

**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION**

**REQUEST FOR QUALIFICATIONS**

**DESIGN-BUILD PROJECT**

**CONTRACT NO. 06-0E0404**

**Co.: Madera Route: 99 PM: 9.5/13.1**

**Dated April 29, 2010**

**SPECIAL NOTICE:**

**The Department has established a web site for Design-Build projects at <http://dot.ca.gov/hq/oppd/designbuild/db.htm>. The site includes access to project-specific documents, such as RFQs, RFPs and other documents, as well as general information about the California Department of Transportation's Design-Build Demonstration Program.**

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- DESIGN-BUILD PRE-QUALIFICATION APPLICATION FORM**
- DESIGN-BUILD PRE-QUALIFICATION APPLICATION INSTRUCTIONS**
- PRE-QUALIFICATION APPLICATION**
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**ATTACHMENT B**

- CALIFORNIA DEPARTMENT OF TRANSPORTATION CONFLICT-OF-  
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- CONFLICT OF INTEREST CHECKLIST**
- DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST CERTIFICATION**

**SECTION 1 NOTICE TO PROPOSERS****1-1.01 INTRODUCTION**

Pursuant to Public Contract Code §6800 *et seq.*, the California Legislature has authorized the Department of Transportation (Department) to award 10 design-build contracts for highway, bridge, or tunnel projects as part of a pilot program under the new Design-Build Demonstration Program enacted by Senate Bill 4 (second extraordinary session). The contracts are to be awarded on the basis of the lowest responsible bid or best value, as authorized by the California Transportation Commission.

The design-build process for these projects will consist of the following: Request for Qualifications (RFQ), submittal of a Statement of Qualifications (SOQ), evaluation of submittals and selection of a short list, Request for Proposals (RFP) from the short list, submittal of proposals, evaluation of proposals, selection of low bid or best value bid, and award and execution of contract.

This document requests the submittal of the SOQs from interested qualified firms and specifies the requirements of the submittal and the evaluation process to be used by the Department to select firms to receive a RFP.

**DEFINITIONS AND ACRONYMS**

This RFQ includes specific defined terms and acronyms as indicated below:

DB	Design-Build
DBE	Disadvantaged Business Enterprise
IFB	Invitation for Bid
Proposer	Company, team, joint venture, partnership or consortium submitting a SOQ in response to this RFQ.
RFP	Request for Proposal
RFQ	Request for Qualifications
SOQ	Statement of Qualifications
UDBE	Underutilized Disadvantaged Business Enterprise

**1-1.02 PROJECT GENERAL DESCRIPTION**

The project consists, in general, of designing and constructing pavement rehabilitation. Within the limits of Postmiles (PM) 9.5/10.0 and 11.7/13.1 the project proposes to replace failed Portland Cement Concrete (PCC) panels with full depth Asphalt Concrete (AC), cold-plane

existing surfacing on the northbound and southbound lanes and replace with AC, and overlay all lanes and shoulders with AC. From PM 10.0 to 11.6, the project proposes to reconstruct PCC lanes and AC shoulders with PCC and reconstruct the Number 2 lanes with Continuously Reinforced Concrete Pavement (CRCP). Guardrail, lights, signs and drainage will be upgraded or repaired as needed (Project). The project is Categorically Exempt under Class 1 of CEQA guidelines and is a Programmatic Categorical Exclusion under NEPA. Right of way clearance and surveying control will be completed by the Department.

The estimated contract term is 18 months.

The estimated contract amount is \$30,000,000 to \$38,000,000.

This is a Federal-Aid contract.

### **1-1.03 PROCUREMENT PROCESS**

The Department will use a two-phase procurement process to select a design-builder to deliver the Project. The procurement process will include the following two steps:

a) Request for Qualifications: This RFQ is issued as part of the first phase to solicit information, in the form of SOQ, that the Department will evaluate to determine which Proposers are the most highly qualified to successfully deliver the project.

b) Request for Proposals: The Department anticipates short-listing up to five most highly qualified Proposers that submit SOQ. The Department will then issue a RFP for the project to the short listed Proposers. Only the short listed Proposers will be eligible to submit proposals for the project. The Department, in its sole discretion, will award a design-build contract for the project to the Proposer offering the lowest responsible bid or best value.

The award will be made to the lowest responsible bidder.

### **1-1.04 RFQ AVAILABILITY**

Electronic copies of this RFQ and the Proposers List are available at the Department's Design-Build web site located at <http://dot.ca.gov/hq/oppd/designbuild/db.htm>.

### **1-1.05 SOQ SUBMITTAL DATE AND INSTRUCTIONS**

SOQ submittals will be accepted until 3:00 p.m. (Pacific Time) on June 10, 2010.

Fax copies will not be accepted.

The completed SOQ submittal shall include one copy each of the Design-Build Prequalification Application and the Disclosure of Potential Conflict of Interest Certification sealed separately from the SOQ and clearly identified, labeled and addressed as follows:

1. Return address: Proposer's name, contact person's name, mailing address
2. Date of submittal

3. Contents labeled as "06-0E0404", "Statement of Qualifications", "Design-Build Prequalification Application and Disclosure of Potential Conflict of Interest Certification", "DO NOT OPEN", and "Confidential"

4. Addressed as follows:

State of California  
Department of Transportation  
Administration  
Division of Procurement and Contracts  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-7006  
Attention Contract Analyst: Denetia Floyd-Smith  
Telephone: (916) 227-6068

The SOQ package shall consist of thirteen (13) copies of the SOQ. Each copy must be identified on its front cover, in the upper right hand corner as "Copy \_ of 13 Copies".

The outside of the sealed SOQ packages must be clearly identified, labeled and addressed as follows:

1. Return address: Proposer's name, contact person's name, mailing address
2. Date of submittal
3. Contents labeled as "06-0E0404" and "Statement of Qualifications", and "DO NOT OPEN"
4. Addressed as follows:

5 copies to:  
State of California  
Department of Transportation  
Administration  
Division of Procurement and Contracts  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-7006  
Attention Contract Analyst:  
Denetia Floyd-Smith  
Telephone: (916) 227-6068

8 copies to:  
State of California  
Department of Transportation  
Central Region Consultant Services  
2015 E. Shields Avenue, Suite 100  
Fresno, CA 93726-5428  
Attention Contract Analyst:  
Stephanie Rodriguez  
Telephone: (559) 243-3472

If your SOQ submittal is hand-delivered, you must date-stamp and time-stamp it immediately upon arrival. The date-time stamp machine is located in the lobby of the first floor to the right of the security guard station at the office of the Department of Transportation, 1727 30<sup>th</sup> Street, Sacramento, CA. Date-stamp one label for each SOQ package or box submitted. Ask the

security guard to call the Division of Procurement and Contracts' reception desk at (916) 227-6000 to have your SOQ package picked up by Contracts' staff.

SOQ submittals will be considered non-responsive if all required copies are not received in the specified locations by the date and time specified in this RFQ.

### **1-1.06 PROPOSER' INQUIRIES**

Inquiries from Proposers may be presented to the Department by accessing the Department's Design-Build web site, selecting BidSync, and registering for the service. The inquiries from proposers may then be submitted through BidSync. The Department posts its responses on BidSync. <http://www.bidsync.com/>

### **1-1.07 DISADVANTAGED BUSINESS ENTERPRISE**

This solicitation is subject to 49 CFR 26. Proposers shall be fully informed of the requirements of the regulations and the Department's Disadvantaged Business Enterprise (DBE) and Underutilized Disadvantaged Business Enterprise (UDBE) programs developed under the regulations. Contractors involved in the performance of work resulting from this RFQ shall take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform on this contract. Goal and administrative requirements will be specified in the RFP.

### **1-1.08 INTEGRATED PROJECT OFFICE**

The objective of the integrated project office is to prepare, submit, review and process project plans and working drawings in the shortest and most efficient manner possible. The Department will make its design engineers available for consultation on site with the Proposer's engineers and detailers who are preparing the plans and working drawings. The Proposer shall provide the office facility, full time, on-site staff and a computer system compatible with the Proposer's. The effort will focus on the most critical and time dependent plans and working drawings first to prevent delay to the project schedule. Specifications for the Integrated Project Office will be included in the RFP.

## **SECTION 2 PROJECT INFORMATION**

### **2-1.01 PROJECT DESCRIPTION**

The purpose of the project is to:

Rehabilitate Route 99 from south of the South Madera Overcrossing to north of the Avenue 16 Overcrossing.

The project consists of designing and constructing:

The Underlying PCC pavement within the project limits has had several panel replacement projects and continues to fail. This results in a safety issue for both maintenance staff and the

traveling public. The project proposes to reconstruct PCC lanes and AC shoulders with PCC and reconstruct the Number 2 lanes with CRCP. No right of way is required for this project and there are no major environmental issues anticipated.

The following goals have been established for the project:

1. Safety

- 1.1 Provide a safe project area for the traveling public and workers during execution of the project
- 1.2 Provide a solution consistent with the Department's Design Standards

2. Mobility

- 2.1 Minimize impacts to traffic on Route 99 during construction
- 2.2 Maintain traffic flows during construction
- 2.3 Provide for local and emergency vehicle access to the Route 99 during project execution
- 2.4 Provide a completed project that meets the typical design and construction standards for California Highway projects

3. Quality

- 3.1 Provide a Quality Management System that ensures the requirements of the project will be met or exceeded
- 3.2 Provide a high quality project that minimizes future maintenance

4. Environmental Compliance

- 4.1 Adhere to local, State and Federal environmental regulations and permits that are required in executing and completing the project
- 4.2 Incorporate best management practices to control sediment, stormwater run/off discharge, water quality treatment, or other environmental parameters that are established for the project

5. Budget

- 5.1 Complete the project within programmed budget
- 5.2 Implement innovative solutions to maximize the return on taxpayer investment by reducing costs or improving quality of the transportation system

6. Schedule

- 6.1 Begin design by Fall, 2010

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

### **2-1.02 PROJECT STATUS AND SCHEDULE**

The Department is currently engaged in the design phase of project development and plans are approximately 50 percent complete. The project will be funded with both State and Federal funds and thus is subject to State and Federal environmental requirements. The project has achieved environmental approval on July 14, 2005.

The current Project Schedule is as follows below. This schedule is subject to revision by the RFP and addenda to this RFQ:

1. Completion of Preliminary Engineering (PE) - March 2010
2. Issuance of Request for Qualifications (RFQ) – April 29, 2010
3. Submittals of Statement of Qualifications (SOQ) Data to the Department – June 2010
4. Evaluation of SOQ submittals & Notification to Proposers - June 2010
5. Issuance of IFB – June 2010
6. IFB Bid Due Date - August 2010
7. Evaluation of Bids for Lowest Responsible Bid and Notification of Recommendation for Award - August
8. Notice of Award – September 2010
9. Notice-to-Proceed (NTP) - October 2010
10. Completion of project – March 2012

NOTE: Foregoing time frames are preliminary and subject to change.

## **SECTION 3 STATEMENT OF QUALIFICATIONS SUBMITTAL**

### **3-1.01 GENERAL**

The following section describes requirements that each Proposer must satisfy in submitting its SOQ. Failure of a Proposer to submit a complete SOQ may result in the SOQ submittal being determined nonresponsive.

#### **PROPOSER**

If the Proposer is a Joint Venture, or other entity organized specifically for this project, qualification documentation must be submitted for each member.

**MAJOR PARTICIPANT**

As used herein, the term "Major Participant" means any of the following entities: all general partners or joint venture members of the Proposer; all individuals, persons, proprietorships, partnerships, limited liability partnerships, corporations, professional corporations, business associations, or other legal entity however organized, holding, directly or indirectly, a 15% or greater interest in the Proposer.

**MAJOR SUBCONSULTANT OR SUBCONTRACTOR**

As used herein the terms "Major Subconsultant" and "Major Subcontractor" mean first tier contracted entities of the Proposer, such as the lead (Engineer of Record) design firm or the general contracting firm. Each Proposer shall include the qualification documentation for each Major Subconsultant and Major Subcontractor that the Proposer used to meet the requirements of the evaluation criteria. Proposers may also identify other subconsultants and subcontractors in their SOQ at their discretion.

**3-1.02 DESIGN-BUILD PREQUALIFICATION APPLICATION**

The Proposer must submit a completed and verified Design-Build Prequalification Application, Attachment A. Instructions for completing the Design-Build Prequalification Application are included in Attachment A, "Design-Build Prequalification Application."

**3-1.03 STATEMENT OF QUALIFICATIONS**

The Proposer's SOQ must be in the following format:

1. SOQs to be bound on 11 side binding style to be determined by Proposer
2. Paper size to be 8 1/2 x 11 (except the organizational charts)
3. Font size used for all documents (except the organizational chart) to be a minimum of 8 point
4. SOQs shall not exceed a total of 75 pages, not including resumes

Proposers must submit their SOQ documentation in the order detailed below. Each section of the SOQ should be tabbed and labeled.

1. Title Page
2. Table of Contents
3. Transmittal Letter
4. Proposer Qualifications
  - 4.1. Organization and Experience
  - 4.2. Organizational Charts and Résumés

- 4.3. Safety History
5. Major Subconsultant and Subcontractor Qualifications
  - 5.1. Organization and Experience
  - 5.2. Organizational Charts and Résumés
  - 5.3. Safety History
6. Project Understanding and Approach
7. Licensing Requirements
8. Organizational Conflicts of Interest
9. Insurance and Bonding Capability

### **TRANSMITTAL LETTER**

Provide a letter stating the business name, address, business type (e.g. corporation, partnership, or joint venture) and roles of the Proposer and each Major Participant. Identify one contact person and their address, telephone and fax numbers and e-mail address. This person shall be the single point of contact on behalf of the Proposer, responsible for all communication between Proposer and the Department. The Department will send all project-related communications to this contact person. Authorized representatives of the Proposer must sign the letter. If the Proposer is a joint venture or partnership, the authorized representatives for each member must sign the letter. If the Proposer is not yet a legal entity, the Major Participants must sign the letter. The letter must certify the truth and correctness of the contents of the SOQ and be notarized, using the same notary block as that used at the end of the Design-Build Prequalification Application. The transmittal letter shall be limited to 3 pages and will be evaluated on a pass/fail basis only, not as part of the qualitative evaluation of the SOQ.

Identify all RFQ addenda received by number and date.

### **PROPOSER QUALIFICATIONS**

#### **Organization and Experience**

The information required by this section will be used in the qualitative assessment of the SOQ. The Department will evaluate the capabilities of the Proposer's organization to deliver the project.

Describe the corporate or organizational structure of the Proposer and any Major Participants.

If the Proposer is a partnership, limited partnership, joint venture, or other association, provide a copy of the organizational document or agreement committing to form the organization. Provide a statement executed by all general partners, joint venture members, or

other association members, as applicable, evidencing agreement to be fully liable for the performance under the contract.

Describe at least three but a maximum of five Design-Build projects comparable in scope and cost to this project that the Proposer has managed, participated in, designed, or constructed. If Proposer is a not-yet-existing entity or is newly formed joint venture provide a total of 3 to 5 projects that the Major Participants have managed, designed, or constructed. For projects in which several members of the proposed Proposer were involved, the Proposer may provide a single project description. Highlight experience gained that is directly relevant to this project. In particular, demonstrate experiences in each of the following areas:

1. Construction of projects of similar size, scope and complexity
2. Design of projects of similar size, scope and complexity
3. Design and construction activity interaction or integration
4. Experience with design-build contracting
5. Experience of team members working together as an integrated team
6. Construction or reconstruction using innovative designs, methods and materials
7. Quality Control and Quality Assurance plans and programs
8. Environmental Compliance
9. Construction in environmentally sensitive areas
10. Public Information

Each project description must include the following information:

1. Name of the project, contract number, the owner's contact information (Construction Manager or Engineer name, phone number, e-mail address), and project number. If the owner's contact is no longer with the owner, provide an alternative contact at the agency that is familiar with the project. The alternative contact must have played a leadership role for the owner during the project
2. Dates of design and construction
3. A narrative describing the project
4. Description of the work or services provided and percentage of the overall project actually performed
5. Description of scheduled completion deadlines and actual completion dates
6. Description of original project budget and final project cost at completion

7. Claims history, numbers and dollars submitted and final results
8. Dispute Review Board (DRB) history including subjects and outcomes
9. Partnering evaluation summary (Proposer anecdotal narrative summary)

In addition to the Proposer experience requirements listed above, also provide a brief statement of current and projected workloads, including work previously awarded by the Department.

For the Proposer or Major Participant cited as the basis for the Proposer's qualifications:

1. Describe any project that resulted in assessment of liquidated damages or stipulated damages against the firm within the last five years. Describe the causes of the delays and the amounts assessed. Describe any outstanding damage claims for projects in which any firm was involved within the last five years.
2. Describe the conditions surrounding any contract entered into by the Proposer terminated for cause, or which required completion by another party, within the last five years. Describe the reasons for termination and the amounts involved
3. Describe any debarment or suspension from performing work for the federal government, state or local government, or any foreign governmental entity, against the Proposer

### **Organization Charts and Resumes**

Provide organizational charts identifying the functional structure, levels of management, and reporting relationships for major functions to be performed in managing, designing and constructing the project. The charts must show the organization by name. Identify the critical support elements and relationships of Project Management, Project Administration, Design Management, Construction Management, Quality Assurance and Quality Control, Safety, Environmental Compliance, and Subcontractor Administration. For each organizational chart, provide a brief, written description of significant functional relationships among Major Participants, Major Subconsultants, and Major Subcontractors and how the proposed organization will function as an integrated design build team.

Provide resumes of Key Personnel limited in length to four pages for the DB Project Manager and three pages for all other Key Personnel. Resumes will not be counted towards the overall SOQ page limit. If an individual fills more than one position, only one resume is required. The listing below describes the functions for selected Key Personnel and are not required individual positions. Level A and Level B personnel, as defined below, shall be identified in the required organizational charts.

Resumes for Level A Personnel shall include the following items on each resume:

1. Relevant licensing and registration
2. Years of experience performing similar work

3. Actual work examples (include the capacity on the project in which the person worked (e.g. lead design engineer, utility coordinator)). Including duties performed and percent of time on the job. For each project listed:
  - 3.1 Name of the project, the owner's contract information (project manager name, phone number, e-mail address), and project number. If the owner project manager is no longer with the owner, provide an alternative contact at the agency that is familiar with the project. The alternative contact must have played a leadership role for the owner during the project
  - 3.2 Dates of work performed on the project
  - 3.3 Detailed description of the work or services provided and role on the project. If more than one role was played, identify the dates and duration of each role.
  - 3.4 Relevant licensing and registration

#### Level A Personnel

1. DB Project Manager
2. DB Quality Manager
3. DB Design Manager
4. DB Construction Manager
5. DB Design Lead Engineer - Roadway
6. DB Geotechnical Engineer

#### Level B Personnel

1. DB Design Quality Assurance Manager
2. DB Construction Quality Assurance Manager
3. DB Traffic Engineer
4. DB Safety Manager
5. DB Utilities Design Engineering and Coordination Manager
6. DB Environmental Compliance Manager
7. DB Traffic Control Supervisor
8. DB Survey Manager
9. DB Hydraulics Engineer

10. DB Public Information Coordinator
11. DB Storm Water Pollution Prevention Manager
12. DB Project Controls Manager
13. DB Hazardous Materials Manager
14. DB Electrical Engineer
15. DB Visual Quality Manager

In addition to resumes, provide the following information for each Key Personnel:

1. Percent of time committed to the Project, including percent of time during design, post design and construction activities
2. Percent of time committed to other projects (including a description of these other projects)

The qualifications and experience of Key Personnel will be reviewed as part of the qualitative assessment of the SOQ. Key Personnel will be evaluated based on relevant education, training, certification, licensure, and experience in the roles described on comparable projects. Certifications and licenses required to meet the requirements of the job descriptions shall be in place by the date specified in the RFP for submittal of Proposals.

The following provides a brief job description and minimum requirements of Level A Key Personnel functions assigned to the project. The job descriptions and reporting structure below are suggested only, however all functions identified must be met by the Proposer in the titles and reporting structure provided. An individual may fill more than one functional position, except for the DB Quality Manager.

## Level A Personnel

1. DB Project Manager
  - 1.1 Reports directly to DB Executive Management
  - 1.2 Responsible for overall design, construction, quality management, and contract administration
  - 1.3 Agent and single point of contact on behalf of DB
  - 1.4 Has authority to bind DB on all matters relating to the project
  - 1.5 Has authority to stop work
  - 1.6 Must be present at the site of work at all times
  - 1.7 Recent experience as Project Manager for design and construction of highway projects similar in scope and complexity
  - 1.8 License as Professional Engineer in California preferred but not required
2. DB Quality Manager
  - 2.1 Reports directly to DB Executive Management
  - 2.2 Develops and implements DB Quality Control/Quality Assurance Program
  - 2.3 Reviews contract documents for adherence to quality and testing requirements
  - 2.4 Has authority to stop work
  - 2.5 Recent experience in quality management of design and construction of projects similar in scope and complexity
  - 2.6 Is an experienced Quality Systems and Program Manager
  - 2.7 License as Professional Engineer in California preferred but not required
3. DB Design Manager
  - 3.1 Reports directly to DB Project manager
  - 3.2 Responsible for ensuring that the overall project design is completed and design requirements are met
  - 3.3 Recent experience managing the design of highway projects similar in scope and complexity
  - 3.4 Must have a license as Professional Engineer in California
4. DB Construction Manager
  - 4.1 Reports directly to DB Project manager
  - 4.2 Responsible for ensuring that the project is constructed in accordance with the design and project requirements
  - 4.3 Must be present at the site of work at all times construction is in progress
  - 4.4 Has authority to stop work
  - 4.5 Recent experience managing the construction of highway projects similar in scope and complexity
  - 4.6 License as Professional Engineer in California preferred but not required
5. DB Design Lead Engineer - Roadway (Engineer of Record)
  - 5.1 Reports directly to DB Design Manager
  - 5.2 Engineer of Record for the roadway design
  - 5.3 Responsible for ensuring that the roadway design is completed and design criteria are met

- 5.4 Must be present at all review and design coordination meetings
- 5.5 Recent experience in the design of highway projects similar in scope and complexity
- 5.6 Must have a license as Professional Engineer in California
6. DB Geotechnical Engineer
  - 6.1 Reports directly to DB Design Manager
  - 6.2 Responsible for geotechnical investigations and reports
  - 6.3 Recent experience in deep foundation design including large pipe piles, drilled shafts, monitoring drilled shaft construction, drilled shaft load testing criteria and analysis, spread footings, and settlement
  - 6.4 Must have a license as Professional Engineer in California

### **SAFETY HISTORY**

Provide Proposer's safety record for the most recent three-year period, providing an average experience modification rate, an average total recordable injury/illness rate, and average lost work rate. The safety record shall also indicate whether Proposer is a party to an alternative dispute resolution system as provided for in Labor Code §3201.5. Include information on any California Occupational Safety and Health Administration (Cal-OSHA) or Federal Occupational Safety and Health Administration (FOSHA) citations and assessed penalties against the respondent for any serious, willful or repeat violations of its safety or health regulations in the past 5 years.

Provide information on the Proposer's workers' compensation experience history for the last five (5) years and submit a summary of the Proposer's worker safety program which shall include a description of how the Proposer will provide protection to prevent damage, injury, or loss to employees of the Proposer and its sub consultants and subcontractors and other persons who are on the project site and will minimize lost or restricted workdays due to injuries.

### **PROJECT UNDERSTANDING AND APPROACH**

The information required by this section will be used in the qualitative assessment of the SOQ. To demonstrate familiarity with the project and project requirements, the Proposer must:

1. Provide a narrative describing the Proposer's understanding of the project scope
2. Provide a narrative on the Proposer's approach to design-build contracting. Include the Proposer's approach to successfully delivering this project using design-build contracting
3. Identify the top construction risks of the project, the Proposer's understanding of the risks, and potential solutions to address the risk
4. Identify the top design risks of the project, the Proposer's understanding of the risks, and potential solutions to address the risk
5. Identify the top environmental risks associated with the project, the Proposer's understanding of the risks, and potential solutions to address the risk
6. Provide a narrative describing the Proposer's approach to using a skilled labor force as required by PCC §6805(c)(2).

**LICENSING REQUIREMENTS**

Provide information and a listing of all licenses, registrations, and credentials required to design and construct the project, including date(s) obtained or anticipated to be obtained, type, number, classification, issuing agency, and expiration date. If there has been a revocation or suspension of any license, credential, or registration, provide specific details including date(s), reason(s), for revocation or suspension, whether same was reinstated, and any conditions thereto

**ORGANIZATIONAL CONFLICTS OF INTEREST**

The Proposer, Major Participants, Major Subconsultants, Major Subcontractors, other subconsultants, and employees of such entities must

The following entities and individuals are precluded from submitting an SOQ or Proposal and from participating in the contract for the project:

1. A Proposer, Major Participant, Major Subcontractor, Major Subconsultant, or other subconsultant, that has done any of the following:
  - 1.1 consulted to the Department in the development of the design-build program
  - 1.2 managed or assisting in the management of this project
  - 1.3 conducted preliminary design services for this project
  - 1.4 performed design work related to this project for the Department or other stakeholders
  - 1.5 performed work on a previous contract that specifically excludes them from participating as a Proposer or joining a design-build team
  - 1.6 contracted with any other entity or stakeholder to perform oversight on this project after award
  - 1.7 obtained any advice from, or discussed any aspect relating to this project or award of this project with any person or entity with an organizational conflict of interest, including but not limited to a consultant of any entity who has provided technical support to the Department on this project or the design-build program
2. Any entity that is a parent, affiliate, or subsidiary of any of the foregoing entities, or that is under common ownership, control or management with any of the foregoing entities
3. An employee or former employee of any of the foregoing entities who was involved with this project while serving as an employee of such entity

Federal Highway Administration (FHWA) regulations address organizational conflicts of interest related to design-build projects financed in whole or in part with federal funds and provides guidance and minimum standards to identify, mitigate or eliminate apparent or actual organizational conflicts of interest (23 CFR 636.116).

The California Board for Professional Engineers and Land Surveyors has established conflict of interest rules applicable to those professionals licensed by the Board (Board Rules 475 and 476).

The California Department of Transportation Conflict-of-Interest Policy Covering the Design-Build Demonstration Program is included in this RFQ.

The Conflict of Interest Checklist included as Attachment B in this RFQ may be used by the Proposer in screening for potential organizational conflicts of interest. The checklist will not be submitted with the SOQ.

The Proposer must complete the Disclosure of Potential Conflict of Interest Certification included as Attachment B in this RFQ, and include it as part of the SOQ submittal. If the Proposer determines a potential conflict of interest exists for itself or a Major Participant, Major Subconsultant, Major Subcontractor, or other subconsultant, or an employee, the Proposer must disclose the relevant facts relating to the potential conflict, including the work performed or to be performed by the entity associated with the potential conflict, and propose measures to avoid, neutralize, or mitigate the potential conflict. The Department will review the Disclosure of Potential Conflict of Interest Certification and the proposed mitigation measures to determine if the Proposer may submit a SOQ or Proposal, or be awarded the contract. Disclosure of a potential conflict of interest will not necessarily disqualify a Proposer.

If an organizational conflict of interest is identified after award of the contract, the Proposer will make an immediate and full written disclosure to the Department that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate the potential conflict.

The Proposer, Major Participants, Major Subconsultants, Major Subcontractors, other subconsultants, and employees of such entities who provide design services for this project are prohibited from competing or participating in an agreement to provide construction inspection services for this project. Subconsultants for surveying and materials testing may provide construction services for other Proposers.

Determination of whether a conflict of interest exists, resulting in an unfair competitive advantage and the resolution of a potential or actual conflict of interest are at the sole discretion of the Department. The Department reserves the right to cancel or amend the resulting contract if the successful Proposer failed to disclose a potential conflict which it knew or should have known about, or if the Proposer provided information on the Disclosure of Potential Conflict of Interest Certification that is false or misleading.

### **INSURANCE AND BONDING CAPABILITY**

Proposer shall provide evidence of capacity to obtain liability insurance under Section 7 of the Standard Specifications, errors and omission insurance, and payment and performance bonds, each in the amount of the contract. Copies of the payment and performance bonds for design-build projects are available at the Department's Design-Build web site.

### **3-1.04 CHANGES TO ORGANIZATIONAL STRUCTURE**

Major Participants, Major Subconsultants, Major Subcontractors, and Level A Key Personnel identified in the SOQ shall not be removed, replaced, or added without the Department's written authorization. If any Key Personnel, Major Subconsultants, and Major Subcontractors identified in the SOQ are removed, replaced, or added without the Department's written authorization, the Proposer's proposal may be found to be non-responsive. To qualify for the Department's

authorization, the Proposer must submit a written request explaining the reason for change and must document that the proposed removal, replacement, or addition will provide management of the project equal to or better than that submitted with the SOQ. The Department will use the criteria specified in this RFQ and the qualification submitted by the Proposer to evaluate all requests. Requests for removals, replacements and additions must be submitted in writing to the Department's Contract Analyst.

### **3-1.05 CONFIDENTIALITY**

Responses to this RFQ are subject to the provisions of the California Public Records Act (Government Code §6250 *et seq.*), PCC §10165 and PCC §6805(c).

Documents provided by the Proposer marked "Trade Secret", "Confidential" or "Proprietary" and any financial records provided by the Proposer shall be submitted in a separate sealed envelope clearly identified, labeled and addressed in the same manner specified for the Design-Build Prequalification Application. Only one copy of each document shall be submitted.

The Department stipulates and expressly acknowledges that the documents marked Trade Secret, Confidential or Proprietary constitutes trade secrets and will not be deemed public records. This acknowledgment is based on the Department's express understanding that the information contained in the documents is not known outside the proposer's business, is known only to a limited extent and only by a limited number of employees of the proposer, is safeguarded while in the proposer's possession, is extremely valuable to the proposer and could be extremely valuable to the proposer's competitors by virtue of it reflecting the proposer's contemplated techniques of construction. The Department acknowledges that the documents include a compilation of information used in the proposer's business, intended to give the proposer an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documents. The Department agrees to safeguard the documents, and all information contained therein, against disclosure, including disclosure of subcontractor documents to the Proposer and other subcontractors to the fullest extent permitted by law. However, in the event of arbitration or litigation, the documents shall be subject to discovery, and the Department assumes no responsibility for safeguarding the documents unless the Proposer has obtained an appropriate protective order issued by the arbitrator or the court.

## **SECTION 4 EVALUATION AND SELECTION**

### **4-1.01 DESIGN-BUILD PREQUALIFICATION APPLICATION EVALUATION**

The Department will review the Design-Build Prequalification Application submitted by each Proposer (or the Major Participants, if Proposer is not yet a legal entity) and their Major Subconsultants and Major Subcontractors, evaluate the responses, and make an initial prequalification determine, on a pass/fail basis, the prequalification of each applicant to submit a SOQ. The Department will not evaluate the SOQ submitted by a Proposer, for which any applicant was not prequalified. The Design-Build Prequalification Applications will be evaluated on the following basis:

1. Experience
2. Quality of past performance
3. On-time and on-budget of past performance
4. Reliability, responsibility, and responsiveness
5. Compliance with equal employment requirements
6. Compliance with prevailing wages, work hours and other fair labor standards
7. Major Subconsultants or Major Subcontractors used by the firm
8. Integrity of the firm and its key personnel
9. Financial status and operations

#### **4-1.02 STATEMENT OF QUALIFICATIONS (SOQ) EVALUATION AND SCORING**

The Department will initially review the SOQ for responsiveness to the requirements of this RFQ. The Department will then evaluate all responsive SOQs using the following criteria and weightings in order of significance (significantly more important; approximately equally important; and significantly less important):

1. Proposer Organization and Experience (30 Points):
  - 1.1 Experience with technical design and construction
  - 1.2 Effective project management authority and structure;
  - 1.3 Effective utilization of personnel;
  - 1.4 Owner or client references;
  - 1.5 Experience on projects of similar scope;
  - 1.6 Experience with timely completion of comparable projects;
  - 1.7 Experience with integrating design and construction activities;
  - 1.8 Experience in maintaining high volume traffic movement during construction;
  - 1.9 Experience of team members working together; and
  - 1.10 Safety experience and record

The Proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category

or if the Proposer is a party to an alternative dispute resolution system as provided for in Labor Code §3201.5.

2. Key Personnel (30 Points):

- 2.1 Team members with experience and qualifications that are relevant to the project scope; and
- 2.2 Key management/staff experience, capabilities and functions on similar projects.

3. Project Understanding (15 Points):

- 3.1 Understanding of Project Scope;
- 3.2 Understanding of safety concerns on the existing corridor;
- 3.3 Understanding of impacts on the adjacent communities and traveling public;
- 3.4 Understanding of required interaction with utility companies;
- 3.5 Understanding of environmental requirements, permitting needs and strategy; and
- 3.6 Understanding of safety concerns during construction.

4. Project Approach (25 Points):

- 4.1 Ability to deliver the project on schedule;
- 4.2 Ability to deliver the project within budget;
- 4.3 Ability to develop and implement a safe and effective maintenance of a traffic plan;
- 4.4 Ability to develop and implement an effective environmental compliance plan; and
- 4.5 Ability to implement a quality management system for the project.
- 4.6 Effective project management and interaction with the Department, or other entities;
- 4.7 Effective approach to partnering;
- 4.8 Effective approach to coordinating design and construction activities;
- 4.9 Effective approach to implementing a DBE plan and Equal Employment Opportunity (EEO) program; and
- 4.10 Availability of a skilled labor force, which shall be determined by the existence of an agreement with a registered apprenticeship program that (1) is approved by the California Apprenticeship Council, and (2) has graduated at least one apprentice in each of the preceding five years (subject to the exceptions set forth in PCC §6805(c)(2)(B)).

5. Legal and Financial (pass/fail).

#### **4-1.03 SHORT LIST OF PROPOSERS**

The Department will complete its evaluation for each responsive SOQ and prepare a list of up to 5 qualified Proposers scoring the highest number of points. The Department will send the list of short listed Proposers to all Proposers. The Department will also publish the list on its Design-Build website

#### **4-1.04 DEPARTMENT'S RESERVED RIGHTS**

The Department reserves to itself all rights available to it under the Public Contract Code and applicable law, including without limitation, the following, with or without cause and with or without notice:

1. Withdraw or cancel this RFQ in whole or in part at any time prior to the execution by the Department of a Design Build contract, without incurring any cost obligations or liabilities
2. Issue a new RFQ
3. Accept or reject any and all submittals
4. Modify dates set or projected in this RFQ
5. Terminate evaluations of submittals received
7. Waive any informalities, irregularities or omissions in a SOQ
9. Issue addenda to this RFQ, and issue addenda to the RFP.

SOQs received become the property of the State of California, Department of Transportation.

The Department assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties responding to this RFQ. All such costs shall be borne solely by the Proposer. In no event shall the Department be bound by, or liable for, any obligations with respect to the project until such time (if at all) as a Design-Build contract, in form and substance satisfactory to the Department, has been authorized and executed by the Department and, then, only to the extent set forth therein. The Department makes no representations that the contract will be awarded based on the requirements to this RFQ.

#### **4-1.05 EX PARTE COMMUNICATIONS**

Commencing with issuance of this RFQ and continuing until award of a contract for the project no employee, member or agent of any Proposer shall have any ex parte communications regarding this procurement with any member of the Department or the FHWA, their advisors, or any of their contractors or consultants involved with this procurement, except for

communications specified by this RFQ or the RFP. Any Proposer engaging in such prohibited communications may be disqualified at the sole discretion of the Department.

#### **4-1.06 EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION**

Work on the job site must comply with Labor Code §§ 1727 and 1770-1815 and 8 California Code of Regs § 16000 et seq. Attention is directed to the "Nondiscrimination Clause" that is required by Chapter 5 of Division 4 of Title 2, California Code of Regulations, and to the Standard California Nondiscrimination Construction Contract Specifications under Gov. Code § 12990. For Federal-Aid contracts, FHWA Form 1273 will apply.

#### **4-1.07 PREVAILING WAGES**

State prevailing wages will apply to this contract. For Federal-Aid contracts, Federal prevailing wages will also apply. The applicable prevailing wages will be specified in the RFP.

### **SECTION 5 PROTESTS**

#### **5-1.01 PROCEDURES**

This section sets forth the exclusive protest remedies available with respect to this RFQ. Each Proposer, by submitting its SOQ, expressly recognizes the limitation on its rights to protest contained herein, and expressly waives all other rights and remedies. Each Proposer agrees that the decision on any protest, as provided herein, will be final and conclusive. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Proposers.

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

State of California  
Department of Transportation  
Division of Procurement and Contracts  
1727 30<sup>th</sup> Street, 4<sup>th</sup> Floor, MS 67  
Sacramento, CA 95816-7006  
Attention: Denetia Floyd-Smith

#### **5-1.02 PROTESTS REGARDING RFQ DOCUMENTS**

Proposers may protest the terms of this RFQ on the grounds that (a) a material provision in this RFQ is ambiguous, (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement, or (c) this RFQ in whole or in part exceeds the authority of Department. Protests regarding this RFQ shall be filed only after the Proposer has

informally discussed the nature and basis of the protest with Department in an effort to remove the grounds for protest.

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

Protests shall be filed as soon as the basis for protest is known to the Proposer, but in no event later than seven days before the SOQ Due Date. The protestant shall have the burden of proving its protest by clear and convincing evidence.

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

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

The failure of a Proposer to file a basis for a protest regarding the RFQ documents within the applicable period shall preclude consideration of that ground in any protest of a selection or qualification unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests. The Department may extend the SOQ Due Date, if necessary, to address any such protest issues. If the protest is granted, the Department shall not be liable for payment of the protestant's costs or attorneys' fees. The Department shall not be liable for any damages to the Proposer filing the protest or to any participant in the protest, on any basis, express or implied.

### **5-1.03 PROTESTS REGARDING SHORTLISTING DECISION**

Any protest regarding the shortlisting decision must be filed within five business days after the earlier of (a) the public announcement of the Shortlisted Proposers; or (b) notification of the Shortlisted Proposers. The Proposer filing the protest shall concurrently file a copy of the protest with the other Proposers whose addresses may be obtained from the Department. The notice of protest shall specifically state the grounds for the protest.

Within ten days after delivery of the notice of protest to the Department, the protestant shall file a detailed statement of the grounds, legal authority and facts, including all documents and evidentiary statements in support of the protest. The protestant shall concurrently file a copy of the detailed statement with the other Proposers. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protestant shall have the burden of proving its protest by clear and convincing evidence. Failure to file a protest within the applicable period shall

constitute a waiver of the right to protest the shortlisting decision other than any protest based on facts not reasonably ascertainable as of such date.

Other Proposers may file statements in support of or in opposition to the protest within seven days of the filing of the detailed statement of protest. The Department will promptly forward copies of any such statements to the protestant. Any evidentiary statements shall be submitted under penalty of perjury. The Department and/or Authority may also, at their option, submit a statement regarding the protest.

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

The Department shall not be liable for any damages to the entity filing the protest or to any participant in the protest, on any basis, express or implied.

**ATTACHMENT A**

**DESIGN-BUILD PRE-QUALIFICATION APPLICATION FORM**

**CONTRACT NO.** << \_\_\_ >>-<< \_\_\_\_\_ >>

Name of Applicant Firm:

---

Date Submitted:

---

Preparer's Name:

---

**THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE APPLICATION**

**READ THE INSTRUCTIONS BEFORE FILLING OUT THE QUESTIONNAIRE**

Applicant Firm: \_\_\_\_\_

**DESIGN-BUILD PRE-QUALIFICATION APPLICATION INSTRUCTIONS**

1. The application should be completed by a person in the firm who is knowledgeable of and duly authorized to attest to the past and present operations of the firm and its policies. A corporate officer of the firm, owner or partner, as appropriate, must sign the Pre-Qualification Certification.
2. All questions must be answered completely and any "Yes" answers must be fully explained. Disclaimers, general statements with global qualifications, or notations of Not Applicable (N/A) are not acceptable. Please note that a "Yes" answer to any question does not automatically result in denial of pre-qualification for a particular procurement.

**DEFINITIONS**

1. Applicant is defined as the Proposer to the RFQ for this project, each Joint Venture member, and Major Subconsultants and Major Subcontractors. If the Proposer is not yet a legal entity, the Major Participants must each complete the application.
2. Affiliate is defined as any one of the following:
  - a. any Firm other than Applicant Firm which owns 25% or more of Applicant Firm, such as parent companies or holding companies
  - b. a subsidiary or a Firm in which Applicant Firm owns 25% or more
  - c. a Firm in which a major stockholder or owner of Applicant Firm owns controlling interest
  - d. a Firm with which Applicant Firm has or has had an unseverable business or professional identity
  - e. any permanent or temporary common business enterprise relationship in which the parties share operating responsibility and profits such as joint ventures
3. For purposes of pre-qualification a Key Person is:
  - a. any person in Applicant Firm who owns 10% or more of the Firm or those who make decisions with respect to its operations, finances, or policies, such as the President, CEO, CFO, COO, Corporate Secretaries, Treasurers, Directors and, in the case of partnerships, the General Partners
  - b. Division or Regional Business Managers who operate away and independently from the Applicant Firm, but only if the division or regional office is the Proposer

**APPLICATION SUBMITTAL**

See Section 3-1.03, "Statement of Qualifications," of the RFQ.



Applicant Firm: \_\_\_\_\_  
Applicant Firm's Contact Person (see RFQ):

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Print or Type Name	Position	E-Mail	Telephone Number
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Has the Applicant Firm changed its address or has the Firm or its owner operated under any other names including other DBAs in the past five years? If yes, explain fully on a separate sheet of paper.

No  Yes

Type of business organization:

---

YEAR organization established: \_\_\_\_\_

NUMBER of current employees: \_\_\_\_\_

Sole Proprietor Corporation

Date and State of Incorporation \_\_\_\_\_

Applicant Firm: \_\_\_\_\_

Limited Partnership (LP), Limited Liability Partnership (LLP), General Partnership (GP)

Date and State of Partnership filing

\_\_\_\_\_

Other (describe)

\_\_\_\_\_

List general type of business in which Applicant Firm is engaged (may include more than one).

\_\_\_\_\_  
\_\_\_\_\_

**SECTION II - OWNERSHIP/MANAGEMENT, PROJECT TEAM MEMBERS, AND RELATED ENTITIES**

**Owners/Key Persons**

List Owners and Key Persons of Applicant Firm. For large publicly traded companies, list only Key Persons. If the Owner is a partnership, limited partnership, joint venture, or other association, list all of the partners, general partners, or association members known at the time of submission of the SOQ who will participate in the contract.

Full Legal Name	Title	% Of Ownership

Applicant Firm:


[Use additional sheets if necessary]

**Related Entities (Affiliates/Subsidiaries/Joint Ventures)**

List Affiliates, subsidiaries, holding companies, joint ventures, etc., of Applicant Firm. If no affiliates, state NONE. N/A is not an acceptable answer. Provide organizational, geographical or functional chart, if it would assist in clarifying the lines of authority.

Affiliate Name & Address	Tel. #	% Owned	Top Executive's Name	*Type of Relation

\*Type of Relationship: 1. Joint Venture (JV), 2. Parent Co (PC), 3. Holding Co (HC), 4. Subsidiary (S), 5. Other (O), please explain.

At any time during the past five years have any Owners or Key Persons of Applicant Firm (if yes, explain fully):

1. Served as Key Person, Officer or Director, in any other Firm not affiliated with applicant Firm? If so, please explain in a separate sheet.

No  Yes

2. Had any ownership interest in any other Firm other than shares of publicly owned companies? If so, please explain in a separate sheet.

No  Yes

Applicant Firm: \_\_\_\_\_

**SECTION III - CONTRACTING HISTORY**

**Contracting History**

List the applicant Firm's three largest government contracts or subcontracts. If none, list the three largest contracts with non-governmental entities.

	Contract #1	Contract #2	Contract #3
Agency/Owner			
Contract No.			
Name/Location			
Describe project			
Were you a Prime or Subcontractor?			
Start Date/Complete Date			
Contract Amount			
Agency/Owner Contact to Verify (Name/Telephone No.)			

NOTE: ANY "YES" ANSWERS BELOW MUST BE FULLY EXPLAINED ON A SEPARATE SHEET OF PAPER AND ATTACHED TO THIS APPLICATION.

Is the applicant Firm currently certified as a disadvantaged business entity?

No  Yes

Is the applicant Firm currently certified as a CA Small Business?

No  Yes

Applicant Firm: \_\_\_\_\_

During the past five years, has Applicant Firm or any of its Key Persons had any certificates or certifications revoked or suspended, including disadvantaged business certifications?

No  Yes

Is the Applicant Firm or any of its Affiliates, Key Persons or any other know subcontractors that Applicant Firm intends to use on the project ineligible to bid or work on, or be awarded, a public works project pursuant to Labor Code §§ 1777.1 or 1777.7?

No  Yes

In the past five years has the Applicant Firm or any Affiliate been the subject of any of the following actions?

1. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?

No  Yes

2. Failed to complete a contract?

No  Yes

3. Been denied a low-bid contract in spite of being the responsive low bidder?

No  Yes

4. Had a contract terminated for any reason, including default?

No  Yes

5. Had liquidated damages assessed against it during or after completion of a contract?

No  Yes

**Applicant Firm:**

If "Yes" to any question in Sections IV, V or VI, provide details including a brief summary of causes of action, indicate if Applicant Firm, Key Person or Affiliate Firms were plaintiffs or defendants; define charges explicitly, by what authority, court or jurisdiction, etc. In the case of tax liens, please indicate whether the liens were resolved with the tax authorities. Please submit proof of payment or agreements to pay the liens.

Complete details are required!

**SECTION IV - CIVIL ACTIONS****Violations of Civil Law**

In the past five years has Applicant Firm, any of its Key Persons, or any Affiliate been the subject of an investigation of any alleged violation of a civil antitrust law, or other federal, state or local civil law?

No  Yes

**Lawsuits with Public Agencies**

At the present time is, or during the past five years has the Applicant Firm, any of its Key Persons, or any Affiliate been a plaintiff or defendant in any lawsuit regarding services provided to a public agency?

No  Yes

**Bankruptcy**

During the past five years, has the Applicant Firm or any Affiliate filed for bankruptcy or reorganization under the bankruptcy laws?

No  Yes

**Judgments, Liens and Claims**

During the past five years, has the Applicant Firm been the subject of a judgment, lien or claim of \$25,000 or more by a subcontractor or supplier?

No  Yes

Applicant Firm: \_\_\_\_\_

**Tax Liens**

During the past five years, has the Applicant Firm been the subject of a tax lien by federal, state or any other tax authority?

No  Yes

**SECTION V - COMPLIANCE WITH LAWS AND OTHER REGULATIONS**

**Criminal**

In the past five years has the Applicant Firm, any of its principals, officers, or Affiliates been convicted or currently charged with any of the following:

1. Fraud in connection with obtaining, attempting to obtain, or performing a public contract, agreement or transaction?

No  Yes

2. Federal or State antitrust statutes, including price fixing collusion and bid rigging?

No  Yes

3. Embezzlement, theft, forgery, bribery, making false statements, submitting false information, receiving stolen property, or making false claims to any public agency?

No  Yes

4. Misrepresenting minority or disadvantaged business entity status with regard to itself or one of its subconsultants and/or subcontractors?

No  Yes

5. Non-compliance with the prevailing wage requirements of California or similar laws of any other State?

No  Yes

Applicant Firm: \_\_\_\_\_

6. Violation of any law, regulation or agreement relating to a conflict of interest with respect to a government funded procurement?

No  Yes

7. Falsification, concealment, withholding or destruction of records relating to a public agreement or transaction?

No  Yes

8. Violation of a statutory or regulatory provision or requirement applicable to a public or private agreement or transaction?

No  Yes

9. Do any Key Persons in Applicant Firm have any felony charges pending against them that were filed either before, during, or after their employment with the Applicant Firm?

No  Yes

**Regulatory Compliance**

In the past five years, has Applicant Firm, any of its Key Persons, or Affiliates:

1. Been cited for a violation of any labor law or regulation, including, but not limited to, child labor violations, failure to pay wages, failure to pay into a trust account, failure to remit or pay withheld taxes to tax authorities or unemployment insurance tax delinquencies?

No  Yes

2. Been cited for an OSHA or Cal/OSHA "serious violation"?

No  Yes

3. Been cited for a violation of federal, state or local environmental laws or regulations?

Applicant Firm: \_\_\_\_\_

 No  Yes

4. Failed to comply with California corporate registration, federal, state or local licensing requirements?

 No  Yes

5. Had its corporate status, business entity's license or any professional certification, suspended, revoked, or had otherwise been prohibited from doing business in the State of California, in the last three years?

 No  Yes

## SECTION VI - ETHICS

### Political, Charitable, and Other Contributions

Has the Applicant Firm, any of its Key Persons, or Affiliates ever, regardless of amount:

1. Given (directly or indirectly), or offered to give on behalf of another or through another person, money, contributions (including political contributions), or other benefits, to any current State Official?

 No  Yes

2. Given or offered to give on behalf of another, money, contributions, or other benefits, directly or indirectly, to any current or former State employee?

 No  Yes

3. Been directed by any State employee, State official, or contractor to offer or give money, contributions or other benefits, directly or indirectly, to any current or former State employee or official?

 No  Yes

Applicant Firm: \_\_\_\_\_

4. Directed any person, including employees or subconsultants or subcontractors, to give money, contributions or other benefits, directly or indirectly, to any current or former State employee or official, or to someone else in order to benefit an State employee or official?

No  Yes

5. Been solicited by any State employee or official to make a contribution to any charitable nonprofit organization?

No  Yes

IF YES TO ANY OF THE ABOVE, SUBMIT LIST OF CONTRIBUTIONS AND FULL DETAILS.

#### SECTION VII – STATUTORY COMPLIANCE

1. Has the Applicant Firm, any of its Key Persons, subsidiaries or Affiliates ever been an “expatriate corporation” as that term is defined in Public Contract Code (PCC) §10286.1(b)?

No  Yes

IF YES, provide the date such “expatriate corporation” was established:

\_\_\_\_\_

If YES, does the entity meet the requirements of PCC §10286.1(b)(2)(A) or (B)?

No  Yes, the entity meets the requirements of PCC §10286.1(b)(2)(A);  
OR

Yes, the entity meets the requirements of PCC §10286.1(b)(2)(B).

2. Has the Applicant Firm, any of its Key Persons, Affiliates, officers, or any employee who has a proprietary interest in the Applicant Firm ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

No  Yes

Applicant Firm: \_\_\_\_\_

3. Has there been a settlement against any member of the Applicant Firm for any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596)?  
 No       Yes
4. Has any member of the Applicant Firm been debarred, disqualified, or removed from a federal, state, or local government public works project?  
 No       Yes
5. Has there been any instance where the Applicant Firm, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder?  
 No       Yes
6. Has there been any instance where the Applicant Firm, or its owners, officers, or managing employees defaulted on a construction contract?  
 No       Yes
7. Has there been any violations of the Contractors' State License Law, as described in Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, including alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the Applicant Firm?  
 No       Yes
8. Has there been any bankruptcy or receivership of any member of the Applicant Firm, including, but not limited to, information concerning any work completed by a surety?  
 No       Yes
9. Has there been any settled adverse claim, dispute, or lawsuit between the owner of a public works project and any member of the Applicant Firm during the last five years in which the claim, settlement, or judgment exceeded fifty thousand dollars (\$50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.  
 No       Yes

IF YES TO ANY OF THE ABOVE, PROVIDE A FULL DISCLOSURE WITH COMPLETE DETAILS.

Applicant Firm: \_\_\_\_\_

## **SECTION VIII - ADDITIONAL DOCUMENTATION REQUIRED**

**Copies of the following documents are to be submitted with this application:**

1. Applicant Firm's Current Local Business Licenses, if required by city, county or state, and
2. Applicant Firm's Financial Statements (see specific requirements below):
  - 2.1 PUBLICLY TRADED COMPANIES: Financial information will be accessed on-line. However, if additional information is needed, it will be specifically requested from the firm.
  - 2.2 NON-PUBLICLY TRADED COMPANIES WITH AUDITED OR REVIEWED FINANCIAL STATEMENTS: Statements, including balance sheet, statement of earnings and retained income, with footnotes, for the most recent three years.
  - 2.3 NON-PUBLICLY TRADED COMPANIES WITHOUT AUDITED OR REVIEWED FINANCIAL STATEMENTS: Company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years. The Chief Financial Officer of the corporation, a partner, or owner, as appropriate, must certify these financial statements.
  - 2.4 SOLE PROPRIETORSHIPS: If financial statements are not generated, please complete and sign the Financial Statement form, attached. Submit one form for each of the most recent three years.

NOTE: The Department reserves the right to ask for additional documentation if it is reasonably required to make a determination of integrity and responsibility relevant to the goods or services the Applicant Firm will provide to the Department if awarded a contract.

Applicant Firm: \_\_\_\_\_

**FINANCIAL STATEMENT**

To be completed by Applicant Firms that are Sole Proprietorships and do not produce company generated financial statements (balance sheet, statement of earnings and retained income). Complete one sheet for each of the most recent three years.

**ASSETS**

Cash on Hand and in Banks	\$ _____
Account and Notes Receivable	\$ _____
Fixed Assets (net of depreciation)	\$ _____
Other Assets	\$ _____
Total Assets	\$ _____

**LIABILITIES**

Accounts Payable	\$ _____
Notes Payable to Banks in next twelve months	\$ _____
Notes Payable to Others	\$ _____
Taxes Payable	\$ _____
Long Term Liabilities (More than twelve months)	\$ _____
Other Liabilities	\$ _____
Total Liabilities	\$ _____
Net Worth	\$ _____

**INCOME FROM OPERATIONS**

Applicant Firm: \_\_\_\_\_

Revenue	\$ _____
Interest from Bank Accounts	\$ _____
Cost of Goods Sold (if appropriate)	\$ _____
Gross Profit	\$ _____
General & Administrative Expenses	\$ _____
Depreciation	\$ _____
Interest Paid	\$ _____
Net Gain or Loss	\$ _____

This information is provided for pre-qualification purposes only. It is considered a confidential document not subject to public disclosure under California law.

I hereby certify that the above information is true and accurate to the best of my knowledge and belief. I understand false statements may result in denial of pre-qualification and possible debarment for a period of five years.

\_\_\_\_\_  
Signature of Owner or Officer

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

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

\_\_\_\_\_  
For the Year Ended

\_\_\_\_\_  
Federal ID #

Applicant Firm: \_\_\_\_\_

**PRE-QUALIFICATION CERTIFICATION**

A COPY OF THIS CERTIFICATION MUST BE COMPLETED AND SIGNED BY A GENERAL PARTNER, OWNER, PRINCIPAL OR CORPORATE OFFICER AUTHORIZED TO LEGALLY COMMIT THE APPLICANT FIRM, AND SUBMITTED WITH THE APPLICATION.

The signer of this declaration recognizes that the information submitted in the questionnaire herein is for the express purpose to allow the Applicant to participate in this project as contractor, subcontractor, vendor, supplier, or consultant. The signer has read and understands the requirements of the program, and has read and understands the instructions for completing this form.

DECLARATION

State of: \_\_\_\_\_

County of: \_\_\_\_\_

I, (printed name) \_\_\_\_\_, being first duly sworn, state that I am the (title) \_\_\_\_\_ of Applicant Firm. I certify that I have read and understood the questions contained in the attached Application, and that to the best of my knowledge and belief all information contained herein and submitted concurrently or in supplemental documents with this Application is complete, current, and true. I further acknowledge that any false, deceptive or fraudulent statements on the Application will result in denial of pre-qualification.

I authorize the Department to contact any entity named herein, or any other internal or outside resource, for the purpose of verifying information provided in the questionnaire or to develop other information deemed relevant by the Department.

\_\_\_\_\_  
Signature of Certifying Individual

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

Applicant Firm: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of \_\_\_\_\_



On this \_\_\_\_\_ before me, \_\_\_\_\_  
*Date Here insert Name and Title of the Officer*

personally appeared \_\_\_\_\_  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SEAL)

Signature \_\_\_\_\_  
*Signature of Notary Public*

**NOTICE TO APPLICANTS**

A material false statement, omission or fraudulent inducement made in connection with this pre-qualification application is sufficient cause for denial of the application. In addition, such false submission may subject the person or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence).

NOTE: Applicant information submitted to the Department in connection with pre-qualification is not considered a public record under the California Public Records Act, as described in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and shall not be open to public inspection. All such applicant information is confidential business information and will be afforded protection to the fullest extent permitted by law.

Applicant Firm: \_\_\_\_\_

**ATTACHMENT B****CALIFORNIA DEPARTMENT OF  
TRANSPORTATION CONFLICT-OF-INTEREST POLICY  
COVERING THE DESIGN-BUILD DEMONSTRATION  
PROGRAM**

The purpose of this document is to clarify the California Department of Transportation's (Department) position on potential conflicts of interest which may arise when Consultants or Contractors (Proposers) perform work for local transportation entities or the Department relating to potential design-build projects.

Organizational conflicts of interest can occur when, because of existing or planned activities or because of relationships with other persons, the Proposer is unable or potentially unable to render impartial assistance or advise the Department; the Proposer's objectivity in performing the contract work is or might be otherwise impaired; or the Proposer has an unfair competitive advantage.

The policies and guidelines concerning the organizational conflicts of interest found herein will be specified or referenced in the design-build Request for Qualifications or Request for Proposal documents as well as any contract for the engineering services, inspection, or technical support in the administration of the design-build Program or Projects.

A conflict of interest checklist will be provided to and is to be used by all Proposers, including subconsultants, to assist in screening for potential organizational conflicts of interest. The checklist, which will provide various examples of conflicts, is for the internal use of the Proposers and does not need to be submitted to the Department. The checklist will only serve as a guide, and there may be additional potential conflict situations not covered by the checklist. If a Proposer determines a potential conflict of interest exists that is not covered by the checklist, that potential conflict must still be disclosed.

After review of the checklist, the Proposers must complete the Disclosure of Potential Conflict of Interest and submit it along with the Proposer's proposal. If the Proposer determines a potential conflict of interest exists, it must disclose the potential conflict of interest to the Department; however, such a disclosure will not necessarily disqualify a Proposer from being awarded a contract. The respondent shall propose measures to avoid, neutralize or mitigate all potential conflicts. To avoid any unfair taint of the selection process, the disclosure form will be provided separate from the bound proposal, and it will not be provided to the selection committee members. The Department's contract management personnel will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the Proposer may be awarded the contract notwithstanding the potential conflict. The Department's contract management personnel may consult with its Legal Division or the Commission. Resolution of the conflict of interest issues is ultimately at the sole discretion of the Department. The Department reserves the right to cancel or amend the resulting contract if the successful Proposer failed to disclose a potential conflict, which it knew or should have known about, or if the Proposer provided information on the disclosure form that is false or misleading.

After award, conflict of interest guidelines and policies shall continue to be monitored and enforced. If an organizational conflict of interest is discovered after award, the Proposer will make an immediate and full written disclosure to the Department that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist and the Proposer was aware of an organizational conflict of interest prior to award of the contract and did not disclose the conflict, the Department may terminate for default. If the Proposer is terminated, the Department

Applicant Firm: \_\_\_\_\_

assumes no obligations, responsibilities and liabilities to reimburse all or part of the costs incurred or alleged to have been incurred by the Proposer.

The Department recognizes that the Proposers must maintain business relations with other public and private sector entities in order to continue as viable businesses. The Department will take this reality into account as it evaluates the appropriateness of proposed measures to mitigate potential conflicts. It is not the intent of a Department to disqualify Proposers based merely on the existence of a business relationship with another entity, but rather only when such relationship causes a conflict that potentially impairs the Proposer's ability to provide objective advice to the Department. The Department would seek to disqualify Proposers only in those cases where a potential conflict cannot be adequately mitigated.

A Federal Highway Administration (FHWA) regulation addresses organizational conflicts of interest related to design-build projects financed in whole or in part with federal funds (see 23 CFR 636.116). This regulation provides additional guidance and minimum standards to identify, mitigate or eliminate apparent or actual organizational conflicts of interest. This regulation also states that to the extent that State-developed organizational conflict of interest standards are more stringent those contained in the federal regulations, the State standards shall prevail.

The California Board For Professional Engineers And Land Surveyors provide additional guidance and has established conflict of interest rules applicable to those professionals licensed by the Board (see Board Rules 475 and 476). These rules require full disclosure when a licensee has any business association or financial interest that may influence his or her judgment in connection with the performance of professional services and when a licensee provides professional services for two or more clients on a project or related project.

#### APPROACH

Based upon the guidance of State and Federal laws, codes, regulations and policies, the following approach to conflict of interest will apply:

1. Consultants will NOT be allowed to participate as a Proposer or to join a design-build team if, including but not limited to:
  - A. The Consultant is the Department's general engineering consultant (GEC) to the design-build program. Subconsultants to the GEC that have not yet performed work on the contract to provide services for design-build program may participate as a Proposer or join a design-build team.
  - B. The Consultant has assisted the Department in managing or assisting in the management of this design-build project, including the preparation of Request for Proposal (RFP) language or evaluation criteria.
  - C. The Consultant has conducted preliminary design services for the design-build project such as geometric layouts, bridge-type selection, preliminary bridge design, etc.
  - D. The Consultant performed design work related to the design-build project for other stakeholders.
  - E. The Consultant has performed work on a previous contract that specifically excludes them from participating as a Proposer or joining a design-build team.
  - F. The Consultant is under contract with any other entity or stakeholder to perform oversight on the project after letting.

Applicant Firm: \_\_\_\_\_

- G. The Consultant has obtained any advice from, or discussed any aspect relating to the project or procurement of the project with any person or entity with an organizational conflict of interest, including but not limited to the Consultants of any entity who have provided technical support on the design-build project or program.
2. Consultants who may have potential conflicts of interest in relation to the design-build program or project and wish to participate as a Proposer or join a design-build team must:
    - A. Conform to federal and state conflict of interest rules and regulations.
    - B. Disclose all relevant facts relating to past, present or planned interest(s) of the Proposer's team (including the Proposer, Proposer's proposed consultants, and subconsultants and or subcontractors and their respective chief executives, directors and key personnel) which may result, or could be viewed as an organizational conflict of interest in connection with any design-build procurement including present or planned contractual or employment relationships with any current employee of the Department.
    - C. Disclose in the response documents to a design-build Request for Qualifications (RFQ) and RFP, all of the work performed in relation to the design-build program and project.
    - D. Provide ALL records of such work performed for the Department so that all information can be evaluated and made available to all potential design-build teams, if necessary.
    - E. Ensure that the Consultant's contract with any related entity to perform services related to the design build project or program has expired or has been terminated.
    - F. In cases where Consultants on different Consultant teams belong to the same parent company, each Consultant describe how the Subconsultants and or subcontractors would avoid conflicts through the qualification bid phases of the project.

Upon review of the information provided above, the Department will determine, in its sole discretion, if the consultant has obtained an unfair competitive advantage.

3. For other potential conflicts of interest not mentioned above, (e.g. employee changing companies, merger/acquisitions of firms, property ownership, business arrangements, financial interest) Consultants shall disclose and address any conflicts of interest or potential conflicts of interest when participating as a Prime or joining a design-build team. The Department will then determine if a conflict of interest exists.
4. The successful Proposer or firms affiliated with this Proposer are prohibited from competing on any agreement to provide construction inspection services for the design-build project. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise. Except for subconsultants whose services are limited to providing surveying or material testing information, no subconsultants who provided design services in connection with the design-build project shall be eligible to compete for any agreement to provide construction inspection services for the design-build project.

Notes – The forgoing is provided by way of example, and shall not constitute a limitation on the disclosure obligations.

Unless otherwise stated, "Consultant" or "Proposers" shall mean prime consultant or prime contractor and sub consultants and subcontractors performing services for the prime.

Applicant Firm: \_\_\_\_\_

## **CONFLICT OF INTEREST CHECKLIST INSTRUCTIONS AND DISCLOSURE FORM**

**Purpose of the checklist.** A conflict of interest checklist will be provided to and is to be used by all Proposers to assist in screening for potential organizational conflicts of interest. The checklist is for the internal use of the Proposers and does not need to be submitted to the Department of Transportation (Department).

**Definition of "Proposer."** As used herein, the word "Proposer" includes both the prime contractor/Consultant and all proposed subcontractors/subconsultants.

**Checklist is not Exclusive.** Please note that this checklist serves as a guide only, and that there may be additional potential conflict situations not covered by this checklist. If a Proposer determines a potential conflict of interest exists that is not covered by this checklist, that potential conflict must still be disclosed.

**Use of the Disclosure Form.** After review of the checklist, the Proposers must complete the Disclosure of Potential Conflict of Interest and submit it along with the Proposer's proposal. If the Proposer determines a potential conflict of interest exists, it must disclose the potential conflict of interest to the Department; however, such a disclosure will not necessarily disqualify a Proposer from being awarded a contract. To avoid any unfair taint of the selection process, the disclosure form will be provided separate from the bound proposal, and it will not be provided to the selection committee members. The Department's contract management personnel will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the Proposer may be awarded the contract notwithstanding the potential conflict. The Department's contract management personnel may consult with its Legal Division. Resolution of the conflict of interest issues is ultimately at the sole discretion of the Department.

**Material Representation.** The Proposer is required to submit the attached disclosure form either declaring, to the best of its knowledge and belief, that no potential conflict exists, or identifying potential conflicts and proposing remedial measures to mitigate such conflicts. The Proposer is also responsible to update conflict information if such information changes after the submission of the proposal. Information provided on this form will constitute a material representation as to the award of this contract. The Department reserves the right to cancel or amend the resulting contract if the successful Proposer failed to disclose a potential conflict, which it knew or should have known about, or if the Proposer provided information on the disclosure form that is false or misleading.

**Approach to Reviewing Potential Conflicts.** The Department recognizes that the Proposers must maintain business relations with other public and private sector entities in order to continue as viable businesses. The Transportation Entity will take this reality into account as it evaluates the appropriateness of proposed measures to mitigate potential conflicts. It is not the intent of a Department to disqualify Proposers based merely on the existence of a business relationship with another entity, but rather only when such relationship causes a conflict that potentially impairs the Proposer's ability to provide objective advice to the Department. The Department would seek to disqualify Proposers only in those cases where a potential conflict cannot be adequately mitigated.

**Additional Guidance for Professionals Licensed by the California Board for Professional Engineers and Land Surveyors.** The California Board For Professional Engineers And Land Surveyors provide additional guidance and has established conflict of interest rules applicable to those professionals licensed by the Board (see Board Rules 475 and 476). These rules require full disclosure when a licensee has any business association or financial interest that may influence his or her judgment in connection with the performance of professional services and when a licensee provides professional services for two or more clients on a project or related

Applicant Firm: \_\_\_\_\_

**CONFLICT OF INTEREST CHECKLIST****An organizational conflict of interest may exist in any of the following cases:**

- The Proposer, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs or other deliverable required by this contract.
- The Proposer is providing services to another governmental or private entity and the Proposer knows or has reason to believe, that the entity's interest are, or may be, adverse to the state's interest with respect to the specific project covered by this contract. **Comment:** the mere existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriated to propose on a Department of Transportation (Department) project if a local government has also retained the Proposer for the purposes of persuading the Department to stop or alter the project plans.
- The Proposer is providing design services to a private entity, including but not limited to developers, whom the Proposer knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this contract, when the value or potential uses of such property may be affected by the Proposer's performance of work pursuant to this contract. "Property affected by the project" includes property that is in, adjacent to, or in reasonable proximity to the current or potential right-of-way for a project. The value or potential uses of the private entity's property may be affected by the Proposer's work pursuant to the contract when such work involves providing recommendations for right-of-way acquisition, access control and the design or location of frontage roads and interchanges. **Comment:** this provision does not presume Proposers know nor have a duty to inquire as to all of the business objectives of their clients. Rather, it seeks the disclosure of information regarding cases where the Proposer has a reason to believe that its performance of work under this contract may materially affect the value or viability of a project it is performing for the other entity.
- The Proposer has a business arrangement with a Department employee or immediate family member of such employee, including promised future employment of such person, or a subcontracting arrangement with such person, when such arrangement is contingent on the Proposer being awarded this contract. This item does not apply to pre-existing employment of current or former Department employees, or their immediate family members. **Comment:** this provision is not intended to supersede any statutes or policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made contingent on the outcome of this particular procurement. It is intended to avoid a situation where a Proposer may have unfair access to "inside" information.
- The Proposer has, in previous work for any Transportation Entity, provided design services and such professional services that potentially provides the Proposer with an unfair advantage in preparing a proposal for this project. **Comment:** this provision will not, for example, necessarily disqualify a Proposer who provided surveying or material testing services for this project, however such work must be disclosed and all work products must be provided.
- The Proposer has, in previous work for the Department, been given access to "data" relevant to this procurement or this project that is classified as "private" or "nonpublic" under the California Public Records Act (see GC 6250-6270), and such data potentially provides the Proposer with an unfair advantage in preparing a proposal for this project. **Comment:** this

Applicant Firm: \_\_\_\_\_

provision is intended to avoid a situation where a Proposer has been provided information that cannot be provided to other Proposers.

- The Proposer has, in previous work for the Department, managed or assisted in the management of the Department's design-build program, performing such work as: helping to create the ground rules for this solicitation, writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.
- The Proposer, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the Department.

Applicant Firm: \_\_\_\_\_

**DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST FORM**

Having had the opportunity to review Organizational Conflict of Interest Checklist, the Proposer hereby indicates that it has, to the best of its knowledge and belief:

\_\_\_\_\_ Determined that no potential organizational conflict of interest exists.

\_\_\_\_\_ Determined a potential organizational conflict of interest as follows:

Attach additional sheets as necessary.

Describe nature of the potential conflict(s):

Describe measures proposed to mitigate the potential conflict(s):

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with Department of Transportation contract personnel.

\_\_\_\_\_

Name

\_\_\_\_\_

Phone

Applicant Firm: \_\_\_\_\_

**CONFLICT OF INTEREST CHECKLIST**

An organizational conflict of interest may exist in any of the following cases:

- The Proposer, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs or other deliverable required by this contract.
- The Proposer is providing services to another governmental or private entity and the Proposer knows or has reason to believe, that the entity's interest are, or may be, adverse to the state's interest with respect to the specific project covered by this contract. Comment: the mere existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriated to propose on a Department project if a local government has also retained the Proposer for the purposes of persuading the Department to stop or alter the project plans.
- The Proposer is providing design services to a private entity, including but not limited to developers, whom the Proposer knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this contract, when the value or potential uses of such property may be affected by the Proposer's performance of work pursuant to this contract. "Property affected by the project" includes property that is in, adjacent to, or in reasonable proximity to the current or potential right-of-way for a project. The value or potential uses of the private entity's property may be affected by the Proposer's work pursuant to the contract when such work involves providing recommendations for right-of-way acquisition, access control and the design or location of frontage roads and interchanges. Comment: this provision does not presume Proposers know nor have a duty to inquire as to all of the business objectives of their clients. Rather, it seeks the disclosure of information regarding cases where the Proposer has a reason to believe that its performance of work under this contract may materially affect the value or viability of a project it is performing for the other entity.
- The Proposer has a business arrangement with a Department employee or immediate family member of such employee, including promised future employment of such person, or a subcontracting arrangement with such person, when such arrangement is contingent on the Proposer being awarded this contract. This item does not apply to pre-existing employment of current or former Department employees, or their immediate family members. Comment: this provision is not intended to supersede any statutes or policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made

Applicant Firm: \_\_\_\_\_

contingent on the outcome of this particular procurement. It is intended to avoid a situation where a Proposer may have unfair access to "inside" information.

- The Proposer has, in previous work for any Transportation Entity, provided design services and such professional services that potentially provides the Proposer with an unfair advantage in preparing a proposal for this project. Comment: this provision will not, for example, necessarily disqualify a Proposer who provided surveying or material testing services for this project, however such work must be disclosed and all work products must be provided.
- The Proposer has, in previous work for the Department, been given access to "data" relevant to this project that is classified as "private" or "nonpublic" under the California Public Records Act (GC 6250-6270), and such data potentially provides the Proposer with an unfair advantage in preparing a ASOQ or proposal for this project. Comment: this provision is intended to avoid a situation where a Proposer has been provided information that cannot be provided to other Proposers.
- The Proposer has, in previous work for the Department, managed or assisted in the management of the Department's design-build program, performing such work as: helping to create the ground rules for this solicitation, writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.
- The Proposer, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the Department.

Applicant Firm: \_\_\_\_\_

**DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST CERTIFICATION**

Having had the opportunity to review Organizational Conflict of Interest Checklist, the Proposer hereby indicates that it has, to the best of its knowledge and belief:

\_\_\_\_\_ Determined that no potential organizational conflict of interest exists.

\_\_\_\_\_ Determined a potential organizational conflict of interest as follows:

Attach additional sheets as necessary.

Describe nature of the potential conflicts:

Describe measures proposed to mitigate the potential conflicts:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date