0.00                             |  |
| <b>5. FEE (justification must be included in CTO proposal)</b>              |                            |   |                           | \$                                  |  |
| <b>TOTAL ESTIMATED COST:</b>  |                            |   |                           | \$ 0.00                             |  |

| <b>Contract No.: SP472B-17 CTO No.:</b> |  | <b>CTO PRICING<br/>PROPOSAL "FORM 60"</b> |                | <b>Page 2 of 2</b>    |
|---|--|---|----------------|-----------------------|
| <b>Contractor:</b>                      |  |   |                |                       |
| <b>SUPPORTING SCHEDULE</b>              |  |   |                |                       |
| <b>ITEM NO.</b>                         | <b>ITEM DESCRIPTION</b>                            |   |                | <b>ESTIMATED COST</b> |
| <b>3.</b>                               | <b>Other Direct Costs</b>                          |   |                |                       |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
|   |  |   |                | \$                    |
| <b>Total Other Direct Costs:</b>        |  |   |                | <b>\$ 0.00</b>        |
| <b>4.</b>                               | <b>Premium/Overtime Cost (Direct Labor, No OH)</b> |   |                |                       |
|   |  | <b>No. of Hours</b>                       | <b>\$/Hour</b> |                       |
|   |  |   | \$             | \$ 0.00               |
|   |  |   | \$             | \$ 0.00               |
|   |  |   | \$             | \$ 0.00               |
|   |  |   | \$             | \$ 0.00               |
| <b>Total Premium Costs:</b>             |  |   |                | <b>\$ 0.00</b>        |
| <b>Contractor Name:</b>                 |  | <b>Date Prepared:</b>                     |                |                       |
| <b>Project Manager Name:</b>            |  |   |                |                       |
| <b>Date:</b>                            |  |   |                |                       |
| <b>Signature</b>                        |  |   |                |                       |

## EXHIBIT A

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Southern California Regional Rail Authority (Authority) has adopted a Disadvantaged Business Enterprise (DBE) Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs."

This DOT-assisted project is subject to these stipulated regulations and the Authority's DBE program, which are hereby incorporated in their entirety by this reference. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds.

Pursuant to the intent of these Regulations, the Authority's policy objectives are to:

1. Ensure non-discrimination in the award and administration of all the Authority's DOT-assisted contracts and subcontracts;
2. Create a level playing field by which DBEs can compete fairly for and perform on the Authority's DOT-assisted contracts;
3. Ensure the Authority's DBE Program meets legal standards for unique and narrow program tailoring;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Assist in the removal of procurement and contracting barriers which may inadvertently impede DBE participation;
6. Offer assistance to firms to enable them to compete successfully in the market place outside of the DBE Program;
7. Comply with federal regulations and financial assistance agreements;
8. Disseminate timely and accurate information regarding Authority's contracting opportunities to DBE Program participants and potential participants; and
9. Monitor and enforce contractor compliance with meeting established DBE goals and/or exercising Good Faith Efforts to do so as defined in 49 CFR 26.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of federal law. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Authority deems appropriate.

***Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the Regulations, must have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations must prevail.***

#### **A. DBE Goal**

In conformance with 49 CFR Part 26 the Authority established an overall triennial DBE goal of 10% for Federal Fiscal Years (FFY) 2016/18. Contractor's DBE participation on this contract will assist the Authority in meeting its overall triennial DBE goal for the 2016/18 Federal Fiscal period.

The Authority establishes contract-specific DBE goals to meet any portion of the overall DBE goal that the Authority does not project being able to meet using race-conscious means. The Authority establishes contract-specific goals only on those DOT-assisted contracts that have subcontracting opportunities.

The Authority may establish a DBE contract goal that is higher or lower than its overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract.

The Authority established a 4% DBE contract-specific goal on this project and the Contractor has committed to 4% DBE participation. The Contractor is required to demonstrate DBE responsiveness towards meeting the 4% DBE contract-specific goal on this project and their original DBE commitments.

#### **B. DBE CERTIFICATION AND ELIGIBILITY**

1. The Authority requires all DBEs listed for participation to be DBE certified by a California Unified Certification Program (CUCP) certifying member agency. The Authority is a non-certifying member agency of the CUCP. Therefore, the Authority will accept DBE certifications from member agencies which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81, under the CUCP. Listings of DBEs certified by the CUCP are available at [www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).
2. It is the responsibility of the Contractor to verify the DBE certification status of all listed DBEs prior to listing the firm as a DBE participant.
3. It is also the responsibility of the Contractor to ensure that each DBE is certified in the NAICS code that corresponds to the DBE's contract scope

of work. The Authority's evaluation of the "Disadvantaged Business Enterprise (DBE) Participation Listing" form requires DBEs to be certified for the scope listed in accordance with the regulatory requirements.

4. A DBE may participate as a prime Contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies, or trucking company.
5. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
6. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55.
7. A DBE performs a commercially useful function when it is responsible for execution of work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.
8. A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume that it is performing a commercially useful function.
9. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

#### **C. DBE "FRAUDS" AND "FRONTS"**

Only legitimate DBEs are eligible to participate in federally funded contracts. Therefore, Contractor are cautioned against knowingly and willfully using "fronts" to meet DBE goals. The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitutes criminal violations. Further, any indication of fraud, waste, abuse, or mismanagement of Federal funds should be immediately reported to the Office of Inspector General (OIG), U.S. Department of Transportation, via the online hotline at <https://www.oig.dot.gov/dot-oig-hotline-complaint-form>, toll-free hotline at 800-424-9071, email at [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov), online complaint form at <https://www.oig.dot.gov/dot-oig-hotline-complaint-form> or U.S. mail at DOT Inspector General, 1200 New Jersey Ave



SE, West Bldg. 7<sup>th</sup> Floor, Washington, DC 20590. The hotline is open 24 hours per day, seven days per week. Additional information can be found on [www.oig.dot.gov/hotline](http://www.oig.dot.gov/hotline).

**D. Submission of DBE Information and On-going Reporting Requirements (Post-Award)**

If there is a DBE goal on the contract or a DBE firm has been listed by the Contractor, the Contractor must complete and submit the following DBE forms and/or documentation:

1. "Monthly DBE Subcontractor Commitment and Attainment Report/Payment Verification Summary" (Form 103)

If the Contractor is a DBE and/or has proposed to utilize DBEs, the Contractor will be required to complete and submit Form 103 to the Authority by the 15<sup>th</sup> of each month until completion of the Contract, following the first month of contract activity. Upon completion of the contract, the Contractor must clearly mark the last Form 103 submission "Final" to facilitate reporting and capturing actual DBE attainments. Failure to submit these reports in a timely manner shall result in a penalty of \$10 per day, per report. Failure to submit required reports may also result in additional administrative sanctions pursuant to the Authority's DBE Policy and 49 CFR Part 26.

The purpose of this form is to ensure Contractor DBE commitments are attained, properly reported and credited in accordance with DBE crediting provisions based on the capacity the DBE performs the scope of work. This form further serves to collect DBE utilization data required under 49 CFR Part 26.

The Authority Form 103 Report must include the following information:

- a. General Contract Information – Including Contract Number and Name, Prime Contractor and the following:
  - i. Original Contract Amount
  - ii. Running Total of Change Order Amount
  - iii. Current Contract Amount
  - iv. Amount Paid to Contractor during Month
  - v. Amount Paid to Contractor from Inception to Date
  - vi. Date of last progress payment
  - vii. DBE Contract Goal
  - viii. Total Dollar Amount of DBE Commitment
  - ix. DBE Commitment as Percentage of Prime Current Contract Amount

- b. Listed and/Proposed Contractor/Subcontractor Information – For All DBE participation being claimed either Race Neutrally or Race Consciously, regardless of tier:

i. DBE Firm Name, Address, Phone Number, DBE Type of Operation, Certification, and Type and Certification Number.

ii. DBE Firm Contract Value Information:

iii. Original contract amount, running total of change order amount, Current contract amount, Amount paid to Contractor during month and Amount paid to Contractor to date.

2. Contractor signature under penalty of perjury that it has complied with all requirements of 49 CFR, Part 26 and prompt payment requirements of the California Public Contract Code.

Contractor to sign the prompt payment assurance statement of compliance contained within the Form 103. Contractor is to further maintain and submit a detailed running tally of related invoices submitted by DBE(s) and Non DBE(s), including dates of invoice submission, dates accepted and corresponding dates and amount of payments made on the Payment Verification Form. The Payment and Retention Reporting tally must also include:

DBE(s) and Non DBE(s) Invoice Number, Invoice Amount, Invoice Date, Prime Contractor's Invoice Number that incorporated the corresponding DBE and Non DBE invoice(s) for billing purposes, Date of Invoice submission to Authority, date and amount Authority paid on Prime Contractor's Invoice. The report must also reflect a breakout of retention withheld (including retention as specified in subcontract agreement(s) and disputed invoice retention) and retention payments made, check number and date paid to DBE and Non DBE.

Contractor is advised not to report the participation of DBE(s) toward the Contractor's DBE attainment until the amount being claimed has been paid to the DBE. Verification of payments and/or a signed Verification of Payment by the applicable DBE or Non DBE must be submitted with Form 103 to authenticate reported payments.

3. DBE Subcontract Agreements

The Contractor must submit to the Authority copies of executed subcontracts and/or purchase orders (PO) for all DBE firms participating on the contract within ten working days of award. The Contractor must immediately notify the Authority in writing of any problems it may have in obtaining the subcontract agreements from listed DBE firms within the specified time.

4. "Monthly DBE Trucking Verification" Form

Prior to the 15th of each month, the Contractor must submit documentation on the "Monthly DBE Trucking Verification" Form to the Authority showing the amount paid to DBE trucking companies. The Contractor must also obtain and submit documentation to the Authority showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, the Contractor may count only the fee or commission the DBE receives as a result of the lease arrangement.

The Contractor must also obtain and submit documentation to the Authority showing the truck number, owner's name, California Highway Patrol CA number, and if applicable, the DBE certification number of the owner of the truck for all trucks used during that month.

5. "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors"

Upon completion of the contract, a summary of these records must be prepared on the: "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors" and certified correct by the Contractor or the Contractor's authorized representative, and must be furnished to the Engineer. The form must be furnished to the Authority within 90 days from the date of contract acceptance. The amount of \$10,000 will be withheld from payment until a satisfactory form is submitted.

6. "Disadvantaged Business Enterprises (DBE) Certification Status Change"

If a DBE Subcontractor is decertified during the life of the project, the decertified Subcontractor must notify the Contractor in writing with the date of decertification. If a Subcontractor becomes a certified DBE during the life of the project, the Subcontractor must notify the Contractor in writing with the date of certification (Attach DBE certification/Decertification letter). The Contractor must furnish the written documentation to the AUTHORITY.

Upon completion of the contract, the "Disadvantaged Business Enterprises (DBE) Certification Status Change" must be signed and certified correct by the Contractor indicating the DBEs' existing certification status. If there are no changes, please indicate "No Changes". The certified form must be furnished to the Authority within 90 days from the date of contract acceptance.

**E. DBE Crediting Provisions**

Credit for DBE participation is determined according to the following provisions:

- When a DBE is proposed to participate in the Contract, either as a prime Contractor or subcontractor, only the value of the work proposed to be performed by the DBE with its own forces may be counted toward DBE participation.
- If the Contractor is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted.
- If a DBE intends to subcontract part of the work of its subcontract to a lower tier subcontractor, the value of the subcontracted work may be counted toward DBE participation only if the DBE subcontractor is a certified DBE and actually performs the work with its own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Contractor's DBE attainment.
- Contractor is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward DBE attainment, as follows:
  1. Sixty percent (60%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a regular dealer; or
  2. One hundred percent (100%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a DBE manufacturer.
- The following types of fees or commissions paid to DBE subcontractors, brokers, and packagers may be credited toward DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
  1. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
  2. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
  3. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.
- Contractor may count the participation of DBE trucking companies toward DBE attainment, as follows:
  1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract.

2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.
  3. The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
  4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
  5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
  6. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- If the Contractor listed a non-certified DBE 1st tier subcontractor to perform work on this Contract, and the non-certified DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower-tier DBE certified subcontractor or Vendor, the value of work performed by the lower-tier DBE firm's own forces can be counted toward DBE participation on the Contract.
  - The Contractor is advised not to count the participation of DBEs toward the Contractor's DBE attainment until the amount being counted has been paid to the DBE.

#### **F. Performance of DBE Subcontractors**

The following requirements govern the performance of DBE subcontractors:

- DBEs listed by the Contractor in its "DBE Participation Listing" Form submitted with the executed Contract documents shall perform the work and supply the materials for which they are listed, unless the Contractor has received prior written authorization from the Authority to perform the work with other forces or to obtain the materials from other sources.

- Contractor shall provide written notification to the Authority in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

#### **G. DBE Addition/Substitution/Termination Form**

In the event that the Contractor identifies additional DBE subcontractors or suppliers not previously identified for DBE participation under the Contract, Contractor shall notify the Authority by completing and submitting a **“DBE Addition/Substitution/ Termination” form** to enable Contractor to capture all DBE participation. Contractor shall also submit, for each DBE identified after Contract execution, a written confirmation from the DBE acknowledging that it is participating in the Contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

Contractor shall be required to comply with 49 CFR § 26.53 regarding DBE subcontractor terminations, including the following:

- A Contractor shall not terminate a listed DBE subcontractor without the Authority's prior written consent.
- Prior to the termination request, the prime Contractor must notify the DBE, in writing, of the intent to terminate, allowing for five days of response time in opposition of the rejection.
- A Contractor may only terminate a DBE subcontractor for “good cause,” as defined in 49 CFR § 26.53.
- Good cause does NOT exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor (e.g., failure of the Contractor to make timely payments or the unnecessary placing of obstacles in the path of the DBE's work). Good cause also does NOT exist if the Contractor seeks to terminate a DBE so that it can self-perform the work of the terminated DBE.
- In the event that the Contractor needs to substitute or terminate a DBE firm and if the substitution/termination request meets the definition of “good cause,” the Contractor shall notify the Authority by completing and submitting a **“DBE Addition/Substitution/Termination Request” form** for the Authority's written approval prior to actualizing any changes.
- The Contractor must make a Good Faith Effort (GFE) to replace the terminated DBE with another DBE. The Contractor's GFE shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established DBE contract goal and/or the Contractor's DBE participation commitment approved by the Authority prior to award of the Contract.

- Failure by the Contractor to adhere to these requirements may constitute a material breach of contract, which may result in the termination of the contract or such other remedy as the Authority deems appropriate.

#### **H. Non-Compliance and Administrative Sanctions**

A Contractor determined to be non-compliant with DBE Program requirements may be subject to administrative sanctions as outlined below:

- A non-compliant Contractor may be notified by the DBELO or designee, that administrative remedies shall be imposed for failure to: (a) meet the contractor's DBE commitment by contract end, (b) submit documentation of Good Faith Efforts, (c) submit required DBE utilization reports, (d) submit verification of prompt payment to DBE subcontractors, and/or (e) comply with proper DBE termination procedures. The notice shall state the specific administrative remedies to be imposed.
- The Contractor shall be given ten (10) working days from the date of the notice to file a written appeal to the Authority's Executive Director. Failure to respond within the ten (10) day period shall constitute a waiver of appeal.
- The Executive Director or his designee may schedule a hearing to gather additional facts and evidence, and shall issue a final written determination on the matter within thirty (30) working days following receipt of the written appeal. The written decision of the Executive Director or designee is final and there is no further appeal.
- Administrative remedies shall be determined by the DBELO and/or designee and may include, but will not be limited to:
  1. Suspension of progress payments to the Contractor or of any monies held by the Authority as retention on the contract until the Contractor is brought into compliance; and/or
  2. Termination of the contract in part or in whole.

#### **I. Contractor's Assurance Clause Regarding Non-Discrimination**

Contractor shall ensure that the following clause is placed in every Subcontract agreement:

"The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of federal law. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Authority deems appropriate."

**MONTHLY DBE AND SBE UTILIZATION AND PAYMENT REPORT FORM  
(SCRRA FORM 103)**





## DBE ADDITION/SUBSTITUTION/TERMINATION REQUEST FORM

### INSTRUCTIONS TO PRIME Contractor

1. Prime Contractor shall provide the Authority with the information requested below upon identification of an additional DBE not previously listed to perform under this Contract.
2. Prime Contractor shall provide written confirmation from the DBE, that it is participating in this Contract for a specified dollar value and specified work item(s) (a signed subcontract agreement may serve as written confirmation).
3. Any DBE substitutions or terminations require written justification from the prime Contractor and shall only be permitted for "good cause."
4. All requests for DBE additions/substitutions/terminations shall be in accordance with the Contract Specifications and are subject to prior written approval by the Authority.

|   |                                    |  |   |  |
|---|------------------------------------|--|---|--|
| SCRRA Contract #:   |                                    | Contract Name/Title:   |   |  |
| Prime Contractor:   |                                    | Date of Contract Award:  | Initial Contract \$ Value:  | Current Contract \$ Value:   |
| Name of Person Completing this Form:  |                                    | Phone #:   | Email Address:  |  |
|   |                                    | Email Address:   |   |  |
| Business Address, City, State and Zip:  |                                    |  |   |  |
| <b>Please provide the following information for each proposed ADDITIONAL DBE:</b>       |                                    |  |   |  |
| DBE Firm Name:  |                                    |  | Proof of DBE certification attached?<br>(REQUIRED) <input type="checkbox"/> YES |  |
| Business Address, City, State and Zip:  |                                    |  | Phone #:  |  |
| Contact Name:   |                                    | Email Address:   |   | Is the Additional DBE Replacing<br>Another DBE? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| Summary of Proposed Scope of Work:  |                                    |  |   |  |
| Proposed DBE Subcontract Amount:  | % of Current Prime Contract Value: | Type of Firm: <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker<br><input type="checkbox"/> Regular Dealer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Trucker |   |  |
| <b>Please provide the following information for any DBE SUBSTITUTIONS/TERMINATIONS:</b> |                                    |  |   |  |
| Name of DBE to be Substituted/Terminated:   |                                    | Type of Firm: <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker<br><input type="checkbox"/> Regular Dealer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Trucker |   |  |
| State Reason(s) for Substitution/Termination (attach all supporting documentation):     |                                    |  |   |  |
| Original DBE Subcontract Amount:  | % of Current Prime Contract Value: | \$ Value Paid to Date:   |   |  |
| Prime Contractor Signature:   |                                    |  | Date:   |  |

### FOR SCRRA USE ONLY:

|                                   |       |            |       |
|-----------------------------------|-------|------------|-------|
| If NOT approved, state reason(s): |       |            |       |
| Reviewed by (PM):                 | Name: | Signature: | Date: |
| Reviewed by (CA):                 | Name: | Signature: | Date: |
| Approved by (DBELO):              | Name: | Signature: | Date: |

# VERIFICATION OF PAYMENT

|            |               |            |  |
|------------|---------------|------------|--|
|            |               |            | DATE   |
| PROJECT    | CONTRACT NO.  | SUPPL. NO. | DBE STATUS:  |
|            |               |            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| CONTRACTOR | SUBCONTRACTOR | ADDRESS:   |  |
|            |               |            |  |

| INVOICE THROUGH: |                |                |          |                |              |                | FOR INTERNAL USE      |                      |
|------------------|----------------|----------------|----------|----------------|--------------|----------------|-----------------------|----------------------|
| INVOICE DATE     | INVOICE NUMBER | INVOICE AMOUNT | WITHHELD | PAYMENT AMOUNT | PAYMENT DATE | WIRE / CHECK # | DATE INVOICE APPROVED | FOLLOW UP REQ. (Y/N) |
|                  |                |                |          |                |              |                |                       |                      |
|                  |                |                |          |                |              |                |                       |                      |
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|                            |  |      |
|----------------------------|--|------|
| CUMULATIVE AMOUNT INVOICED |  | 6.66 |
| CUMULATIVE AMOUNT PAID     |  | 0.00 |
| RETENTION TOTAL            |  | 0.00 |

|           |
|-----------|
| COMMENTS: |
|-----------|

|                     |
|---------------------|
| LIST OF SUBTENDERS: |
|---------------------|

Purchaser is authorized to verify the accuracy of this payment verification is correct and proper. Execution of this form by the subcontractor certifies that the amounts listed are correct and that the payment has been received for vendors rendered at the agreed rate.

Signed \_\_\_\_\_ Date \_\_\_\_\_

## MONTHLY TRUCKING UTILIZATION FORM (DBE and Non-DBE)

[illegible]