



**IMPERIAL COUNTY  
TRANSPORTATION COMMISSION**

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**INSTRUCTIONS TO PROPOSERS**

**Calexico East Port of Entry  
Bridge Widening**

**DESIGN-BUILD**

**FOR DESIGN AND CONSTRUCTION ADJACENT TO  
STATE ROUTE 7 IN IMPERIAL COUNTY**

**Off System Facility Located in Imperial County  
0.7 Mile South of Route 7 Near the US/Mexico Border**

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**ICTC CONTRACT NO. 20-101  
11-IMP-007-PM0.0  
PROJECT ID: 1118000265**

**Federal Aid Project BUILD L-6471 (017)**

**RFP Issue Date: September 21, 2020  
Proposal Due Date: November 20, 2020**

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# 1 INTRODUCTION AND SUMMARY

## 1.1 General Information

This Instructions to Proposers (ITP) is issued by the Imperial County Transportation Commission (ICTC) to all firms and teams of firms (Proposers) that ICTC has short-listed for ICTC's Request for Proposals (RFP) for the Calexico East Port of Entry Bridge Widening (Project). ICTC hereby invites such Proposers to submit competitive sealed proposals (Proposals) for design and construction of the Project as more specifically described in the RFP. This ITP provides instructions to be followed by Proposers in their responses to the RFP. Proposals shall comply with ITP requirements. At ICTC's sole discretion, Proposals not complying exactly with these RFP requirements may be determined non-responsive and not evaluated further.

The RFP consists of the following documents:

- Instructions to Proposers (ITP)
- Contract Documents
  - Book 1 (Design-Build Contract)
  - Book 2 (Project Requirements)
  - Book 3 (Applicable Standards)
- Reference Information Documents (RID)

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

Capitalized terms and abbreviations not otherwise defined herein shall have the meaning set forth in Appendix A.

## 1.2 Data Room – Project Information Website

ICTC has established an electronic Project information website (Data Room) on the Project webpage within ICTC's website for the distribution of RFP documents and Addenda and posting documents at ICTC's discretion at the following Web site address: <http://www.imperialctc.org/>. Access to the Data Room will be permitted on approximately the date set out in Section 2. ICTC may add, delete, or amend documents in the Data Room at any time. Each Proposer is solely responsible to ensure that it has the appropriate software which allows the Proposer to access and download the materials from the Data Room. ICTC will contact the Proposers by email to notify them of any updates or new documents uploaded to the Data Room, however, each Proposer is solely responsible for checking the Data Room frequently for the addition, deletion, or amendment of the materials in the Data Room.

ICTC will establish secure locations for Project information posting. A general site accessible to all short-listed Proposers will be established for general, non-confidential materials. Separate, username and password protected sites will be established for the individual short-listed Proposers.

### **1.3 Proposal Contents**

Proposals shall be composed of the Proposer's Administrative Submittals, Technical Proposal, and Price Proposal. Detailed instructions regarding the Administrative Submittals, Technical Proposal, and Price Proposal are provided in Appendices B, C, and D, respectively. Forms required for inclusion in the Proposals are included in this ITP. Each Proposal component shall be clearly titled and identified and shall be submitted without reservations, qualifications, conditions, or assumptions. Any failure to provide all the information and all completed forms in the format specified by the ITP may result in ICTC's rejection of the Proposal or lower score depending on the nature of the omission or failure to provide the required materials. All blank spaces in the Proposal forms shall be filled in as noted. No substantive changes shall be made to the Proposal forms. At ICTC's sole discretion, any Proposer making changes to the Proposal forms may be determined non-responsive.

### **1.4 Inclusion of Proposal in Contract**

As specified in this ITP, portions of the Proposal may, in ICTC's sole discretion, be incorporated into the Contract Documents by reference.

### **1.5 Commitments in the Proposal**

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

### **1.6 Property of ICTC**

All documents submitted by the Proposer in response to the RFP shall become the property of ICTC and will not be returned to the Proposer. The concepts, ideas, and other information contained in the Proposals shall become the property of ICTC, without further action on ICTC's part.

### **1.7 Project Description**

ICTC intends to use the Best Value design-build project delivery method to solicit a Design-Builder to design and construct the Project. California Public Contract Code, Chapter 6.5 [Transportation Design-Build Program 6820 - 6829] allows a regional transportation agency such as ICTC to utilize the design-build method to design and construct projects on or adjacent to the State Highway System, including related non-highway portions of the Project through a Master Agreement and Project Agreement with the California Department of Transportation (Caltrans) for a Project on or interfacing with the State Highway System. A Project Agreement is referred to as a Project Implementation Order (PIO) California Streets and Highways Code Section 307 provides that State Route 7 is from the northerly boundary of the Federal Port of Entry near Calexico to Route 8 near El Centro. The subject bridge is within the Federal Port of Entry on Federal General Services Administration (GSA) property with the U.S. Customs and Border Protection (CBP) as the Site operator. The Site shall remain in full, uninterrupted and secure operations during construction Work. Through the PIO, ICTC collaborated with Caltrans to complete the Project Approval and Environmental Document (PAED).

The Project is funded through a U.S. Department of Transportation (USDOT) Building Utilizing Investments to Leverage Development (BUILD) Transportation Development Grant. The Trade Corridor Enhancement Program (TCEP) provided funding for the Project Report and Environmental Document. ICTC is the lead agency as the recipient of the BUILD funds and subsequent agreement approved by the DOT and Federal Highway Administration (FHWA).

Additional governmental agencies who may be consulted regarding the Project development include Caltrans, the GSA, CBP, U.S. Bureau of Reclamation (USBR), and the Imperial Irrigation District (IID). ICTC is leading the selection process. Caltrans may be involved in various roles during the procurement and Project delivery process, as requested by ICTC, including procurement advisory support, design and construction reviews, and Site inspection during construction, as appropriate. The GSA will be involved throughout the Project delivery. The Project roles and responsibilities of the GSA and ICTC are defined in the Donation Acceptance Agreement included in the Reference Information Documents. Other stakeholder agencies including CBP may have a purely consulting or advisory role. ICTC will provide additional information to the Proposers as these agency roles are identified and confirmed.

The FHWA review process required under the National Environmental Policy Act (NEPA) has been concluded. The review process required under the California Environmental Quality Act (CEQA) has also been concluded. Documentation of these environmental reviews is included in the Data Room, in the Approved Project Report and its Attachments, and the Reference Information Documents.

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

Proposers' attention is directed to Book 1, Exhibit F, "Federal and State Prevailing Wage Requirements," for the prevailing wage rates.

## **1.8 Procurement Method**

ICTC is using a two-phase process to select a Design-Builder to deliver the Project. The steps making up the two-phase selection process are as outlined in ICTC's Request for Qualifications (RFQ) as amended. As part of the first phase, ICTC short-listed Proposers for the Project based on Statements of Qualifications (SOQ) it received in response to ICTC's RFQ dated May 20, 2020, as amended.

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

## **1.9 Project Goals**

ICTC's primary goals developed in collaboration with Caltrans for this procurement and the Project include:

- Safety and Security:
  - Provide a safe and secure Project area for the traveling public, construction workers, and border crossing inspection booth workers during execution of the Project.
  - Provide a solution consistent with ICTC, Caltrans, GSA, CBP, and American Association of State Transportation Officials (AASHTO) design standards and requirements. All safety and security requirements stated in the RFQ as amended shall apply.
- Mobility:
  - Minimize impacts to traffic on Route 7 and access to and from the U.S. and Mexico Ports of Entry and Border Crossing inspection booths during construction.
  - Maintain efficient, safe, and secure traffic flows during construction.
  - Provide for local and emergency vehicle access to Route 7 at the Calexico East Port of Entry Border Crossing inspection booths during Project execution.



- Provide a completed Project that meets the design and construction standards for California Highway projects.
- **Quality:**
  - Provide a Quality Management Plan that includes a well-defined set of procedures and activities that ensure the requirements of the Project will be met or exceeded.
  - Provide a high-quality Project that minimizes future maintenance.
- **Environmental Compliance:**
  - Adhere to local, State, and Federal environmental regulations; the environmental documents; and permits that are required in executing and completing the Project.
  - Incorporate best management practices to control sediment, stormwater runoff discharge, water quality treatment, or other environmental parameters that are established for the Project.
  - Incorporate best management practices to prevent any construction runoff or debris into the All-American Canal.
- **Budget:**
  - Complete the Project within the programmed budget.
  - Implement innovative solutions to maximize the return on taxpayer investment by improving the quality of the transportation system while reducing costs without scope reductions.
- **Schedule:**
  - Begin design by February 3, 2021.
  - Successfully deliver the Project and complete construction by February 3, 2023.

## **1.10 Change in Proposer's Organization**

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

ICTC is under no obligation to Approve such requests and may Approve or disapprove a portion of the request or the entire request at its sole discretion. ICTC shall have the sole discretion to grant or withhold Approval of any requested change and to waive such requirement that the Proposer submit such change no later than fourteen (14) days before the Proposal Due Date. ICTC shall respond to any requests under this Section 1.10 within three (3) Business Days of the receipt of all information required to be submitted by the requesting Proposer. The decision to grant or withhold Approval is final, and not subject to appeal.

## **1.11 Proposal Validity and Issuance of Notice to Proceed 1**

Proposals shall remain valid until ninety (90) Days after the Price Proposal Opening Date (identified in Section 2). ICTC has the right to defer issuance of NTP1 for up to fourteen (14) Days after the events listed in Book 1, Section 4.2.1, “Issuance of NTP1,” have been fully satisfied with respect to the Work proposed to be constructed.

## **1.12 Estimated Cost; Maximum Time Allowed**

The Build Alternative presented in the Project Report and its Attachments considered two Options, both propose to widen the Bridge on its east side as traffic impacts during construction and capital construction cost are reduced.

Given current funding, **Option A** is the proposed Project alternative. Option A proposes adding new eight (8)-foot shoulders, concrete barriers, four (4) northbound lanes on the existing nine (9) lane structure, two (2) commercial vehicle lanes and two (2) passenger vehicle lanes, shifting the northbound pedestrian walkway to the east on the bridge to facilitate the addition of the two (2) new northbound passenger vehicle lanes, constructing embankment and roadway pavement south and north of the existing bridges, extending sheet piling at the bridge abutments, extending the existing 36-inch culvert north of the bridges, extending the underpass tunnels at both bridge abutments, and performing maintenance on the existing bridges. Option A includes minor modifications to existing landscaping, drainage, signage, and lighting; relocating and upgrading the existing lift pump station, and traffic lighting electrical Work. All Work under this Contract shall be conducted in the U.S. Any coordination with Mexico will be provided by ICTC and GSA. The Approved Project Report Attachment C1 illustrates Option A.

Additional Project elements include stage construction, storm sewer, grading, hot mix asphalt and concrete paving, milling and overlaying, pavement marking, sidewalks, curb and gutter, medians, and highway lighting.

The estimated amount of the Option A Contract (in U.S. dollars) for this design-build Project is approximately \$18,444,000.

If additional funding comes available, **Option B** will become the proposed Project alternative. Under Option B, an eight- (8)-foot shoulder for commercial vehicles, non-critical rehabilitation work on the existing structures and tunnels, and a bridge canopy along the northbound pedestrian walkway will be included. The Approved Project Report Attachment C2 illustrates Option B.

The estimated additional amount of the Option B Work (in U.S. dollars) if funding becomes available is approximately \$7,500,000. The additional funding for Option B is still under consideration. It is ICTC’s understanding that any additional funding to incorporate the Option B Scope items into the Project Work will be identified prior to start of design. ICTC anticipates more information regarding Option B funding prior to start of design.

Substantial Completion of the Project will be required to be achieved no later than 460 Working Days following NTP1.

Final Acceptance of the Project shall be required to be achieved no later than February 3, 2023.

## **1.13 Disadvantaged Business Enterprise Participation**

It is the policy of ICTC to encourage the participation of Disadvantaged Business Enterprise (DBE), women-owned business enterprises, and minority business enterprises in all facets of its business activities, consistent with applicable laws and regulations. Pursuant to the provisions of 49 CFR Part 26, ICTC has adopted rules to provide certified DBEs opportunities to participate in the business activities of ICTC as

service providers, vendors, contractors, Subcontractors, advisors, and consultants. Proposers are advised that, as required by federal law, ICTC is implementing new DBE requirements. To ensure there is equal participation of the DBE groups specified in 49 CFR Section 26.5, ICTC specifies a goal for DBEs, which are firms that meets the definition of DBE.

The DBE goal is:

- Design – five (5) percent.
- Construction – nine (9) percent.

The above percentages are based on the cost of design and construction. The DBE goal applies to all of ICTC’s contracts and purchases paid with funds received from the USDOT through the FHWA. Because ICTC has programmed federally-sourced funds for the Project, the DBE goal will apply to the Project and the Design-Builder is obligated to comply with applicable federal laws and regulations related to DBEs. For further information regarding ICTC’s DBE program and Design-Builder’s DBE obligations, Proposers may contact the Designated Contact.

## **1.14 Federal Lobbying Restrictions**

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

## **1.15 U.S. Department of Transportation “Hotline”**

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

## **1.16 Proposer Conduct**

### **1.16.1 Proposer Misconduct**

If the Proposer, or anyone representing the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe, or loan of any sort to ICTC, GSA, and CBP including agents or anyone representing ICTC, GSA, and CBP at any time during the Project procurement process:

- ICTC shall immediately disqualify the Proposer.
- The Proposer shall forfeit its Proposal Security.
- ICTC may sue the Proposer for damages.

### **1.16.2 Non-Collusion**

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

### **1.16.3 Organizational Conflicts of Interest**

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

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

All organizational conflict of interest requirements included in the RFQ as amended shall remain in effect. The Proposer shall provide information concerning Organizational Conflicts of Interest and disclose all relevant facts concerning any past, present, or currently planned interests which may present an Organizational Conflict of Interest. The Proposer shall state how its interests or those of any of its team members, consultants, contractors, or Subcontractors, including the interests of any chief executives, directors, or Key Personnel thereof, may result in, or could be viewed as, an Organizational Conflict of Interest.

The Proposer is prohibited from receiving any advice or discussing any aspect relating to the Project or the procurement of the Project with any Person or entity with an Organizational Conflict of Interest, including the entities listed in Section 1.16.4; and any parent, Affiliate, or subsidiary of any of the foregoing entities, or an entity that is under common ownership, control or management with any of the foregoing entities. Such Persons and entities are prohibited from participating on a Proposer team as a Key Personnel, Principal/Major Participant, Subcontractor, or Subconsultant.

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

### **1.16.4 Restrictions on Participation**

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

- Any consultant firm ICTC has contracted with to aid in the development of the RFQ, RFP, estimates or scope of services for the Project, or to participate in the SOQ or Proposal evaluation process. The precluded firms are:
  - Jacobs Engineering Group
  - Kleinfelder, Inc.

Additional advisors or consultant support firms may be added to support ICTC as the procurement proceeds. ICTC will provide this additional information as it becomes available by Addendum.

- Any entity that is a parent, Affiliate, or subsidiary of any of the entities listed above, or that is under common ownership, control, or management with any of the foregoing entities.
- Any consultant firm or its Affiliate that is under contract with ICTC to provide Construction Engineering Inspection services on the Project.

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

### **1.16.5 Participation on More Than One Proposer Team**

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

### **1.17 Compliance with GSA Requirements**

The Project is located on GSA property and operated by the CBP. As such, all Work shall comply with GSA design, site security, and construction requirements included in the RFQ, as amended, including access to GSA Site background and as-built materials. Access to these materials shall comply with the GSA Controlled Unclassified Information (CUI) Guide requirements. The Proposer is directed to the Donation Acceptance Agreement between ICTC and GSA included in the Reference Information Documents for additional background and GSA requirements, commitments, and expectations during design and construction.

## 2 PROCUREMENT SCHEDULE

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

**Table 2-1: Procurement Schedule**

| <b>Milestone</b>  | <b>Date</b>            |
|---|------------------------|
| Issuance of RFQ   | May 20, 2020           |
| SOQ Due Date  | September 11, 2020     |
| Short-List Announcement   | September 18, 2020     |
| Issue of RFP to Short-Listed Proposers  | September 21, 2020     |
| Data Room – Project Information Website Access Permitted                          | September 21, 2020     |
| Pre-Bid Conference  | October 1, 2020        |
| One-on-One Meetings – No. 1   | October 8, 2020        |
| One-on-One Meetings – No. 2 – Optional  | October 22, 2020       |
| Request for Clarifications Submittal Deadline                                     | October 30, 2020       |
| Final Addendum Issued   | November 6, 2020       |
| Technical Proposal, Price Proposal, and Good Faith Efforts Documentation Due Date | November 20, 2020      |
| Proposal Evaluation   | December 7 to 18, 2020 |
| Price Proposal Opening and Best Value Determination Date                          | December 18, 2020      |
| Recommend Award   | January 27, 2021       |
| Notice to Proceed and Begin Design  | February 3, 2021       |
| Complete Construction   | February 3, 2023       |

### **3 PROCUREMENT PROCESS**

#### **3.1 Confidentiality during Evaluation and Selection Process**

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

In the event ICTC is requested to disclose any of the materials identified by the Proposer as confidential, ICTC will promptly notify the Proposer so that Proposer may seek a protective order or other appropriate remedy. If the Proposer wishes to protect the materials from disclosure, the Proposer shall seek court protection immediately on an emergency basis. In the event that such protective order or other remedy is not sought by the Proposer within seven (7) days after the Proposer receives notice from ICTC, ICTC will be free to release the requested information. ICTC will consider the Proposer to have waived any claim of confidentiality and exemption from public disclosure for any materials not identified as confidential. Proposers are advised to consult with their legal counsel regarding the scope and provisions of the Public Records Act.

#### **3.2 Examination of RFP**

Proposer shall be solely responsible for:

- Reviewing and examining, with appropriate care, all RFP documents, including any supplements, Addenda, and clarification notices issued.
- Requesting clarification or interpretation of any material discrepancy, deficiency, ambiguity, error, or omission in the RFP documents, or of any provision Proposer fails to understand.
- Informing itself with respect to all conditions that may in any way affect the cost or nature of the Proposal or the performance of the Work after Contract award.
- Fully understand the Project requirements presented in the RFQ as amended acknowledging that the RFQ as amended Project requirements are incorporated by reference into this RFP, unless specifically updated or revised by this RFP.

Failure of Proposer to examine and to inform itself as described herein shall be at its sole risk, and no relief for error or omission will be provided by ICTC.

#### **3.3 Communications Between ICTC and Proposers**

##### **3.3.1 Designated Contact**

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

The Proposer Representative shall be the single point of contact person identified in the Statement of Qualifications submitted in response to the RFQ as amended, unless revised by the Proposer's response to this RFP. Each Proposer is solely responsible to ensure that all contact information of the Proposer Representative is always accurate and updated during the procurement. Proposer may update or revise the

Proposer Representative's information by notifying the ICTC Designated Contact, in writing. The Designated Contact is the sole ICTC contact person and addressee for receiving only written clarification requests and all other communications about the Project, the RFP, and Proposal submittal. No other contact with ICTC, Caltrans, GSA, CBP, or any other agency or individual involved with the Project is allowed. Only written communication will be accepted. Contact information for the Designated Contact is:

Imperial County Transportation Commission  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Attention: Ms. Virginia Mendoza, Project Manager  
e-mail: VirginiaMendoza@imperialctc.org  
Telephone: (760) 952-4494

From time to time during the procurement process or during the term of the Contract, ICTC may designate another Designated Contact or other representatives to carry out some or all of ICTC's obligations pertaining to the Project.

### **3.3.2 Rules of Contact**

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

The specific rules of contact are as follows:

- After ICTC's announcement of short-listed Proposers, neither a Proposer nor any of its team members may communicate with another Proposer or members of another Proposer's team regarding the RFP or either team's Proposal. This prohibition does not apply to (i) Proposer communication with an entity such as a Subcontractor or vendor, that is on both its team and another Proposer's team, provided that the entity shall not act as a conduit of information between the two Proposers, and (ii) public discussion regarding the RFP at ICTC-sponsored informational meetings.
- Unless otherwise specifically noted in this ITP or authorized by the Designated Contact, all Proposer communication with ICTC shall be between the Proposer Representative and the Designated Contact. All such communication shall be in writing either by mail or e-mail.
- Under normal circumstances, the Designated Contact will contact a Proposer in writing through the Proposer Representative.
- Commencing with ICTC's announcement of short-listed Proposers and continuing until the earliest of (i) execution and delivery of the Contract, (ii) ICTC's rejection of all Proposals, or (iii) cancellation of the Project procurement, neither a Proposer nor its agents may have ex parte communications with State officials, ICTC employees, members of the Proposal Evaluation Team or any other Person who will evaluate Proposals, GSA and CBP staff and employees, California Transportation Commission or its staff, FHWA, USDOT, or any Person identified in [Section 1.16.4](#), regarding the Project, except for communications expressly permitted in this ITP or through the process identified above. The foregoing restriction shall not, however, preclude or restrict communications regarding matters unrelated to the Project or from participating in public meetings or any public or ICTC workshops related to the Project. ICTC may, in its sole discretion, disqualify any Proposer engaging in such prohibited communications.



- Any contact by a Proposer determined to be improper may result in disqualification of the Proposer.
- ICTC will disseminate written communications regarding the Project from ICTC on ICTC letterhead. The Designated Contact will sign such communications. Alternatively, the Designated Contact may communicate via e-mail originating from ICTC's server.
- ICTC will not be responsible for or bound by (i) any oral communication, or (ii) any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the Designated Contact.
- If Proposer has meetings or discussions with agencies or entities other than ICTC during the procurement phase, Proposer shall be responsible for verifying with ICTC's Designated Contact any Project-related information it so receives.

### **3.4 Submission of Requests for Clarification**

#### **3.4.1 Form of Requests**

Comments and questions may be submitted at any time before the applicable date specified in Section 2 or such later date as may be specified in any Addendum and shall:

- Be sequentially numbered, with a prefix indicating the Proposer's abbreviated firm or team name.
- Identify the document related to the question such as the Design-Build Contract, Project Requirements, or other specific document or related document section.
- Identify the relevant section number and page number such as Design-Build Contract Section 1.2, page 2, or, if it is a general question, indicate so.
- Not identify the Proposer's identity in the body of the question or contain proprietary or confidential information.
- Indicate whether the question is a Category 1, 2, 3 or 4 question. Each page of questions shall be marked with the Proposer's name and date of submission.

As used above, categories are defined as follows:

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

Proposers shall be limited to twenty (20) comments or questions. If a question has more than one subpart, each subpart will be considered a separate question. Corrections of typographical errors, incorrect cross references, or inconsistencies within or among the RFP documents will be excluded from the twenty (20)-question limitation.

### **3.4.2 Timing of Requests**

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

### **3.4.3 Responses and Confidential Information**

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

### **3.5 RFP Addenda and Clarification Notices**

If ICTC determines at its sole discretion that interpretation or clarification of the RFP or any other consideration requires a revision of the RFP, ICTC will prepare and issue a written Addendum. Notification of any such RFP revision will be sent by e-mail to all short-listed Proposers.

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

### **3.6 Confidential One-on-One Meetings**

ICTC anticipates conducting confidential one-on-one meetings with the Proposers on the dates specified in Section 2 and may hold additional confidential one-on-one meetings as it deems necessary. GSA, CBP, FHWA, and in ICTC's sole discretion other third-party stakeholders, may also participate in all confidential one-on-one meetings. Participation at such meetings by Proposers shall be mandatory, and each confidential one-on-one meeting shall be attended by the Proposer's Representative, Proposer's Project Manager, and any members of the Proposer's team appropriate to the subject matter of the one-on-one meeting, limited to a total of five (5) Proposer participants per one-on-one meeting.

#### **3.6.1 General**

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

- The meetings are intended to provide Proposers with a better understanding of the RFP.

- Proposers shall not seek to obtain commitments from ICTC in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer.
- No aspect of these meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers, and no part of the evaluation of Proposals will be based on the conduct or discussions that occur during these meetings.

### **3.6.2 Meeting Notice, Confirmation, and Contract**

ICTC shall notify each Proposer in writing of the scheduled time, place, date, and duration of any confidential one-on-one meeting. Given the on-going COVID-19 assembly and gathering restrictions, these meetings may be held by way of video conferencing. This notice will include procedural details regarding allowed contact with ICTC’s representatives. The notice will request the Proposer to provide a draft agenda for the confidential one-on-one meeting and provide the anticipated Proposer participants. Attached to the notice will be a form of agreement, which addresses, among other things, the Proposer’s agreement to the rules regarding the one-on-one meeting and a waiver of protest rights related to these meetings. In order to qualify to attend these meetings, Proposers are required to return an executed version of this agreement and confirm their attendance at this meeting within five (5) Business Days of receiving this notice.

### **3.6.3 Statements at One-on-One Meetings**

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

### **3.6.4 Use of One-on-One Meeting Information**

ICTC reserves the right to disclose to all Proposers any issues raised during the one-on-one meetings, except to the extent that ICTC determines, in its sole discretion, such disclosure would impair the confidentiality of a Proposer’s one-on-one meeting discussions or reveal confidential or proprietary information.

## **3.7 Alternative Technical Concepts**

ICTC will not accept Alternative Technical Concepts (ATCs).

**3.7.1 Reserved**

**3.7.2 Reserved**

**3.7.3 Reserved**

**3.7.4 Reserved**

**3.7.5 Reserved**

## 4 PROPOSAL SUBMITTAL REQUIREMENTS

### 4.1 Format

To facilitate the evaluation of Proposals and to help protect the confidentiality of proprietary information, the Proposal submittal volumes described below shall be submitted in separate sealed packages with all packages delivered to ICTC in a single, sealed, labeled container.

The Proposal format shall adhere to the requirements outlined in this ITP. Additional information beyond those requirements contained in this ITP need not be provided. The Evaluation Team will review only those Proposal materials identified in this ITP.

Unless otherwise specified in this ITP, all written submittals shall be prepared on 8-½-by-11-inch sized paper except for charts, exhibits, and other illustrative and graphical information, which may be submitted on 11-by-17-inch paper and folded to 8-½-by-11-inch (11-by-17-inch pages will count as two (2) pages). Schedule plot size requirements are provided in Appendix I-1. All written submittals shall be prepared on recycled white paper, double side printed, and included in the applicable volume binder. Any submittal item required by this ITP on paper larger than 8-½-by-11-inch will be considered one (1) page.

Text shall be in a standard font that is a minimum of 12-point in size, single-spaced. Tables and graphics may be prepared using 10-point font size. Pages shall have a one (1) inch margin all around. Only header and footer text may be included in the margins.

The sections (and, optionally, subsections) shall be separated with lettered or numbered dividers. No text, photos, or graphics other than the Proposal Section number and title shall be included on the divider sheet. Any divider sheets with text, photos, or graphics will be included in the required page limit. Pages exceeding the page limit will be removed from the Proposal before distribution to the Proposal Evaluation Team and not scored.

Each section within a volume shall have sequentially numbered pages (“Vol. 2 – Section 2, Page 2,” for page 2 of Section 2 in Volume 2), with the page numbers centered at the bottom of each page, and shall be separated by a divider with a tab. Proposal page limit details are provided in Appendix C.

Proposers shall make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected, scored less favorably, or may lead to Proposer disqualification.

All Proposal pages shall be easily reproducible in black and white by standard photocopying machines.

ICTC may disregard documents not complying with these page limitations and may, in its sole discretion, determine the Proposal to be non-responsive. Proposers shall not include standard or general corporate brochures, awards, licenses, and marketing materials. ICTC will not evaluate such materials. Proposals including extraneous materials may not be scored favorably.

### 4.2 Contents and Organization

Proposers shall clearly index their Proposals using pages with tabs and organize them in the order set forth in this Section 4.2 and in Appendix I. The Proposal shall contain four (4) separately bound and labeled volumes, color, double side printed, each plastic coil bound, including the information described in this section. Proposers may subdivide each volume as needed. The electronic submittals on USB flash drives (USB) shall follow equivalent organizational standards and shall use a searchable format PDF file with bookmarks.

The front cover of each volume shall be labeled with “Calexico East Port of Entry Bridge Widening” “Volume number and name,” the date of submittal, and the information required by Appendix I.

Proposal delivery container packaging and labeling requirements shall meet the requirements included in the RFQ as amended.

#### **4.2.1 Volume 1 – Parts 1A and 1B – Administrative Information**

Volumes 1 – Parts 1A and 1B of the Proposal shall contain the administrative information the Proposer is required to submit under Appendix B, separated and labeled appropriately and organized in accordance with Appendix I. Volume 1 shall be provided in a single plastic coil bound, color, double side printed document submitted with the Technical and Price Proposals on the Proposal Due Date identified in Section 2.

#### **4.2.2 Volume 2 – Technical Proposal**

Volume 2 of the Proposal shall contain the Technical Proposal. This volume shall not contain any confidential or proprietary information. Each Technical Proposal shall contain the components described in Appendix C as further described in Appendix I-1, separated and labeled appropriately and organized in accordance with Appendix I. The Technical Proposal shall be consistent with the requirements in the Contract Documents.

#### **4.2.3 Volume 3 – Price Proposal**

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

#### **4.2.4 Volume 4 – Confidential Proprietary Information**

Volume 4 shall contain all confidential and proprietary Proposal information. The Proposer shall separate the items included in Volume 4 into technical information and financial information and submit these two types of information in two (2) separate coil bound documents to facilitate the evaluation process. The Proposer shall label these documents “Volume 4: Confidential Proprietary Information – Technical” or “Volume 4: Confidential Proprietary Information – Financial,” as appropriate. The first page of each Volume 4 document shall be a page executed by the Proposer that sets forth the specific items the Proposer deems confidential, trade secret, or proprietary information protected from public disclosure under the Public Records Act. Each entry shall list the specific statute within the Public Records Act that the Proposer believes would protect that item from public disclosure. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for ICTC to treat the entire Proposal as public information or in its sole discretion determine the Proposal to be non-compliant or non-responsive. Notwithstanding the foregoing, the list required under this Section 4.2.4 is intended to provide input to ICTC as to the confidential nature of a Proposer’s Proposal, but in no event shall such list be binding on ICTC or determinative of any issue relating to confidentiality.

The confidentiality requirements related to GSA restrictions included in the RFQ as amended shall apply to both the Proposal and Project delivery phases.

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

If either of the two volumes – Technical or Financial – are not required, then one (1) Volume 4 may be submitted with a statement noting which of the Confidential Proprietary Information is not required.

If there is no information that the Proposer considers to be confidential or proprietary, the Proposer shall provide a letter stating that its Proposal does not contain any confidential or proprietary information. The Proposer shall include this letter in Volume 1 in lieu of providing Volume 4.

### **4.3 Submission on Proposal Due Date**

Proposers shall submit the following to ICTC in accordance with Appendix I, and in the manner and at the location set forth in Section 4.5, on or before the Proposal Due Date set forth in Section 2:

- One (1) unbound, clipped original each of Volume 1A, Volume 1B, Volume 2, Volume 3, and Volume 4, of its Proposal (each volume marked “ORIGINAL”).
- Three (3) copies each of Volume 1A and Volume 1B (each marked “Copy \_\_ of 3”).
- Twelve (12) copies of Volume 2 (each marked “Copy \_\_ of 12”).
- Four (4) electronic copies of Volume 2 (in original file format and duplicate, searchable PDF format), each on a separate USB flash drive marked “Copy \_\_ of 4”.
- Three (3) copies of Volume 3 Price Proposal (each marked “Copy \_\_ of 3”).
- Four (4) electronic copies of Volume 3 (in original file format and duplicate, searchable PDF format) and the financial information component of Volume 4 related to the Price Proposal (in original file format and duplicate, searchable PDF format), each on a separate USB flash drive marked “Copy \_\_ of 4”.
- Three (3) copies of the technical and financial information component of Volume 4 (marked “Copy \_\_ of 3”).
- Four (4) electronic copies of the entire Proposal (Volumes 1A, 1B, 2, 3, and 4) in PDF format, each on a separate USB flash drive marked “Copy \_\_ of 4”.

If there are any discrepancies between the hardcopy and the electronic copy of any quantitative information provided in the Proposal, the hardcopy version shall prevail. If there are any differences between the sum of individual line amounts and totals, the individual line amounts shall prevail.

### **4.4 Reserved**

### **4.5 Proposal Delivery**

Technical Proposals, Price Proposals, and Good Faith Efforts Documentation shall be mailed or delivered to ICTC as set forth below:

Imperial County Transportation Commission  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Attention: Mr. Mark Baza, Executive Director  
e-mail: [MarkBaza@imperialctc.org](mailto:MarkBaza@imperialctc.org)  
Telephone: (760) 592-4494

Acknowledgment of receipt of Proposals will be evidenced by the issuance of a receipt by a member of ICTC staff. ICTC will not accept facsimile or other electronically submitted Proposals. Deliveries by U.S. Mail, express mail, or courier service will only be accepted up to the date and time specified in this ITP. ICTC will not accept any Proposal delivered after the Proposal Due Date and time.

Proposers are solely responsible for ensuring that ICTC receives their Proposals by the Proposal Due Date at the address listed above. ICTC shall not be responsible for delays in delivery caused by weather, difficulties experienced by couriers or delivery services, misrouting of packages by courier or delivery

services, improper, incorrect, or incomplete addressing of deliveries and other occurrences beyond the control of ICTC. Proposals and Good Faith Efforts Documentation shall be received between 7:00 a.m. and 2:00 p.m., Pacific Time, on the due date identified in [Section 2](#).

Any Proposal that fails to meet the deadline or the delivery package identification requirements will be rejected without opening, consideration, or evaluation and will be returned, unopened, to the sender.

#### **4.6 Signatures and Certified Copies**

The original Proposal Letters shall be signed in blue ink by all parties making up the Proposer, together with evidence of authorization (see [Appendix F, Forms 1A and 1B](#)).

#### **4.7 Language and United States Dollar Requirements**

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

#### **4.8 Disqualification**

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

#### **4.9 Withdrawal and Late Submittals of Proposal**

##### **4.9.1 Withdrawal and Validity of Proposals**

The Proposer may withdraw its Proposal at any time before the Proposal Due Date with a written request signed by the Proposer or its properly authorized representative and presented to the Designated Contact. Such written request shall be delivered to the address in [Section 3.3](#). A withdrawal of a Proposal will not prejudice the right of a Proposer to file a new Proposal provided that the Proposal is received before the Proposal Due Date. Proposers may not withdraw a valid Proposal after the Proposal Due Date. Any attempt by a Proposer to withdraw its Proposal after the time due on the Proposal Due Date will result in a draw by ICTC upon the Proposal Bond.

##### **4.9.2 Late Proposals**

ICTC will not consider any late Proposal. Proposals and/or modification or withdrawal requests received after the applicable time for submittal of Proposals will not be considered and will be returned to the Proposer without response or explanation.

## **4.10 Proposal Security**

### **4.10.1 Proposal Security**

Each Proposer shall submit a Proposal Bond, as described in Appendix B and in the form provided in Appendix F, Form 11, as applicable, with the Price Proposal. The Proposal Bond shall be in the sum of ten (10) percent of the total amount of the Price Proposal. The Proposal Bond shall be from a surety with a rating from A.M. Best Financial Strength Rating of A- or better and a Financial Size Category of VIII or better.

The Proposer understands that any material alteration, as determined by ICTC in its sole discretion, of the Form of Proposal Bond (Appendix F, Form 11), will render the Proposal non-responsive and non-compliant, unless such alteration was authorized by ICTC in writing before the Proposal Due Date.

### **4.10.2 Forfeiture of Proposal Security**

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

ICTC will retain the Proposal Security for all Proposers until the Contract has been fully executed, ICTC has canceled the RFP, or the conclusion of the validity period described in Section 1.11 after which ICTC will return the Proposal Security for each unsuccessful Proposer, except any Proposal Security drawn upon by ICTC. ICTC shall return the Proposal Security for the successful Proposer when the successful Proposer has satisfied all conditions of execution and award, including those set forth in Sections 6.4 and 6.5.

## **4.11 Cost of Preparing Proposal**

Subject to Appendix H, the cost of preparing the Proposal, participating in the Proposal process, completing Contract negotiations, and any costs incurred at any time before or during the Proposal process shall be borne by the Proposer. These costs shall not be charged to the Project retroactively.

## **4.12 Compliant Proposal**

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

- If the Proposal is not submitted in the format specified in this ITP or is illegible.
- If the Proposal contains multiple, conditional, or alternate Proposals; or contains any omission, erasures, alterations, unauthorized additions, or other irregularities of any kind.
- If any mandatory portion of the Proposal is conditioned on a revision or change to any of the Contract Documents.
- If the Proposer is in arrears in the payment of any obligation due and owing the State, including the payment of taxes and employee benefits.



### **4.13 Insurance Requirements**

Proposers are cautioned to carefully review the minimum insurance requirements set forth in Book 1, Section 9, "Insurance" and to take these minimum requirements into account in preparing their Proposal. Proposers are advised to review these requirements carefully, as the United States shall be named as an additional insured on all insurance required for the Work and the insurance carrier shall waive subrogation rights against any of the named insured.

## 5 PROPOSAL EVALUATION PROCESS

### 5.1 General

ICTC will award the Contract (if at all) to the responsive Proposer that has complied with all the requirements of the RFP, is technically qualified, and has the Best Value Proposal, as set forth in this [Section 5](#). ICTC's Designated Contact will notify the Preferred Proposer and the unsuccessful Proposers.

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

### 5.2 Responsiveness Review

#### 5.2.1 Responsiveness Evaluation

Select members of the Proposal Evaluation Team will review the Proposals and determine if, on a whole, the Proposals are responsive to the RFP requirements. Proposals will be evaluated based on the following criteria:

- Business form of Proposers and Proposer's team members shall meet Project requirements.
- The Principal/Major Participants and Key Personnel listed in the Proposal shall not have changed since submission of its SOQ, or Proposer shall have previously advised ICTC of a change and received ICTC's written Approval thereto.
- Proposer has delivered commitment letters from a surety or an insurance company meeting the requirements of Book 1, indicating that the surety will issue Payment and Performance Bonds and Warranty Bond, as required by Book 1, if Proposer is awarded the Contract.
- The terms, conditions, ideas, concepts, and techniques of the Proposal comply with all Governmental Rules.
- Proposer information, certifications, and documents as listed in [Appendix B, Section B3](#) are included in the Proposal and are complete, accurate, and responsive, and they do not identify any material adverse changes from the information provided in the SOQ information.
- Proposer information, certifications, and documents as listed in [Appendix B, Section B4](#) are included in the Proposal and are complete, accurate, and responsive, and they meet the requirements of the DBE Federal regulations at 49 C.F.R. Part 26.

### 5.3 Price Proposal Opening

The Price Proposals will remain sealed in a secure location until they are opened at 3:00 p.m., Pacific Time, on the Price Proposal Opening and Best Value Determination Date (identified in [Section 2](#)) at:

Imperial County Transportation Commission  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Attention: Mr. Mark Baza, Executive Director  
e-mail: [MarkBaza@imperialctc.org](mailto:MarkBaza@imperialctc.org)  
Telephone: (760) 592-4494

The Price Proposal opening is not a public event.

## **5.4 Best Value Selection**

Unless all Proposals are rejected or ICTC otherwise elects not to award the Contract, the Contract will be awarded to the responsive and responsible Proposer offering a Proposal meeting the standards set by ICTC and which is determined by ICTC, through evaluation based upon the criteria set forth pursuant to the design-build program and the RFP, to provide the Best Value to ICTC and to be in the best interest of ICTC.

The Best Value Selection is not a public event.

ICTC will issue a Notice of Intent to Award to the Preferred Proposer.

## **6 FINALIZATION OF AGREEMENT, AWARD, AND EXECUTION**

### **6.1 No Obligation to Award**

ICTC reserves the right to cancel the award of the Contract at any time before the execution of the Contract by all parties without any liability against ICTC or other involved entities and agencies.

### **6.2 Escrowed Proposal Documents**

The Preferred Proposer shall submit Escrowed Proposal Documents in accordance with Book 1, Section 22.1, “Escrowed Proposal Documents.”

### **6.3 Finalization of Contract**

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

If a Contract satisfactory to ICTC cannot be reached with the Preferred Proposer after seven (7) days where the parties have attempted to finalize the Contract in good faith, ICTC may formally end discussions with that Proposer and take action consistent with the direction provided by the Executive Director. Such action may include any of the following options:

- Rejection of all Proposals.
- Issuance of Request for Proposal revisions to Proposers.
- Proceeding to the next Best Value Proposal to finalize a Contract with that Proposer in accordance with this Section 6.3 and applicable law.

A failure to finalize the Contract in good faith includes:

- Failure of the Preferred Proposer to attend and actively participate in reasonably scheduled meetings with ICTC.
- The Preferred Proposer’s insistence upon terms or conditions that are inconsistent with the RFP Documents.

The final form of Contract will be conformed to include any items provided in the successful Proposal and Approved or required by ICTC for inclusion in the Contract.

### **6.4 Post-Selection Deliverables**

Within thirty (30) days of the Notice of Intent to Award issued under Section 5.4 the Preferred Proposer shall:

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

- Notify ICTC in writing of the Proposer’s Federal Internal Revenue Service Employer Identification Number.
- Provide evidence that the Proposer and Key Personnel hold all qualifications and licenses for the performance of the Work.
- Deliver drafts of the deliverables for final award for review and preapproval by ICTC before delivery, as identified in Section 6.5.

The foregoing are conditions to award. Should the Preferred Proposer fail to comply with any of the above requirements, ICTC at its sole discretion shall call upon the Proposal Bond in its entirety. ICTC shall have three (3) Business Days to review and respond to subsequent submittals of the deliverable.

## **6.5 Contract Award and Execution**

Following selection of a Preferred Proposer by ICTC and verification that Preferred Proposer has complied with the requirements of the RFP, ICTC will award the Contract and will deliver the Contract to the selected Preferred Proposer within the schedule provided in Table 2-1. Within five (5) Business Days of ICTC’s award of the Contract, the Preferred Proposer shall provide the following:

- Executed Contract.
- Evidence of authorization to execute the Contract, in the form of a certified resolution of the governing body of Proposer expressly stating such body’s authorization to execute the Contract and, if Proposer is a partnership, joint venture, or unincorporated association, of the governing bodies of the entity’s partners or members.
- Performance and Payment Bonds in the forms shown in Book 1, Exhibit K, “Form of Performance Bond for Design-Build Contracts,” and Book 1, Exhibit L, “Form of Payment Bond for Design-Build Contracts,” and a Warranty Bond in the form shown in Book 1, Exhibit M, “Form of Warranty Bond” and issued by the surety listed in the Proposal, or an equivalent surety meeting the requirements stated in Book 1, Section 8, “Surety Bonds.”
- The insurance policies, endorsements, and/or certificates required under Book 1, Section 9, “Insurance.”
- Evidence that Proposer, its Principal/Major Participants, and other identified Subcontractors hold all licenses as of award necessary to perform the Work.
- If any entity described in Appendix B that is a corporation, or limited partnership is not organized or formed in the State of California, a Certificate of Status dated no earlier than ninety (90) Days before the Proposal Due Date from the California Secretary of State for each such entity.
- A written opinion from counsel for Design-Builder, which counsel shall be Approved by ICTC (which may be in-house or outside counsel, provided that the enforceability opinion shall be provided by an attorney licensed in the State of California), in substantially the form attached hereto as Form 15 (Form of Opinion of Counsel).

ICTC shall have three (3) Business Days to review and respond to subsequent submittals of the deliverable. Delivery of the preceding is a condition precedent to execution. Should the Preferred Proposer fail to comply with any of the above requirements, ICTC shall call upon the Proposal Bond in its entirety.

Subject to the mutual agreement of the parties otherwise, if ICTC does not execute the Contract within four (4) Business Days following receipt from the Preferred Proposer of the information and documents listed in this Section 6.5, the Proposer shall have the right to withdraw the Proposal without penalty.

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

## **7 ICTC’S RIGHTS AND DISCLAIMERS**

### **7.1 ICTC’s Rights**

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

- Investigate the qualifications of any Proposer.
- Seek or obtain data from any source related to the Proposals.
- Require confirmation of information furnished by a Proposer.
- Require additional information from a Proposer concerning its Proposal.
- Seek and receive clarifications to a Proposal.
- Require additional evidence of qualifications to perform the Work.
- Modify the RFP process.
- Reject any or all of the Proposals.
- Issue a new RFP.
- Cancel a Contract signed by the Preferred Proposer but not yet executed by ICTC.
- Not issue NTP1 after execution of the Contract.
- Cancel, modify, or withdraw the RFP in whole or in part any time before the execution of the Contract by ICTC, including adding or deleting Proposer responsibilities contained in the RFP.
- Issue Addenda.
- Disqualify any Proposer who changes its Proposal, members of its team, or Key Personnel without ICTC Approval.
- Appoint evaluation committees to review Proposals and seek the assistance of outside technical experts and consultants in evaluating the Proposals.
- Accept and review nonconforming Proposals or seek and receive clarifications or supplements to a Proposal.
- Waive minor irregularities in Proposals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Proposers. Minor irregularities are defined as those that will not have an adverse effect on ICTC’s interest and will not give a Proposer an advantage or benefit not enjoyed by other Proposers.
- Suspend and terminate the procurement at any time.
- Exercise any other right reserved or afforded to ICTC under this ITP and applicable law.

### **7.2 Disclaimers**

The RFP does not commit ICTC to enter into the Contract, nor does it obligate ICTC to pay for any costs incurred in preparation and submission of Proposal(s), participating in the Proposal process, or in anticipation of the Contract. By submitting a Proposal, a Proposer disclaims any right to be paid for such

costs. The execution and performance of the Contract pursuant to the RFP is contingent upon sufficient appropriations and authorizations being made by the California State Legislature for performance of the Contract between the successful Proposer and ICTC. In no event shall ICTC be bound by, or be liable for, any obligations regarding the Work or the Project until such time (if at all) as ICTC has executed, authorized, and delivered the Contract. In submitting a Proposal in response to the RFP, the Proposer is specifically acknowledging these disclaimers.

### **7.3 Protest**

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

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

Imperial County Transportation Commission  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Attention: Mr. Mark Baza, Executive Director  
e-mail: [MarkBaza@imperialctc.org](mailto:MarkBaza@imperialctc.org)  
Telephone: (760) 592-4494

#### **7.3.1 Protests Regarding RFP Requirements**

Proposers may protest the terms of this RFP, including the ITP, on the grounds that:

- A material provision in this RFP is ambiguous.
- Any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement.
- This RFP in whole or in part exceeds the authority of ICTC.

Protests regarding this RFP shall be filed only after the Proposer has informally discussed the nature and basis of the protest with ICTC in an effort to remove the grounds for protest.

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

Proposers shall file protests as soon as they know the basis for the protest, but in no event later than seven (7) days before the Proposal Due Date. The Proposer filing the protest shall have the burden of proving its protest by clear and convincing evidence.

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



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

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

### **7.3.2 Protests Regarding the Award Decision**

Any protest regarding ICTC's award decision shall be filed within seven (7) days after ICTC's posting of the Notice of Intent to Award. The Proposer filing the protest shall concurrently file a copy of the protest with the other Proposers, whose addresses may be obtained from ICTC. The notice of protest shall specifically state the grounds for the protest.

Within ten (10) Business Days after delivery of the notice of protest to ICTC, the protestant shall file a detailed statement of the grounds, legal authority and facts, including all documents and evidentiary statements in support of the protest. The protestant shall concurrently file a copy of the detailed statement with the other Proposers. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protestant shall have the burden of proving its protest by clear and convincing evidence. Failure to file a protest within the applicable period shall constitute a waiver of the right to protest the award decision other than any protest based on facts not reasonably ascertainable as of such date.

Other Proposers may file statements in support of or in opposition to the protest within seven (7) days of the filing of the detailed statement of protest. ICTC shall promptly forward copies of any such statements to the protestant. Any evidentiary statements shall be submitted under penalty of perjury. ICTC may also, at its option, submit a statement regarding the protest.

ICTC's Executive Director or designee will only consider, based on a preponderance of the evidence, whether ICTC's determination is arbitrary, capricious, or contrary to law, and will either affirm ICTC's original determination or recommend remedial steps, if appropriate, to address the issues raised in the protest. ICTC's Executive Director or designee shall issue a written decision regarding the protest within thirty (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 ICTC's Executive Director or designee, a hearing or argument may be permitted if necessary for the protection of the public interest or an express, legally recognized interest of a Proposer.

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

## **APPENDIX A ABBREVIATIONS AND DEFINITIONS**

- A1 Abbreviations**
- A2 Definitions**

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

## **A1 Abbreviations**

| <b>Abbreviation</b> | <b>Definition</b>  |
|---------------------|--|
| AASHTO              | American Association of State Highway Transportation Officials |
| ADA                 | Americans with Disabilities Act                                |
| ATC                 | Alternative Technical Concept                                  |
| BUILD               | Building Utilizing Investments to Leverage Development         |
| CAQMD               | California Air Quality Management District                     |
| CBP                 | Customs and Border Protection                                  |
| CDFG                | California Department of Fish and Game                         |
| CE                  | Categorical Exclusion (under CEQA)                             |
| CE                  | Categorical Exclusion (under NEPA)                             |
| CEQA                | California Environmental Quality Act                           |
| CFR                 | Code of Federal Regulations                                    |
| DBE                 | Disadvantaged Business Enterprise                              |
| DCS                 | Document Control System  |
| DHS                 | Department of Homeland Security                                |
| DOT                 | U.S. Department of Transportation                              |
| EEO                 | Equal Employment Opportunity                                   |
| FHWA                | Federal Highway Administration                                 |
| FOIA                | Freedom of Information Act                                     |
| FTPV                | Final Total Proposal Value                                     |
| GSA                 | General Services Administration                                |
| HSPD-12             | Homeland Security Presidential Directive-12                    |
| IBWC                | International Boundary and Water Commission                    |
| ICTC                | Imperial County Transportation Commission                      |
| IID                 | Imperial Irrigation District                                   |
| ITP                 | Instructions to Proposers                                      |
| LPOE                | Land Port of Entry   |
| MOT                 | Maintenance of Traffic   |
| NDA                 | Non-disclosure Agreement                                       |
| NEPA                | National Environmental Policy Act                              |

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| <b>Abbreviation</b> | <b>Definition</b>                               |
|---------------------|---|
| NPDES               | National Pollutant Discharge Elimination System |
| NSSP                | Non-standard Special Provisions                 |
| NTP1                | Notice to Proceed 1                             |
| NTP2                | Notice to Proceed 2                             |
| PAED                | Project Approval and Environmental Document     |
| PBS                 | Public Building Services                        |
| PCCP                | Portland Cement Concrete Pavement               |
| PID                 | Project Initiation Documents                    |
| PIO                 | Project Implementation order                    |
| PM                  | Post Mile                                       |
| POE                 | Port of Entry                                   |
| PR                  | Project Report                                  |
| QC                  | Quality Control                                 |
| QV                  | Quality Validation                              |
| RFC                 | Released for Construction                       |
| RFP                 | Request for Proposals                           |
| RFQ                 | Request for Qualifications                      |
| RID                 | Reference Information Documents                 |
| RWQCB               | Regional Water Quality Control Board            |
| SOQ                 | Statement of Qualifications                     |
| SUE                 | Subsurface Utility Engineering                  |
| SWPPP               | Stormwater Pollution Prevention Plan            |
| TCE                 | Temporary Construction Easement                 |
| TCEP                | Trade Corridor Enhancement Program              |
| USC                 | United States Code                              |
| USBR                | U.S. Bureau of Reclamation                      |
| USDOT               | United States Department of Transportation      |
| USFWS               | United States Fish and Wildlife Service         |

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## A2 Definitions

| Term                                 | Definition  |
|--------------------------------------|---|
| Addenda/Addendum                     | Supplemental additions, deletions, and modifications to the provisions of the RFP after the release of the RFP.   |
| Administrative Submittals            | Those submittals the Proposer is required to submit with its Proposal, as set forth in <u>Appendix B</u> .  |
| Affiliate or Affiliated              | <p>a) Any Person which directly or indirectly through one or more intermediaries' controls, or is controlled by, or is under common control with, Proposer or any Principal/Major Participant.</p> <p>b) Any Person for which 10 percent or more of the equity interest in such Person is held directly or indirectly, beneficially, or of record by, (i) Proposer, (ii) any Principal/Major Participant, or (iii) any Affiliate of Proposer under clause (a) of this definition.</p> <p>For purposes of this definition, the term "control" means the possession directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, family relation, or otherwise.</p> |
| Alternative Technical Concept        | ICTC has chosen to not allow Alternative Technical Concepts.  |
| Applicable Standards                 | Standards identified in Book 3, that apply to design and construction of Project.   |
| Approve, Approved, or Approval       | Formal conditional determination in writing by ICTC that a matter or item is satisfactory for the Project.  |
| Best Value                           | The combination of technical score and Project price resulting in the highest overall Project benefit to ICTC.  |
| Best Value Proposal                  | Proposal meeting the standards set by the RFP that ICTC determines, through the evaluation process and evaluation criteria described in this ITP, to present the Best Value and to be in the best interest of ICTC, GSA, and CBP.   |
| Best Value Proposer                  | The Proposer offering the Best Value Proposal to ICTC   |
| Book 1                               | The Contract Document designated as the Design-Build Contract (Book 1) in <u>Section 1.1</u> .  |
| Book 2                               | The Contract Document designated as the Project Requirements (Book 2) in <u>Section 1.1</u> .   |
| Book 3                               | The Contract Document designated as the Applicable Standards (Book 3) in <u>Section 1.1</u> .   |
| Business Day(s)                      | Day on which ICTC is officially open for business.  |
| Calendar Day(s)                      | Every day shown on the calendar, beginning and ending at midnight.  |
| California Environmental Quality Act | California Environmental Quality Act, as set forth in § 21000 et seq of the California Public Resources Code  |

| <b>Term</b>                                    | <b>Definition</b>   |
|--|---|
| Caltrans                                       | California Department of Transportation   |
| Completion Deadline                            | Substantial Completion Deadline and/or Final Acceptance Deadline, depending on the context.   |
| Conditional Approval or Conditionally Approved | A matter or item that is not Approved in its present form, but may be Approved upon satisfaction, in ICTC’s sole judgment, of certain identified conditions that shall be met or certain clarifications or modifications that shall be made.            |
| Contract                                       | Depending on the context, (a) the Design-Build Contract, or (b) collectively, the Contract Documents.   |
| Contract Documents                             | Written documents (Book 1, Book 2, Book 3) that define the roles, responsibilities, and Work under the Contract, and are legally binding on the parties (ICTC and Design-Builder).  |
| Contract Price                                 | Full compensation for the Work and all other obligations to be performed by Design-Builder under the Contract Documents   |
| Data Room                                      | Also the Project Information Website. The webpage established by ICTC on ICTC’s website for the dissemination to Proposers of RFP documents, Addenda, and the posting of other documents at ICTC’s discretion.  |
| Day or day                                     | Calendar Day unless otherwise specified.  |
| DBE Certification                              | Design-Builder’s commitment to meet or make good faith efforts to meet Project participation goals as set forth in <u>Form 17</u> .   |
| DBE Performance Plan                           | Proposer’s plan to include firms designated as DBE in the Work and to meet Project participation goals.   |
| Design-Build Contract                          | That certain Design-Build Contract (Book 1), as executed by ICTC and Proposer, and all Addendums thereto.   |
| Design-Builder                                 | The Preferred Proposer who is chosen by ICTC as having the Best Value Proposal and who thereafter executes the Contract with ICTC or the single purpose entity (if any) established by the chosen Preferred Proposer to execute the Contract with ICTC. |
| Designated Contact                             | ICTC’s sole contact person and addressee for receiving all communications about the Project during the Project procurement process.   |
| Designer                                       | The Major Participant or in-house designer that has primary responsibility for design services for the Project. The Designer is the engineering firm of record who will have primary responsibility for design work under the Contract.                 |
| ICTC-Directed Change                           | Any changes in the Work which ICTC has directed Design-Builder to perform as described in Book 1, Section 13, “Changes in Work.”  |
| Disadvantaged Business Enterprise              | A for-profit small business concern as defined in 49 CFR Part 26.   |

| Term                        | Definition   |
|-----------------------------|--|
| Engineer of Record          | The Engineer of Record is the single point of responsibility for all design decisions and design products for the Design-Builder. The Engineer of Record shall review, coordinate, deconflict, and Approve for construction all design products. The Engineer of Record shall indicate review and approval on all record drawings, specifications, and other design products by fixing a stamp indicating approval for construction or the Engineer of Record’s seal as appropriate. |
| Escrowed Proposal Documents | All documentary information used in preparation of the Proposal Price.   |
| Evaluation Team             | Committee that reviews and assesses individual Proposals using the criteria set forth in this ITP.   |
| Event of Default            | A default as described in Book 1, Section 16.1.1, “Events of Default,” following notice and opportunity to cure to the extent permitted by Book 1, Section 16.1.2, “Right to Cure,” and issuance by ICTC of notice to Design-Builder and surety that an Event of Default has occurred.   |
| Executive Director          | The Executive Director of the Imperial County Transportation Commission  |
| Final Acceptance            | Acceptance of the Project as described in Book 1, Section 20.3, “Final Acceptance.”  |
| Good Faith Efforts          | All necessary and reasonable steps to achieve a DBE goal or which could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.   |
| Governmental Approval(s)    | Any approval, authorization, certification, consent, decision, exemption, filing, lease, license, permit, agreement, concession, grant, franchise, registration, or ruling required by or with any Governmental Person (other than a Governmental Person in its capacity as a Utility Owner) to perform the Work.  |
| Governmental Person         | Any federal, State, local, or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body, or entity. The term includes the State and agencies and subdivisions thereof, other than ICTC.  |
| Governmental Rule           | All applicable federal, State and local laws, codes, ordinances, rules, regulations, judgments, decrees, directives, guidelines, policy requirements, orders, and decrees of any Governmental Person having jurisdiction over the Project or Site, the practices involved in the Project or Site, any Work, or any Utility Work being performed by a Utility Owner. The term “Governmental Rule” does not include Governmental Approvals.  |
| Guarantor                   | Each entity (if any) providing a Guaranty.   |

| Term                                  | Definition   |
|---------------------------------------|--|
| Guaranty                              | Each guaranty of Proposer’s obligations under the Contract Documents (if any), provided on Proposal <u>Form 16</u> .   |
| ICTC-Directed Change                  | Any changes in the Work which ICTC has directed Design-Builder to perform as described in Book 1, Section 13, “Changes in Work.”   |
| Integrated Project Office             | The Project office that may be required for the Proposers to establish to provide workspace for the Project team to enhance design and construction collaboration.   |
| Key Personnel                         | Individuals from the Proposer’s organization, as identified in the Proposer’s SOQ, to fill the positions specified in RFQ as amended. Additional Key Personnel positions for the Project may be identified in the RFP.   |
| Lead Engineering Firm(s)              | The firm(s) that employs the Engineer of Record.   |
| Major Participant                     | <p>Each of the following entities on the Proposer’s team:</p> <ul style="list-style-type: none"> <li>a) All general partners or joint venture members of Proposer.</li> <li>b) Any Subcontractor that will perform Work valued at 15 percent or more of the overall Contract amount.</li> <li>c) The lead engineering/design firm(s).</li> <li>d) Each engineering/design Subconsultant that will perform 20 percent or more of the design work.</li> </ul> <p>Notwithstanding the foregoing, references to a Major Participant’s experience refer to the experience of the entity and not to any individuals working for such entity.</p> |
| National Environmental Protection Act | The National Environmental Protection Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.  |
| Notice of Intent to Award             | The notice issued by ICTC under <u>Section 5.4</u> .   |
| Notice to Proceed 1                   | A first written notice issued by ICTC to Proposer to proceed with certain limited Work as specified therein on the date specified therein.   |
| Organizational Conflict of Interest   | Because of other activities or relationships with other Persons, a Person is unable or potentially unable to render impartial assistance or advice to the owner, or the Person’s objectivity in performing the Contract Work is or might be otherwise impaired, or a Person has an unfair competitive advantage in connection with ICTC’s procurement of the Project.  |
| Payment Bond                          | The payment bond described in Book 1, Section 8.1, “Payment and Performance Bond.”   |
| Performance Bond                      | The performance bond described in Book 1, Section 8.1, “Payment and Performance Bond.”   |



| Term                        | Definition  |
|-----------------------------|---|
| Person                      | Any individual, corporation, company, voluntary association, partnership, trust, unincorporated organization, or Governmental Person, including ICTC.   |
| Preferred Proposer          | The Proposer that submits the Best Value Proposal.  |
| Price Proposal              | The portion of the Proposal described in <u>Appendix D</u> .  |
| Price Proposal Opening Date | The date the Price Proposal is opened as specified in <u>Section 2</u> .  |
| Principal Participant       | Any of the following entities:<br>a) The Proposer.<br>b) If the Proposer is a joint venture, partnership, limited liability company, or other form of association, any joint venturer, partner, or member   |
| Project                     | The Calexico East Port of Entry Bridge Widening as described in this ITP, as more specifically described in Book 2, Section 1, “General,” and all other Work product to be provided by Design-Builder as a condition to Final Acceptance in accordance with the Contract Documents.   |
| Project Information Website | Also the Data Room. The webpage established by ICTC on ICTC’s website for the dissemination to Proposers of RFP documents, Addenda, and the posting of other documents at ICTC’s discretion.  |
| Project Requirements        | Book 2 of the Contract Documents, as such provisions may be changed, added to or replaced pursuant to the Contract, together with such documents as may be incorporated into Book 2 by reference therein.   |
| Project Schedule            | Approved schedule governing Design-Builder’s delivery of the Project, including planning, design, construction, management, development, and completion and serving as basis for determining the amount of monthly progress payments. Project Schedule can refer to the Preliminary Schedule, Baseline Schedule, or Working Schedule, depending on the context. |
| Proposal                    | A proposal submitted by a Proposer in response to the RFP, which includes all required components, including the Administrative Submittals, Technical Proposal, and Price Proposal.   |
| Proposal Bond               | Shall mean the security that Proposers may submit to ICTC with their Proposals as further described in <u>Section 4.10</u> .  |
| Proposal Evaluation Team    | Committee formed by ICTC to evaluate all Proposals and select the Proposal offering the Best Value.   |
| Proposal Price              | The “Proposal Price” offered for the Work set forth in <u>Form 9</u> .  |
| Proposal Security           | The Proposal Bond.  |

| Term  | Definition   |
|---|--|
| Proposer(s)   | The entity, comprised of an individual, Person, proprietorship, firm, partnership, professional corporation, business association, corporation, joint venture, combination thereof, or other legal entity however organized, participating in the procurement process for the Project and that, if successful, will enter into the Contract with ICTC to design and construct the Project.   |
| Proposer Representative or Proposer Designated Representative | The meaning set forth in <u>Section 3.3</u> . The Proposer’s sole contact person and addressee for receiving all communication about the Project and the RFP during the procurement process.   |
| Public Records Act  | The California Public Records Act (California Government Code § 6250 et seq.)  |
| Quality Control   | Activities that are performed by the Design-Builder, Designer, Subcontractor, producer, or manufacturer to ensure that a product meets Contract requirements.  |
| Quality Management Plan                                       | The Plan developed by the Design-Builder to manage quality as documented in the Quality Manual.  |
| Quality Program   | The overall quality management and associated activities performed by the Design-Builder and ICTC and their interrelationships to ensure that all Work complies with the Contract.   |
| Quality Validation  | All systematic monitoring and evaluation by the Design-Builder of various aspects of the Project to ensure that standards of quality are being met, thereby providing confidence that all Work complies with the Contract and that all materials incorporated in the Work, all equipment, and all elements of the Work will perform satisfactorily for the purpose intended. Quality Validation activities are performed concurrently, but independent of and in addition to the Quality Control activities. |
| Relocation  | As related to Utilities, each removal, transfer of location, in-place/out-of-service and/or Protection of existing Utilities (including provision of temporary services as necessary) of all Utilities that is necessary or advisable to accommodate or permit construction of the Project.  |
| Request for Proposals   | A written solicitation issued by ICTC seeking Proposals to undertake the Project Work used to identify the Proposer offering the Best Value to ICTC. The RFP will be issued only to short-listed Proposers.  |
| Request for Qualifications                                    | The written solicitation issued by ICTC to identify qualified Proposers eligible to receive the RFP for the Project.   |
| Right of Way  | The real property (which term is inclusive of all estates and interests in real property, as well as licenses and permits authorizing occupancy) that is necessary for ownership and operation of the Project.   |

| Term                                | Definition   |
|-------------------------------------|--|
| Site                                | The Project right of way, temporary construction easement, and any other temporary rights or interests that ICTC or Design-Builder may acquire in connection with the Project for construction Work.   |
| State                               | The State of California acting through its elected officials and their authorized representative, or the State of California in the geographic sense, depending on the context.  |
| Statement of Qualifications         | Those documents constituting Proposer’s response to the Request for Qualifications.  |
| Subcontractor or Subconsultant      | Any Person with whom Design-Builder has entered into any subcontract and any other Person with whom any Subcontractor or Subconsultant has further subcontracted any part of the Work, at any tier.  |
| Submittal                           | Any document, work product or other written or electronic end product or item required under the Contract Documents to be delivered or submitted to ICTC. Notwithstanding the foregoing, an invoice submitted by Design-Builder seeking payments pursuant to the Contract is not a Submittal.  |
| Substantial Completion              | Completion of the Project as described in Book 1, Section 20.2, “Substantial Completion.”  |
| Substantial Completion Deadline     | The meaning set forth in Book 1, Section 4.3.2, “Substantial Completion Deadline.”   |
| Successful Proposer                 | The Proposer determined by the Evaluation Team providing the Best Value offer to ICTC.   |
| Technical Proposal                  | The portion of a Proposal described in <u>Appendix C</u> .   |
| Technical Proposal Score            | The score given by the Proposal Evaluation Team to a Proposer’s Technical Proposal.  |
| Transportation Design-Build Program | The State’s design-build program created under Assembly Bill 401 (Chapter 586, Statutes of 2013), signed by the Governor, and codified in California Public Contract Code § 6820 et seq.   |
| Utility or Utilities                | A privately, publicly, or cooperatively owned line, facility and/or system for supplying power, light, gas, telecommunications, telegraph, telephone, water, pipeline, or sewer service if such lines, facilities, or systems are authorized by law to use public highways for the location of their facilities. The necessary appurtenances to each Utility facility shall be considered part of such Utility. Without limitation, any service line connecting directly to a Utility shall be considered an appurtenance to that Utility, regardless of the ownership of such service line. The term “Utility” is sometimes also used to refer to a “Utility Owner.” The term “Utility” shall specifically exclude existing stormwater facilities connected with drainage of the roadway. |

| <b>Term</b>   | <b>Definition</b>  |
|---------------|--|
| Utility Owner | The owner or operator of any Utility.  |
| Utility Work  | <p>a) The work associated with Relocation of Utilities, including the design, construction, installation, manufacture, supply, testing and inspection, adjustments (including manholes and valves), and otherwise required by the Contract Documents, including all labor, materials, equipment, supplies, Utilities, and subcontracted services provided or to be provided by Design-Builder and/or the Utility Owners.</p> <p>b) Any betterments added to the Work pursuant to Book 1, Section 6.2.4, "Betterments." The term also includes any reimbursement of Utility Owners which is Design-Builder's responsibility pursuant to Book 1, Section 6.2, "Utility Relocation." Any Utility Work furnished or performed by Design-Builder is part of the Work; any Utility Work furnished or performed by a Utility Owner is not part of the Work.</p> |
| Warranty Bond | The warranty bond described in Book 1, Section 8.2, "Warranty Bond."   |
| Work          | All duties and services to be furnished and provided by Design-Builder as required by the Contract Documents, including the administrative, design, engineering, quality management, Relocation, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, labor, materials, equipment, documentation, and all other efforts necessary or appropriate to achieve Final Acceptance except for those efforts which the Contract Documents specify will be performed by ICTC or other Persons. In certain cases, the term is also used to mean the products of the Work.  |
| Working Day   | Any Calendar Day except Saturday, Sunday, holidays, or a day when the Design-Builder cannot perform Work on the controlling activity for at least 50 percent of the day with at least 50 percent of the normal labor and equipment due to adverse weather-related conditions or suspension of a controlling activity that the Design-Builder and ICTC agree benefits both parties.   |

## **APPENDIX B ADMINISTRATIVE SUBMITTAL REQUIREMENTS**

- B-1 General Instructions**
- B-2 Contents of the Administrative Submittals**
- B-3 Volume 1A – Administrative Submittals due on Proposal Due Date**
- B-4 Volume 1B – Administrative Submittals due on Proposal Due Date**

## **B1 General Instructions**

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

## **B2 Contents of the Administrative Submittals**

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

Volumes 1A and 1B shall be provided in a single, plastic coil bound document.

## **B3 Volume 1A – Administrative Submittals due on Proposal Due Date**

Proposer shall provide the forms and other information as described below.

### ***B3.1 Design-Build Technical Proposal Letter (Form 1A)***

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

### ***B3.2 Key Personnel Commitment (Form 2)***

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

### ***B3.3 Conflict of Interest Disclosure Statement (Form 4)***

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

### ***B3.4 Equal Employment Opportunity Certification (Form 5)***

The Proposal shall include an executed copy of Form 5, regarding participation in contracts subject to federal equal employment opportunity requirements. One (1) copy of Form 5 shall be executed by each Proposer, Principal/Major Participant, and any proposed Subcontractors/Subconsultants. Form 5 shall be duplicated and shall be executed by the Proposer, Principal/Major Participants, and proposed Subcontractors/Subconsultants. The executed Form 5 shall be included in Volume 1A.

### ***B3.5 Debarment and Suspension Certification (Form 6)***

The Proposal shall include an executed copy of Form 6, regarding debarment and suspension of contractors. Form 6 shall be signed by the Proposer's authorized representative as defined in Section 3.3. The executed Form 6 shall be included in Volume 1A.

### ***B3.6 Certification Regarding Use of Contract Funds for Lobbying (Form 7)***

The Proposal shall include executed copies of Form 7, regarding use of contract funds for lobbying. One (1) copy of Form 7 shall be executed by each Proposer, Principal/Major Participant, and any proposed Subcontractors/Subconsultants. Form 7 shall be modified and duplicated as needed and shall be executed by Proposer, Principal/Major Participants, and all proposed Subcontractors/Subconsultants. If applicable, provide Disclosure of Lobbying Activities (Standard Form – LLL) included in Form 7. The executed Form 7 shall be included in Volume 1A and 1B.

### ***B3.7 Reserved***

### ***B3.8 Changes in Proposer's Organization***

The Proposal shall include a copy of the letter(s) (if any) issued by ICTC approving changes to the composition of the Proposer's team (including additions to a Proposer team) or one or more Principal/Major Participant of its team following ICTC's decision to short-list the Proposer. Such Approval is required under the RFQ as amended, Section 3.6.2, "Changes in Proposer Organization and Key Personnel." If the Proposer includes any such letter(s), it shall also include a brief description (two (2) page maximum) of these changes. The information requested in this section shall be included in Volume 1A.

### ***B3.9 Evidence of Good Standing***

Provide evidence that Proposer and its general partners and joint venture members are qualified to do business by providing evidence for each such entity that is a corporation, or limited partnership that it is currently in good standing in the state of its respective organization/formation. Such evidence shall be in the form of good standing certificates dated no earlier than fifteen (15) Business Days before the Proposal Due Date (identified in Section 2). The information requested in this section shall be included in Volume 1A.

### ***B3.10 Organizational Documents***

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

### ***B3.11 Authorization Documents***

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

### ***B3.12 Insurance Certificates/Letters***

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

## **B4 Volume 1B – Administrative Submittals due on Proposal Due Date**

### ***B4.1 Design-Build Price Proposal Letter and Signature Page (Form 1B)***

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

### ***B4.2 Non-Collusion Affidavit (Form 3)***

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

### ***B4.3 Buy America Certification (Form 8)***

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

### ***B4.4 Form of Proposal Bond (Form 11)***

The Proposal shall include a properly executed Proposal Bond in the amount described in Section 4.10 and in the form provided in Appendix F, Form 11 (Form of Proposal Bond). Proposal Bond shall be issued by a surety qualified to do business in the State, shall have a "Best's Rating" of A- or better, and Financial Size Category of VIII or better by A.M. Best Co. The executed Form 11 shall be included in Volume 1B.

### ***B4.5 Letter of Commitment from Surety or Bank***

Provide a letter or other written documentation from a surety or insurance company meeting the requirements stated in Book 1, Section 8, "Surety Bonds," committing to provide a Warranty Bond in the form of Book 1, Exhibit M, "Warranty Bond," and Performance and Payment Bonds in the forms in Book 1, Exhibit K, "Form of Performance Bond for Design-Build Contracts," and Book 1, Exhibit L, "Form of Payment Bond for Design-Build Contracts," in the amount of the Proposal Price in Form 9 under Parts A and B and naming Proposer as obligor. If multiple surety letters are provided, the Proposal shall identify which surety will be the lead surety. The commitment letter may not include conditions, qualifications, or reservations for underwriting or otherwise, other than a statement that the commitment is subject to award of the Contract to Proposer within sixty (60) Days of the Price Proposal Opening Date and to reasonable Approval of any material changes to the Contract Documents. The information requested in this section shall be included in Volume 1B.



#### ***B4.6 Form of Guaranty (Form 16)***

If a Guaranty is required, provide:

- An irrevocable letter signed by the Guarantor committing to provide a Guaranty in Form 16, concurrently with execution and delivery of the Contract by Proposer.
- Evidence of authorization of the signatory to that letter.
- Such other information concerning the Guarantor as ICTC may request.

The Guarantor shall have a credit rating for senior unsecured debt of at least Baa1 by Moody's Investors Services or BBB+ by Standard & Poor's. A Guaranty is required if:

- Proposer's organization is a newly formed corporation.
- Proposer is a limited liability entity.
- The form of organization of Proposer and/or the financially responsible parties comprising Proposer changes and ICTC determines, in its sole discretion, to require a Guarantor as a condition to approving such change under Section 1.10.

The executed Form 16 shall be included in Volume 1B.

#### ***B4.7 DBE Certification (Form 17)***

The Proposal shall include an executed copy of Form 17 confirming, among other things, that Proposer will make a Good Faith Effort to obtain DBE commitments equal to or exceeding the DBE participation goal in Section 1.13. Form 17 shall be signed by the Proposer's authorized representative as defined in Section 3.3. The Proposal shall also include a DBE Performance Plan. This Plan shall be attached to Form 17 and shall include:

- An estimated dollar amount to be awarded to DBE firms.
- An identification of the areas of Work to be subcontracted to DBEs, specifying the areas in which DBE firms have already been selected and the areas in which DBE firms are anticipated to be used.
- A description of the Good Faith Efforts the Proposer has made to date and will make in the future to meet the DBE goal.

The executed Form 17 shall be included in Volume 1B.

#### ***B4.8 Changes in Proposer's Organization***

The Proposal shall include a copy of the letter(s) (if any) issued by ICTC approving changes to the composition of the Proposer's team (including additions to a Proposer team) or one or more Principal/Major Participant of its team following ICTC's decision to short-list the Proposer. Such Approval is required under the RFQ as amended, Section 3.6.2, "Changes in Proposer Organization and Key Personnel." If the Proposer includes any such letter(s), it shall also include a brief description (two (2) page maximum) of these changes. The information requested in this section shall be included in Volume 1B.

## **APPENDIX C TECHNICAL PROPOSAL SUBMITTAL REQUIREMENTS**

- C-1 Technical Proposal Executive Summary**
- C-2 Management/Administration**
- C-3 Project Schedule and Construction Phasing/Sequencing Plan**

Proposer shall submit the Technical Proposal information required by this Appendix C, separated and labeled appropriately and organized in accordance with Appendix I. See Appendix I-1 for additional information regarding the components of the Technical Proposal.

These submittals shall be appended to the Contract with the Design-Builder.

## **C1 Technical Proposal Executive Summary**

The Technical Proposal Executive Summary shall be written in a nontechnical style and shall contain sufficient information for reviewers with both technical and nontechnical backgrounds to become familiar with the Proposer's Proposal and its ability to satisfy the technical requirements of the Project. The Technical Proposal Executive Summary shall not exceed four (4) 8-1/2-by-11-inch double side printed pages and two (2) 11-by-17-inch double side printed pages and shall be in at least twelve (12)-point type with one (1) inch margins on all sides. Only header and footer information may be printed in the page margins. The Technical Proposal Executive Summary shall not include any cost related or confidential information. The Technical Proposal Executive Summary shall, at a minimum, include the following:

- An explanation of the organization and contents of the Technical Proposal.
- A summary of any changes in the Proposer's organization, including changes to the Approved Principal/Major Participants and Key Personnel since submission of the SOQ as required in Section 1.10.
- An overview of the design and construction approach, technical innovations, key risks anticipated, and the mitigation methods proposed that will result in a successful Project.
- A summary of the proposed management, decision making, and day-to-day operational structure of Design-Builder.
- A summary of the Proposer's approach to fulfilling expectations of ICTC for a high level of service and close coordination during the construction.
- A summary of the proposed Project Schedule for development, design, and construction activities, including addressing CBP work restriction times.
- A summary of the Proposer's approach to fulfilling environmental and Site security and safety requirements.
- A summary of Proposer's approach, design innovations, or special technologies being applied to ensure safe, secure, and reliable traffic operations and CBP inspection station during and after construction.

Note that the Executive Summary is not scored as part of the Technical Proposal evaluation.

## **C2 Management/Administration**

### ***C2.1 Preliminary Project Management Plan***

The Technical Proposal shall include a Preliminary Project Management Plan, including the management and staffing plan for the phasing and sequencing of the Project (and any proposed Project segmentation) as defined in the Proposer's Construction Phasing/Sequencing Plan. The Preliminary Project Management Plan shall include:

- The Proposer’s concept of design management, including a description of how design personnel will interface with the construction organization to enhance and expedite the design process, in accordance with the Preliminary Quality Plan.
- A description of the construction management concept to be used, including the interface with the QC/QV organization.
- A description of the interrelationship between the design and construction activities and the allocation of design and construction staff to implement the Proposer’s Construction Phasing/Sequencing Plan.
- A description of how the Proposer will interface with ICTC, GSA, CBP, regulatory agencies, utility agency owners, other stakeholders and the public during construction, including the following activities:
  - Plans and permits review.
  - Progress, workshop, partnering, and utility coordination meetings.
  - Construction engineering and inspection.
  - Stakeholder and public involvement and community input.
- Description of the Proposer’s approach to DBE certification.
- The Design-Builder’s Preliminary Quality Plan including:
  - The QC/QV program for the design Work, the QC/QV program for the construction Work, and how design and construction activities performed by different firms will be coordinated to ensure consistency of quality.
  - QC/QV organization charts (each on 11-by-17-inch sheets) for the design Work and the construction Work, clearly defining to whom the QC/QV staff shall report within the Proposer’s organization. The Proposer shall provide resumes (maximum of one (1) 8-½-by-11-inch page) for QC/QV Key Personnel not already provided in the Proposer’s SOQ.

The Preliminary Project Management Plan shall include two (2) summary organization charts (may be on 11-by-17-inch sheets) illustrating the Proposer’s Key Personnel, any other value-added personnel and their prospective roles and responsibilities along with named Subcontractors having a material role in the Project in connection with the design and construction Work. The two (2) organization charts described above shall be provided for:

- The proposed design organization, indicating the responsibilities and structure of the design staff, down to and including discipline leads proposed in each discipline.
- The proposed construction organization, indicating the responsibilities and structure of the construction staff, down to and including field superintendents.

The organization charts shall clearly indicate any revisions to the Proposer’s organization since the submission of the SOQ including any Approved Key Personnel replacements.

The Proposer shall provide summary resumes (maximum of one (1) 8-½-by-11-inch page) for any Approved key Personnel replacements.

The Preliminary Project Management Plan may be no longer than five (5) pages, excluding organization charts and resumes.

## ***C2.2 Preliminary Design Approach Submittal***

The Technical Proposal shall include a Preliminary Design Approach Submittal. All Preliminary Design Approach Submittal documents shall be produced in accordance with the submittal requirements in Appendix I-1. The Preliminary Design Approach Submittal shall represent a level of design sufficient to enable a thorough evaluation of Proposer design concepts, shall address all elements of the proposed design, and shall be consistent with the Project Requirements and the Approved Project Report and its Attachments.

The basis of design plans included with the Approved Project Report and its Attachments are well advanced and provide substantial preliminary design detail. If the Proposer's design fully incorporates the layout provided in these materials, the Proposer shall so state, and provide only additional plan sheets clearly indicating any additions or modifications to the preliminary plans.

The Proposer's Preliminary Design Approach Submittal Overview shall provide a narrative that further describes the key features of the Proposer's design concept and the proposed modifications to the conceptual design associated with each concept component below.

The Preliminary Design Approach Submittal shall contain, at a minimum, the elements listed below:

- Bridge Widening Design:
  - Bridge cross section and elevation
  - Preliminary abutment and pile layout
  - Abutment sheet pile layout
  - Construction phasing
- Roadway Design:
  - Existing and proposed right-of-way lines, including any additional right-of-way needs identified.
  - Lane, shoulder, and transitions dimensions.
  - Typical roadway cross-sections, including right-of-way lines.
- Transportation Management Memorandum:
  - Transportation Management Memorandum (TMM) showing major phases of the Work, the corresponding transportation impacts, and proposed TMM strategies.
  - Phase typical sections.
  - Phase notes and sequence of work activities, including specialized equipment needs.
  - Temporary lane closures.
  - Maintenance of access and egress to GSA and CBP facilities during all phases of construction.
  - Any unique sub-phases required to handle unique construction practices.
- Utilities:
  - Preliminary Utility conflict matrix and conceptual utilities relocation plan that tie to the phasing of the construction Work.
  - Approach to identifying and protecting existing GSA and CBP utility services and the connection between the GSA solar field and the CBP facilities.

- Landscape:
  - Approach to applying ICTC design requirements related to protecting and restoring existing landscape systems.
- Drainage
  - Maintaining and extending existing drainage during construction and required to accommodate the access roadway improvements.
  - Relocating or replacing the existing lift pump station located northeast of the existing bridge.
- Lighting
  - Approach to verify, investigate, and maintain during construction the existing lighting electrical system to accommodate the proposed roadway design.
  - Approach to completeness of lighting and electrical design and how the proposed lighting achieves GSA and CBP lighting requirements to accommodate the access roadway and bridge expansion.
- Signage
  - Provide descriptions/provisions of the maintenance of existing signage systems.
  - Technical solutions at Variable Message Sign installations – structures features.

The Preliminary Design Approach Submittal shall be no longer than five (5) pages for the narrative portions.

The Preliminary Design Approach Submittal shall include a list of the anticipated SSPs required for the design submittal. The Proposer shall base the SSP list on the 2018 Caltrans Index of SSPs. The anticipated SSP list will not count against the page limit for the Preliminary Design Approach Submittal.

### ***C2.3 Environmental Compliance Plan***

The Technical Proposal shall include a draft Environmental Compliance Plan that describes how the Proposer will comply with the Category Exempt status as provided in the Project Report and its Attachments. The Environmental Compliance Plan shall:

- Identify the personnel to be responsible for NEPA and CEQA compliance, environmental permitting, biological monitoring, cultural resource compliance, noise monitoring, water pollution control, stormwater, erosion control, historical/archaeological, and the handling of hazardous materials.
- Delineate how requirements and commitments described in the Approved Project Report and its Attachments will be implemented.
- Identify mitigation plans to be developed for environmentally sensitive aspects of the Work, addressing potential Work activities related to the natural environment, physical environment, and cultural and historic resources, including the monitoring, treatment, and discovery of existing and unknown archaeological and/or cultural resources encountered throughout the contract term.
- Outline and provide narrative on the permit preparation and execution.

The Environmental Compliance Plan may be no more than two (2) pages.

### ***C2.4 Risk Management Plan***

The Technical Proposal shall include a draft Risk Management Plan. The draft Risk Management Plan shall identify risks or opportunities related to scope of Work, schedule, cost, quality, environmental, safety, or

other risks in design and construction for the Project. Risks or opportunities shall be identified and qualitatively assessed, the risk owners and triggers shall be identified, and a draft mitigation approach shall be included for each. Risk Management Plan shall be no more than two (2) pages.

### ***C2.5 Utility Coordination***

The Technical Proposal shall include a discussion on Utility identification, coordination with Utility Owners. Describe how any Utility conflict will be addressed and specify additional Utility design considerations.

The Technical Proposal shall describe how the Proposer's design approach and construction methods to identify any Site utilities, minimize ICTC's utility Relocation costs, avoid Utility impacts, and minimize GSA and CBP utility service impacts. The Utility Coordination submittal shall be no longer than two (2) pages.

## **C3 Project Schedule, Construction Phasing/Sequencing Plan, and Safety and Security Program**

The Project Schedule, Construction Phasing/Sequencing Plan, and Safety and Security Program submittal shall be no longer than six (6) 8-1/2-by-11 double side printed pages for the narrative portion.

### ***C3.1 Project Schedule***

The Technical Proposal shall include a logic-based Critical Path Method project schedule in Oracle Primavera P6 or Microsoft Project format for the Work to be performed from the execution of the Contract up to and including Final Acceptance, in addition to a brief overall narrative regarding assumptions used in preparing the schedule that includes the submittal process described in the Project Requirements. The Project Schedule shall include a start date and the duration in days for all activities. The Project Schedule shall include a detailed work plan with a hierarchical breakdown of work scope by location, type and task, which is known as a Work Breakdown Structure. The Project Schedule shall be plotted on 24-by-36-inch pages, printed on 11-by-17 double side printed pages, and shall be provided electronically in PDF electronic copy.

The Project Schedule shall include the following, at a minimum:

- NTP 1
- NTP 2 – As defined in Book1 – Contract Section 4.2.2
- Start of Construction
- Design submittal order for the bridge widening and other major items
- Construction order of the sites and major activities
- CBP Work restriction times
- QC/QV process
- Construction testing of materials
- Major Permits Approval Deadline
- Substantial Completion Date
- Final Acceptance Date

The Project Schedule plots and printed pages will not count against the page limit for Project Schedule and Construction Phasing/Sequencing Plan submittal.

### ***C3.2 Construction Phasing/Sequencing Plan***

The Construction Phasing/Sequencing Plan shall be consistent with the Transportation Management Memorandum in the Proposer's Preliminary Master Design Submittal and shall include any proposed segmentation of the Project. The Construction Phasing/Sequencing Memorandum shall:

- Describe the timing and phasing of design and construction.
- Include a narrative regarding the assumptions used in preparing the schedule, including, restraints, critical path activities, activities requiring night work, CBP Work restrictions, activities that include contingencies, holidays and other non-work days, potential problem areas, permits, the timing and duration of temporary lane closures, Utility Relocations, proposed use of properties for staging and lay down activities, and the accommodation of the Work restrictions described in the Project Requirements.

The Construction Phasing/Sequencing Plan shall include a specific description of the Proposer's planned coordination with other ongoing construction, strategy to maintain safe and secure operations and traffic flow at the Calexico East Port of Entry, and shall address limitations contained in the Project Requirements.

### ***C3.3 Safety and Security Program***

The Technical Proposal shall include a Safety and Security Program that shall include the following:

- Describe the approach to comply with all GSA and CBP Site security and safety requirements as presented in the RFQ as amended.
- Describe the safety and security considerations specific to the Project.
- Discuss the Proposer's overall approach to safety.
- Describe any proposed improvements that will be made before or during construction that will enhance the safety of the work force and/or traveling public both during and after the construction of the Project.
- Provide documentation of past five (5) year safety record on all construction projects including OSHA citations - list circumstances and outcome, and other associated items.
- List Proposer's experience modification rate for the three (3) most recent years.
- Submit the resume of the Proposer's Safety Officer, no more than two (2) pages long. This resume will not count against the page limit.



## **APPENDIX D PRICE PROPOSAL SUBMITTAL REQUIREMENTS**

- D-1 General Instructions**
- D-2 Content**

## **D1 General Instructions**

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

## **D2 Content**

The Price Proposal shall be organized to correspond to the items listed below; Proposer is encouraged to use tabbed dividers to separate the contents of the Price Proposal.

- Proposal Price:
  - Provide a hardcopy and electronic copy of Form 9 (Proposal Price).
- Bridge Cost Estimate
  - Provide Form 14 (Proposed Bridge Information) for the bridge widening. The value shown on Form 9, Line 18 shall equal the summation of the Bridge Total Costs on Form 14 for the bridge widening.

## **APPENDIX E EVALUATION CRITERIA AND WEIGHTING**

- E-1 Technical Proposal Criteria**
- E-2 Price Proposal Criteria**
- E-3 Best Value Determination**

ICTC intends to award the Contract (if at all) to the responsive Proposer that has complied with all the requirements of the RFP, is technically qualified, and offers the Best Value to ICTC.

## **E1 Technical Proposal Criteria (250 Points Maximum)**

The Technical Proposal shall consist of the information set forth in Appendix C. The Technical Proposal evaluation factors are set forth in Sections E1.1 and E1.2 below.

### **E1.1 Management/Administration Evaluation Criteria (100 Points)**

ICTC will use the following evaluation criteria to score the Management/Administration portion of the Technical Proposal:

- The degree to which the Preliminary Project Management Plan contains an efficient design management concept that (i) allocates the resources needed to meet the Project requirements and implement the Proposer's Construction Phasing/Sequencing Plan, and (ii) clearly identifies the approach to consultation, interface, approval, and permitting issues associated with the developing design and construction planning. (10 points)
- The degree to which the Preliminary Project Management Plan demonstrates an efficient and effective interface (i) between the design and construction personnel; (ii) between the design/construction organizations and the QC/QV organization; (iii) between the Proposer and ICTC, GSA, CBP, other governmental entities, utility agency owners, stakeholders, and the public during the construction; and (iv) between the existing contractors employed by ICTC, GSA, CBP, local agencies, and the Proposer at the beginning of the Project. (10 points)
- The degree to which the Preliminary Quality Plan demonstrates (i) that adequate QC/QV procedures and staffing will be in place during performance of the design and construction Work, and (ii) that design and construction activities will be coordinated to ensure consistency of quality. (10 points)
- The degree to which the Proposer's Preliminary Design Approach Submittal (i) improves upon the Preliminary Design provided by ICTC for the Project, (ii) meets ICTC and GSA design standards, (iv) meets GSA and CBP work window requirements, and (v) meets the requirements of the GSA, CBP, and Homeland Security Presidential Directive-12 (HSPD-12) requirements included in the RFQ, as amended. (15 points)
- The degree to which the strategies presented in the Proposer's Transportation Management Memorandum (i) minimize Project-related traffic impacts and delays associated with the construction Work, and (ii) efficiently coordinate construction sequencing. (15 points)
- The degree to which the Environmental Compliance Plan (i) identifies adequate staffing to address environmental issues; (ii) identifies and tracks environmental and permitting requirements and how the Proposer intends to verify these requirements have been met, including mitigation and design features, and the ability to manage Permit and stormwater issues; (iii) demonstrates a comprehensive understanding of environmental risks and sensitivity to environmental concerns; (iv) sets forth an effective and efficient process for identification and mitigation of environmental risks; and (v) sets out the commitment to staff awareness and training. (20 points)
- The degree to which Risk Management concept and approach to the Project demonstrates the understanding of the (i) scope and quality; (ii) cost; (iii) schedule; (iv) assessment for the physical environment, public, and external stakeholders; and (v) ICTC personnel who administers the

construction and design review for this Project. Proposed mitigation approach provides a reasonable approach to identified risks and opportunities. (10 points)

- The degree to which the Utilities Coordination Memorandum identifies what Utilities likely conflict with the design features and what has been done to coordinate and plan for the Relocation of affected Utilities. Description of (i) communication with Utilities during Proposal development, (ii) approach to maintaining a working relationship with the Utilities, (iii) approach to identifying and protecting existing utility services, and (iv) approach to coordinating with the Utility Owners during the design and construction of the Project. (5 points)
- The degree to which the Proposer's Conceptual Utilities Relocation Plan efficiently ties to the phasing of the construction Work and demonstration of Proposers' knowledge of the required coordination with utility owners for potential conflicts and securing of power sources. (5 points)

***E1.2 Project Schedule, Construction Phasing/Sequencing Plan, and Safety and Security Program (150 Points)***

ICTC will use the following evaluation criteria to score the Project Schedule and Construction Phasing/Sequencing Plan portion of the Technical Proposal:

- The degree to which the Project Schedule, Construction Phasing/Sequencing Plan, and Safety and Security Program (i) demonstrates a comprehensive understanding of the activities necessary to achieve final completion of the Project; (ii) incorporates and sets forth an aggressive but realistic time frame for the required completion of all construction Work; (iii) demonstrates, reasonably contemplates, and accommodates contingencies likely to be encountered during construction; (iv) identifies a coherent and realistic strategy to address the GSA and CBP Work window restrictions throughout the construction period; and (v) demonstrates a coherent and realistic strategy for coordination with any other construction activities that may occur during the construction Work. (50 points)
- The degree to which the Construction Phasing/Sequencing Plan contains an efficient construction management concept that (i) integrates the management of all Project construction sections as determined by Proposer's Construction Phasing/Sequencing Plan, (ii) allocates the resources needed to meet the Project requirements and implement the Proposer's Construction Phasing/Sequencing Plan, (iii) demonstrates the existence of a comprehensive safety and security program that ensures the safety of the Design-Builder's employees and the traveling public, and (iv) demonstrates an understanding and plan for addressing the limitations contained in the Project Requirements. (40 points)
- The degree to which the Proposer has minimized impacts to the traveling public and the CBP inspection station operations. (40 points)
- The degree to which the Proposer's (i) approach to project specific safety and security considerations will protect both the work force, the CBP inspection station staff, and the traveling public; (ii) overall approach to security and safety will protect the work force, the CBP inspection station staff, and the traveling public; and (iii) safety record demonstrates a commitment to safety. (20 points)

## **E2 Price Proposal Criteria (750 Points)**

### ***E2.1 Price Score***

The lowest Price Proposal will be awarded the maximum points available for Price Proposal (750 points). In calculating the scores for the other Proposers, ICTC will award points on a prorated basis using the lowest price as the basis.

## **E3 Best Value Determination**

Upon conclusion of the evaluations of the Technical Proposals and Price Proposals evaluated by the Proposal Evaluation Team, ICTC will perform the final Best Value calculation to determine the “Final Total Proposal Value” (FTPV) and the final Best Value ranking. ICTC has elected to use a price to technical scoring ratio of 750:250 in the evaluation of this Project. The FTPV for each Proposer is derived using the following formula, after which the Proposers will be ranked with the Best Value Proposer being that with the lowest FTPV.

$$\text{Final Total Proposal Value (FTPV \$)} = \text{Proposal Price Value} + \text{Qualitative Value}$$

### ***E3.1 Technical Proposal Value***

The Qualitative Value is a Proposer’s Technical Score expressed as a dollar amount, and is determined according to the following formula:

$$\text{Qualitative Value} = \text{Technical Score Value (in \$)} \times (250 - \text{Technical Score Factor of Proposer})$$

$$\text{Technical Score Value (in \$)} = \frac{\text{Lowest Proposal Price Value}}{750}$$

$$\text{Technical Score Factor of Proposer} = 250 \times \frac{\text{Technical Score of Proposer}}{\text{Highest Technical Score}}$$

## **APPENDIX F ITP REQUIRED FORMS**

|                |  |
|----------------|--|
| <b>Form 1A</b> | <b>Design-Build Technical Proposal Letter</b>  |
| <b>Form 1B</b> | <b>Design-Build Price Proposal Letter</b>  |
| <b>Form 2</b>  | <b>Key Personnel Commitment</b>  |
| <b>Form 3</b>  | <b>Non-Collusion Affidavit</b>   |
| <b>Form 4</b>  | <b>Conflict of Interest Disclosure Statement</b>   |
| <b>Form 5</b>  | <b>Equal Employment Opportunity Certification</b>  |
| <b>Form 6</b>  | <b>Debarment and Suspension Certification</b>  |
| <b>Form 7</b>  | <b>Certification Regarding Use of Contract Funds for Lobbying<br/>(including Short Form – LLL)</b> |
| <b>Form 8</b>  | <b>Buy America Certification</b>   |
| <b>Form 9</b>  | <b>Proposal Price</b>  |
| <b>Form 10</b> | <b>Reserved</b>  |
| <b>Form 11</b> | <b>Form of Proposal Bond</b>   |
| <b>Form 12</b> | <b>Reserved</b>  |
| <b>Form 13</b> | <b>Reserved</b>  |
| <b>Form 14</b> | <b>Bridge Cost Estimate for Federal and State Reporting</b>  |
| <b>Form 15</b> | <b>Form of Opinion of Counsel</b>  |
| <b>Form 16</b> | <b>Form of Guaranty</b>  |
| <b>Form 17</b> | <b>DBE Certification</b>   |

**FORM 1A**  
**DESIGN-BUILD TECHNICAL PROPOSAL LETTER**

For the Calexico East Port of Entry Bridge Widening Design-Build Project with Technical Proposals received until November 20, 2020.

PROPOSAL OF: \_\_\_\_\_

Name of Proposer

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, ZIP Telephone Number

TO FURNISH AND DELIVER ALL MATERIALS AND TO PERFORM ALL WORK IN ACCORDANCE WITH THE CONTRACT AND THE REQUEST FOR PROPOSALS (RFP) DATED SEPTEMBER 21, 2020, AS AMENDED, FOR: THE CALEXICO EAST PORT OF ENTRY BRIDGE WIDENING.

Contract No.: ICTC 20-101

Project ID: 1118000265

Type of Work: Bridge widening, associated approach roadway, and miscellaneous Site improvement work.

Anticipated Start Date: February 3, 2021

Substantial Completion Deadline: Shall be achieved no later than 360 Working Days following NTP1.

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

**BID RIGGING IS A SERIOUS CRIME**

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

The undersigned hereby represents that it will keep this Proposal open for acceptance for sixty (60) Days after the Price Proposal Opening Date without unilaterally varying or amending its terms and without any member or partner withdrawing or any other change being made in the composition of the partnership/joint venture/consortium on whose behalf the Proposal is submitted without first obtaining the prior written consent of ICTC, in ICTC's sole discretion.

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

This Proposal includes the following:

- Technical Proposal
- Administrative Submittals



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

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

Proposer understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFP process will be borne solely by the Proposer and shall not be charged retroactively to the Project.

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

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

**PROPOSAL SECURITY:** A bond, payable to the Imperial County Transportation Commission, in an amount equal to ten (10) percent of the Proposal Price is submitted herewith as a Proposal Security.

**RECEIPT OF ADDENDA AND CLARIFICATIONS:** The undersigned hereby acknowledges receipt of and has considered: *[List all Addenda and Clarifications and their respective dates]*

|                 |       |      |                      |       |      |
|-----------------|-------|------|----------------------|-------|------|
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |

#### EXECUTION OF PROPOSAL

This Proposal is dated the *[Insert Day]* day of *[Insert Month]*, 20*[Insert Year]*

*[Insert appropriate signature block from the following page.]*

Sample signature block for corporation:

[Insert Proposer's Name]

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sample signature block for partnership or joint venture company

[Insert Proposer's Name]

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

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**FORM 1B**  
**DESIGN-BUILD PRICE PROPOSAL LETTER**

For the Calexico East Port of Entry Bridge Widening Design-Build Project with Price Proposals received until November 20, 2020.

PROPOSAL OF:

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Name of Firm

---

Street Address

---

City, State, ZIP Telephone Number

TO FURNISH AND DELIVER ALL MATERIALS AND TO PERFORM ALL WORK IN ACCORDANCE WITH THE CONTRACT AND THE REQUEST FOR PROPOSALS (RFP) DATED SEPTEMBER 21, 2020, AS AMENDED, FOR: THE CALEXICO EAST PORT OF ENTRY BRIDGE WIDENING.

Contract No.: ICTC 20-101

Project ID: 1118000265

Type of Work: Bridge widening, associated approach roadway, and miscellaneous Site improvement work.

Anticipated Start Date: February 3, 2021

Substantial Completion Deadline: Shall be achieved no later than 360 Working Days following NTP1.

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The undersigned hereby represents that it will keep this Proposal open for acceptance for sixty (60) Days after the Price Proposal Opening Date without unilaterally varying or amending its terms and without any member or partner withdrawing or any other change being made in the composition of the partnership/joint venture/consortium on whose behalf the Proposal is submitted without first obtaining the prior written consent of ICTC, in ICTC's sole discretion.

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

This Proposal includes the following:

- Price Proposal
- Administrative Submittals

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

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

Proposer understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFP process will be borne solely by the Proposer and shall not be charged retroactively to the Project.

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

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

**PROPOSAL SECURITY:** A bond, payable to the Imperial County Transportation Commission, in an amount equal to ten (10) percent of the Proposal Price is submitted herewith as a Proposal Security.

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

[List all Addenda and Clarifications and their respective dates]

|                 |       |      |                      |       |      |
|-----------------|-------|------|----------------------|-------|------|
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |
| Addendum Number | Dated | , 20 | Clarification Number | Dated | , 20 |

### **EXECUTION OF PROPOSAL**

This Proposal is dated the [Insert Day] day of [Insert Month], 20[Insert Year]

[Insert appropriate signature block from the following page.]

Sample signature block for corporation:

[Insert Proposer's Name]

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sample signature block for partnership or joint venture company

[Insert Proposer's Name]

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

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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**FORM 2**  
**KEY PERSONNEL COMMITMENT**

Proposer's Name: \_\_\_\_\_

Proposer hereby commits that, if awarded the Calexico East Port of Entry Bridge Widening Project (Project), the Proposer shall use the Key Personnel listed below for their stated positions and that, to the extent within the Proposer's control, such individuals shall be available on a full-time basis for the periods necessary to fulfill their Project-related responsibilities. Changes to Key Personnel from those proposed in the Statement of Qualifications shall be Approved by ICTC.

| Position                          | Name |
|-----------------------------------|------|
| Project Manager                   |      |
| Quality Manager                   |      |
| Design Manager                    |      |
| Construction Manager              |      |
| Design Lead Engineer – Roadway    |      |
| Design Lead Engineer – Structures |      |
| Geotechnical Engineer             |      |
|                                   |      |
|                                   |      |
|                                   |      |
|                                   |      |
|                                   |      |
|                                   |      |

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



[Seal]

My commission expires: \_\_\_\_\_

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



## **FORM 4**

### **CONFLICT OF INTEREST DISCLOSURE STATEMENT**

Proposer's Name: \_\_\_\_\_ ("Proposer")

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

#### 1. Required Disclosure of Conflicts

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

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

#### 2. Explanation

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

3. Certification

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

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

\_\_\_\_\_, 20\_\_\_\_\_  
Date

---

**FORM 5**  
**EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

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

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

[Check one of the following boxes]

- It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).
- It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[Check one of the following boxes]

- It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.
- It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

If not Proposer, relationship to Proposer: \_\_\_\_\_

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

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

**FORM 6**  
**DEBARMENT AND SUSPENSION CERTIFICATION**

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

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

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
- Have not within a three (3)-year period preceding this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in this certification.
- Have not within a three (3)-year period preceding this application/proposal had one or more public transactions (federal, State or local) terminated for cause or default.

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

Date: \_\_\_\_\_

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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**FORM 7**  
**CERTIFICATION REGARDING USE OF CONTRACT FUNDS  
FOR LOBBYING**

The undersigned certifies the following:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any Person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- If any funds other than Federal appropriated funds have been paid or will be paid to any Person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any Person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- Proposer shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.
- The truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 USC §3801, et seq., apply to this certification and disclosure, if any.

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

Date: \_\_\_\_\_

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

**SHORT FORM-LLL**  
**DISCLOSURE OF LOBBYING ACTIVITIES**

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

|   |   |   |
|---|---|---|
| <b>1. Type of Federal Action:</b><br><input type="checkbox"/> a. contract<br><input type="checkbox"/> b. grant<br><input type="checkbox"/> c. cooperative agreement<br><input type="checkbox"/> d. loan<br><input type="checkbox"/> e. loan guarantee<br><input type="checkbox"/> f. loan insurance | <b>2. Status of Federal Action:</b><br><input type="checkbox"/> a. bid/offer/application<br><input type="checkbox"/> b. initial award<br><input type="checkbox"/> c. post-award   | <b>3. Report Type:</b><br><input type="checkbox"/> a. initial<br><input type="checkbox"/> b. material change<br><br><b>For Material Change Only:</b><br>Year _____ quarter _____<br>date of last report _____ |
| <b>4. Name and Address of Reporting Entity</b><br><br><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee<br>Tier ____, if known<br><br>Congressional District, if known   | <b>5. If Reporting Entity in No. 4 is Subawardee,<br/>Enter Name and Address of Prime:</b><br><br>Congressional District, if known  |   |
| <b>6. Federal Department/Agency:</b>  | <b>7. Federal Program Name/Description:</b><br><br>CFDA Number, if applicable _____   |   |
| <b>8. Federal Action Number, if known:</b>  | <b>9. Award Amount, if known:</b>   |   |
| <b>10. a. Name and Address of Lobby Entity</b><br>(If individual, last name, first name, MI)  | <b>b. Individuals Performing Services</b><br>(including address if different from No. 10a)<br>(last name, first name, MI)   |   |
| (attach Continuation Sheet(s) if necessary)   |   |   |
| <b>11. Amount of Payment (check all that apply)</b><br>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned  | <b>13. Type of Payment (check all that apply)</b><br><input type="checkbox"/> a. retainer<br><input type="checkbox"/> b. one-time fee<br><input type="checkbox"/> c. commission<br><input type="checkbox"/> d. contingent fee<br><input type="checkbox"/> e. deferred<br><input type="checkbox"/> f. other, specify _____ |   |
| <b>12. Form of Payment (check all that apply):</b><br><input type="checkbox"/> a. cash<br><input type="checkbox"/> b. in-kind; specify: nature _____<br>value _____   | <b>14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</b><br><br>(attach Continuation Sheet(s) if necessary)   |   |
| <b>15. Continuation Sheet(s) attached: Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/>  |   |   |

---

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

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone\_No.: \_\_\_\_\_ Date: \_\_\_\_\_

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Standard Form - LLL

**Federal Use Only:**

Standard Form LLL Rev. 09-12-97

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES**

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

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



10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial.
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form and print his/her name title and telephone number.

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

**FORM 8**  
**BUY AMERICA CERTIFICATION**

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

- Proposer shall comply with the Federal Highway Administration (FHWA) Buy America Requirements of 23 CFR 635.410, which permits FHWA participation in the Contract only if domestic steel and iron will be used on the Project. To be considered domestic, all steel and iron used and all products manufactured from steel and iron shall be produced in the United States and all manufacturing processes, including application of a coating, for these materials shall occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed the greater of 0.1 percent of the Design-Build Contract price or \$18,444.
- A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this Contract be investigated, Proposer has the burden of proof to establish that it is in compliance.
- At Proposer's request, ICTC may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist; however, Proposer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by ICTC.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Proposer's Name: \_\_\_\_\_

**FORM 9**  
**PROPOSAL PRICE**

Proposer Name: \_\_\_\_\_

| Item/Line No. | Description   | Unit            | Item Total |
|---------------|---|-----------------|------------|
| <b>PART A</b> | <b>PROJECT MANAGEMENT</b>   |                 |            |
| 1             | Contract Management   | Lump Sum        | \$         |
| 2             | Quality Management  | Lump Sum        | \$         |
| 3             | Safety and Security Management  | Lump Sum        | \$         |
| 4             | Public and Stakeholder Information Management                           | Lump Sum        | \$         |
| 5             | Mobilization  | Lump Sum        | \$         |
| 6             | Time Related Overhead   | Lump Sum        | \$         |
| 7             | Bonds and Insurance (sum of 7a, 7b, and 7c)                             | Lump Sum        | \$         |
|               | 7a Warranty Bond  | \$              |            |
|               | 7b Payment and Performance Bond   | \$              |            |
|               | 7c Insurance  | \$              |            |
| 8             | <b>Project Management Subtotal</b><br><i>(Sum of Lines 1 through 7)</i> | <b>Lump Sum</b> | <b>\$</b>  |
| <b>PART B</b> | <b>ENGINEERING &amp; CONSTRUCTION</b>                                   |                 |            |
| 9             | Design Services   | Lump Sum        | \$         |
| 10            | Environmental Management  | Lump Sum        | \$         |
| 11            | Utilities   | Lump Sum        | \$         |
| 12            | Geotechnical  | Lump Sum        | \$         |
| 13            | Surveys   | Lump Sum        | \$         |
| 14            | Concrete Pavement   | Lump Sum        | \$         |
| 15            | Hot Mix Asphalt Pavement  | Lump Sum        | \$         |
| 16            | Grading and Roadways  | Lump Sum        | \$         |
| 17            | Drainage  | Lump Sum        | \$         |
| 18            | Bridge <i>(shall equal Form 14 value)</i>                               | Lump Sum        | \$         |
| 19            | Minor Structures  | Lump Sum        | \$         |
| 20            | Planting and Irrigation   | Lump Sum        | \$         |
| 21            | Signing, Striping, Lighting   | Lump Sum        | \$         |
| 22            | Maintenance of Traffic  | Lump Sum        | \$         |
| 23            | Maintenance and Site Security During Construction                       | Lump Sum        | \$         |

| <b>Item/Line No.</b> | <b>Description</b>   | <b>Unit</b>     | <b>Item Total</b> |
|----------------------|--|-----------------|-------------------|
| 24                   | Asphalt Price Index Fluctuation Allowance  | Lump Sum        | \$80,000          |
| 25                   | Final Acceptance   | Lump Sum        | \$                |
| 26                   | <b>Engineering and Construction Subtotal</b><br><i>(Sum of Lines 9 through 25)</i> | <b>Lump Sum</b> | \$                |
| <b>27</b>            | <b>PROPOSAL PRICE (A+B)</b><br><i>(Sum of Lines 8 and 26)</i>                      | <b>Lump Sum</b> | \$                |

**FORM 10  
RESERVED**

**FORM 11**  
**PROPOSAL BOND**

ICTC Contract No. 20-101

Bond. No. \_\_\_\_\_

We, \_\_\_\_\_

\_\_\_\_\_ as, Principal, and \_\_\_\_\_

as Surety are bound unto the Imperial County Transportation Commission, hereafter referred to as "Obligee" and the United States of America General Services Administration at "Co-obligee," in the penal sum of ten (10) percent of the total amount of the Price Proposal of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT

WHEREAS, the Principal is submitting a Price Proposal to the Obligee, for construction of the Calexico East Port of Entry Bridge Widening Design-Build Project adjacent to State Route 7 in Imperial County, as described in the Request for Proposals dated September 21, 2020.

For which Price Proposals are to be opened at Imperial County Transportation Commission in El Centro, CA on \_\_\_\_\_

(Insert date of Price Proposal opening)

NOW, THEREFORE, if the Principal is awarded the Contract and, within the time and manner required under the Request for Proposal, after the prescribed forms are presented to him for signature, enters into a written Contract, in the prescribed form, in accordance with the Price Proposal, and file two bonds with the Obligee and Co-obligee, one to guarantee faithful performance of the Contract and the other to guarantee payment for labor and materials as provided by law, then the obligation shall be null and void, otherwise, it shall remain in full force. Both bonds shall equal one hundred (100) percent of the Price Proposal Amount.

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

Dated: \_\_\_\_\_, 20\_\_

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

\_\_\_\_\_

Principal

Surety

By \_\_\_\_\_  
Attorney-in-Fact

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

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

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

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

Witness my hand and official seal:

(SEAL)

Signature of Notary Public

**ADA Notice:** For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact:

Imperial County Transportation Commission  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Attention: Ms. Virginia Mendoza, Project Manager  
Telephone: (760) 952-4494



**FORM 12  
RESERVED**

**FORM 13  
RESERVED**

## FORM 14 BRIDGE COST ESTIMATE FOR FEDERAL AND STATE REPORTING

Bridge Number: N/A                      Date: \_\_\_\_\_

Location/Description: Calexico East Port of Entry Bridge Widening

Anticipated Bridge Type: Steel girders with reinforced concrete deck

Estimated Deck Area (ft<sup>2</sup>): \_\_\_\_\_

Estimated Beam Spans Configuration (ft) \_\_\_\_\_

Bridge Cost – Total            (\$) \_\_\_\_\_

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

- a) Bridge Widening Substructure Construction            (\$) \_\_\_\_\_
- b) Bridge Widening Superstructure Construction        (\$) \_\_\_\_\_
- c) Bridge Widening Miscellaneous Items                (\$) \_\_\_\_\_
- d) Existing Bridge Maintenance Work                    (\$) \_\_\_\_\_

The following is to be provided by the Preferred Proposer with Escrowed Proposal Documents:

Bridge Cost for Federal Reporting:                      (\$) \_\_\_\_\_  
 (exclude “Federal Excluded Items” listed below)

Bridge Cost for State Reporting:                        (\$) \_\_\_\_\_  
 (exclude “State Excluded Items” listed below)

| Federal Excluded Items                                | State Excluded Items                                  |
|---|---|
| Mobilization  | Mobilization  |
| Demolition of Existing Bridges                        | Approach Slabs (except integral abutment bridges)     |
| Approach Slabs (except integral abutment bridges)     | Stream Channel Work                                   |
| Stream Channel Work                                   | Earthwork (except structural excavation and backfill) |
| Riprap  | Clearing and Grubbing                                 |
| Slope Paving  | Retaining Walls not attached to the Abutment          |
| Earthwork (except structural excavation and backfill) | Guardrail Transitions to Bridges                      |
| Clearing and Grubbing                                 | Maintenance and Protection of Traffic                 |
| Retaining Walls not attached to the Abutment          | Detour Costs  |
| Guardrail Transitions to Bridges                      | Signing and Marking                                   |
| Maintenance and Protection of Traffic                 | Inlet Frames and Grates                               |

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| Federal Excluded Items  | State Excluded Items  |
|---|---|
| Detour Costs<br>Signing and Marking<br>Lighting<br>Electrical Conduit<br>Inlet Frames and Grates<br>Field Office<br>Construction Engineering Items<br>Training<br>Right-of-Way<br>Utility Relocation<br>Contingencies | Field Office<br>Construction Engineering Items<br>Training<br>Right-of-Way<br>Utility Relocation<br>Contingencies |

Note: Table includes general items that may not be included in the Project.

Signature \_\_\_\_\_

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**FORM 15**  
**FORM OF OPINION OF COUNSEL LETTER**

[Letterhead of Independent Law Firm or In-house Counsel]

[SEE SECTION 6.5(h) OF THE ITP FOR LEGAL COUNSEL REQUIREMENTS]

Imperial County Transportation Commission  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Attention: Mr. Mark Baza, Executive Director  
Telephone: (760) 592-4494

Re: Design-Build Contract (“Contract”) for the Calexico East Port of Entry Bridge Widening Project dated as of \_\_\_\_\_, 20[Year], by and between Imperial County Transportation Commission and \_\_\_\_\_ (the “Proposer”).

Gentlemen:

[Describe relationship to Proposer and its joint venture members, general partners, members, as applicable, and any other entities whose approval is required to authorize delivery of the proposal and execution of the Contract Documents.] This letter is provided to you pursuant to Section 6.5(h) of the Instructions to Proposers of that certain Request for Proposals issued by the Imperial County Transportation Commission (“ICTC”) on September 21, 2020, as amended.

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

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

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

- [opinion regarding organization/formation and existence of Proposer and that Proposer has corporate power to own its properties and assets, carry on its business, make the Proposal, enter into the Contract Documents and to perform its obligations under the Contract Documents] [if Proposer is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]
- [opinion regarding good standing and qualification to do business in State of California for Proposer] [if Proposer is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]
- [opinion regarding organization/formation and existence of Guarantor and that Guarantor has corporate power to own its properties and assets, to carry on its business, to enter into the Guaranty and to perform its obligations under the Guaranty] [if Guarantor is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners] [if there is no Guaranty, this opinion may be omitted]

- [opinion that Proposal and Contract Documents and each subcontract to which the Proposer is a party have been duly authorized by all necessary corporate action on the part of the Proposer and the Proposal and Contract Documents have been duly executed and delivered by Proposer] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners after the first and second “Proposer”]
- [opinion that each Person executing the Contract Documents and such subcontracts on Proposer’s behalf has been duly authorized to execute and deliver each such document on Proposer’s behalf] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners after the first and second “Proposer”]
- [opinion that Guaranty has been duly authorized by all necessary corporate action on the part of Guarantor and the Guaranty has been duly executed and delivered by Guarantor] [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners after the first and second “Guarantor”] [if there is no Guaranty, this opinion may be omitted]
- [opinion that the Contract Documents constitute a legal, valid and binding obligation of the Proposer enforceable against the Proposer in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners after the second “Proposer”]
- [opinion that the Guaranty constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms; [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners after the second “Guarantor”] [if there is no Guaranty, this opinion may be omitted]
- [opinion that there is no action, suit, proceeding, investigation or litigation pending and served on Proposer which challenges Proposer’s authority to execute, deliver or perform, or the validity or enforceability of, the Contract Documents and the subcontracts to which Proposer is a party, or which challenges the authority of Proposer’s representative executing the Contract Documents or such subcontracts; and Proposer has disclosed to ICTC any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Proposer is aware]
- [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the Proposal and the Contract Documents and subcontracts to which the Proposer is a party; and that neither the Proposal nor the Contract Documents nor such subcontracts conflict with and have not resulted and will not result in a default under or a violation of any agreements or instruments to which Proposer is a party] [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners are a party] or any orders, judgments or decrees by which Proposer is bound [if Proposer is a partnership/joint venture, add: and its joint venture members/general partners are bound]
- [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the Guaranty; and that the Guaranty does not conflict with and have not resulted and will not result in a default under or a violation of any agreements or instruments to which Guarantor is a party [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners are a party] or any orders, judgments or decrees by which Guarantor is bound] [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners are bound] [if there is no Guaranty, this opinion may be omitted]

- [opinion that execution, delivery and performance of all obligations by Proposer under the Proposal and the Contract Documents and subcontracts to which the Proposer is a party do not conflict with, and are authorized by, the articles of incorporation and bylaws of Proposer [if Proposer is a partnership, replace articles of incorporation and bylaws with partnership agreement and (if applicable) certificate of limited partnership); if Proposer is a joint venture, replace articles of incorporation and bylaws with joint venture agreement; if Proposer is a limited liability company, replace articles of incorporation and bylaws with operating agreement and certificate of formation]
- [opinion that execution, delivery and performance of all obligations by Guarantor under the Guaranty does not conflict with, and is authorized by, the articles of incorporation and bylaws of Guarantor] [if Guarantor is a partnership, replace articles of incorporation and bylaws with partnership agreement and (if applicable) certificate of limited partnership); if Guarantor is a joint venture, replace articles of incorporation and bylaws with joint venture agreement; if Guarantor is a limited liability company, replace articles of incorporation and bylaws with operating agreement and certificate of formation] [if there is no Guaranty, this opinion may be omitted]
- [opinion that execution and delivery by the Proposer of the Proposal and the Contract Documents do not, and the Proposer's performance of its obligations under the Proposal and the Contract Documents will not violate any laws applicable to the Proposer or to transactions of the type contemplated by the Proposal or the Contract Documents that are valid and in effect on the date of execution and delivery]
- [opinion that execution and delivery by the Guarantor of the Guaranty do not, and the Guarantor's performance of its obligations under the Guaranty will not, violate any laws applicable to the Guarantor or to transactions of the type contemplated by the Guaranty that are valid and in effect on the date of execution and delivery] [if there is no Guaranty, this opinion may be omitted]

## FORM 16 GUARANTY

THIS GUARANTY (this "Guaranty") is made as of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, a \_\_\_\_\_ ("Guarantor"), in favor of the Imperial County Transportation Commission ("ICTC").

### RECITALS

- A. ("**Design-Builder**"), and ICTC are parties to that certain Design-Build Contract of even date herewith (the "**Contract**") pursuant to which the Design-Builder has agreed to design, construct, maintain, and repair the Project. Initially capitalized terms used herein without definition will have the meaning given such terms in the Contract.
- B. To induce ICTC to (i) enter into the Contract; and (ii) consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.
- C. Design-Builder is a \_\_\_\_\_ [*describe relationship with Guarantor*]. The execution of the Contract by ICTC and the consummation of the transactions contemplated thereby will materially benefit Guarantor. Without this Guaranty, ICTC would not have entered into the Contract with Design-Builder. Therefore, in consideration of ICTC's execution of the Contract and consummation of the transactions contemplated thereby, Guarantor has agreed to execute this Guaranty.

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

1. **Guaranty.** Guarantor guarantees to ICTC and its successors and assigns the full and prompt payment and performance when due of all of the obligations of the Design-Builder arising out of, in connection with, under or related to (a) the Contract (and the documents executed or to be executed in connection therewith), and (b) each and every other document and agreement executed by the Design-Builder in connection with the consummation of the transactions contemplated by the Contract (the documents described in clauses (a)-(b) shall collectively be referred to herein as the "**Project Documents**"). The obligations guaranteed pursuant to this Guaranty are collectively referred to herein as the "**Guaranteed Obligations**".
2. **Unconditional Obligations.** This Guaranty is a guaranty of payment and performance and not of collection and is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred, whether or not recovery may be, or hereafter may become, barred by any statute of limitations or otherwise, and whether or not enforceable against the Design-Builder. If any payment made by the Design-Builder or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty.



Without limiting the generality of the foregoing, Guarantor's obligations hereunder will not be released, discharged or otherwise affected by (a) any change in the Project Documents or the obligations thereunder, or any insolvency, bankruptcy or similar proceeding affecting the Design-Builder, Guarantor or their respective assets, and (b) the existence of any claim or set-off which the Design-Builder has or Guarantor may have against ICTC, whether in connection with this Guaranty or any unrelated transaction, provided that nothing in this Guaranty will be deemed a waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit. This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefore or any other circumstances relating to the Guaranteed Obligations which might otherwise constitute a defense to the Guaranteed Obligations or this Guaranty.

3. **Independent Obligations.** Guarantor agrees that the Guaranteed Obligations are independent of the obligations of the Design-Builder and if any default occurs hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not the Design-Builder is joined therein. ICTC may maintain successive actions for other defaults of Guarantor. ICTC's rights hereunder will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been paid and fully performed.
  - a) Guarantor agrees that ICTC may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against the Design-Builder. Guarantor hereby waives the right to require ICTC to proceed against the Design-Builder, to exercise any right or remedy under any of the Project Documents or to pursue any other remedy or to enforce any other right.
  - b) Guarantor will continue to be subject to this Guaranty notwithstanding: (i) any modification, agreement or stipulation between the Design-Builder and ICTC or their respective successors and assigns, with respect to any of the Project Documents or the Guaranteed Obligations; (ii) any waiver of or failure to enforce any of the terms, covenants or conditions contained in any of the Project Documents or any modification thereof; (iii) any release of the Design-Builder from any liability with respect to any of the Project Documents; or (iv) any release or subordination of any collateral then held by ICTC as security for the performance by the Design-Builder of the Guaranteed Obligations.
  - c) The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Project Documents or the pursuit by ICTC of any remedies which ICTC either now has or may hereafter have with respect thereto under any of the Project Documents.
4. **Liability of Guarantor.**
  - a) ICTC may enforce this Guaranty upon the occurrence of a breach by the Design-Builder of any of the Guaranteed Obligations, notwithstanding the existence of any dispute between ICTC and the Design-Builder with respect to the existence of such a breach.
  - b) Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

- c) ICTC, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability hereunder, from time to time may (i) with respect to the financial obligations of the Design-Builder, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of such financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto, (iii) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment and performance of this Guaranty or the Guaranteed Obligations, (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (v) enforce and apply any security hereafter held by or for the benefit of ICTC in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that ICTC may have against any such security, as ICTC in its discretion may determine, and (vi) exercise any other rights available to it under the Project Documents.
- d) This Guaranty and the obligations of Guarantor hereunder will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than infeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Project Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Project Documents or any agreement or instrument executed pursuant thereto; (iii) ICTC's consent to the change, reorganization or termination of the corporate structure or existence of the Design-Builder; (iv) any defenses, set-offs or counterclaims that the Design-Builder may allege or assert against ICTC in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, accord and satisfaction and usury; and (v) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.
5. **Waivers.** To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of: (a) any right to require ICTC to proceed against the Design-Builder or any other Person or to proceed against or exhaust any security held by ICTC at any time or to pursue any right or remedy under any of the Project Documents or any other remedy in ICTC's power before proceeding against Guarantor; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereof by Guarantor, the Design-Builder or any other Person or the failure of ICTC to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person; (c) any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof; (d) any right or defense arising out of an election of

remedies by ICTC even though the election of remedies, such as nonjudicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor's rights of subrogation and reimbursement against the Design-Builder by the operation of law or otherwise; (e) all notices to Guarantor, to the Design-Builder or to any other Person, including, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of the Design-Builder under any of the Project Documents, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto; (f) any requirements of diligence or promptness on the part of ICTC; (g) any defense arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of the Design-Builder or any other Person from any cause other than indefeasible performance in full of the Guaranteed Obligations; (h) any defense based upon any statute or rule of law which provides that the obligation of a surety shall be neither larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (i) any defense based upon any act or omission of ICTC which directly or indirectly results in or aids the discharge or release of the Design-Builder, Guarantor or any security given or held by ICTC in connection with the Guaranteed Obligations; (j) any and all suretyship defenses under applicable law; and (k) discharge under any other defenses based on suretyship or impairment of collateral.

6. **Waiver of Subrogation and Rights of Reimbursement; Subordination.** Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against the Design-Builder that arises from the performance of Guarantor hereunder, including any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of ICTC against the Design-Builder, or any other security or collateral that ICTC now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. All existing or future indebtedness of Design-Builder or any shareholders, partners, members, joint venturers of Design-Builder to Guarantor is subordinated to all of the Guaranteed Obligations. Whenever and for so long as the Design-Builder shall be in default in the performance of a Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by Design-Builder or any shareholders, partners, members, joint venturers of Design-Builder to Guarantor without the prior written consent of ICTC. Any payment by Design-Builder or any shareholders, partners, members, joint venturers of Design-Builder to Guarantor in violation of this provision shall be deemed to have been received by Guarantor as trustee for ICTC.
7. **Cumulative Rights.** All rights, powers and remedies of ICTC hereunder will be in addition to and not in lieu of all other rights, powers and remedies given to ICTC, whether at law, in equity or otherwise.
8. **Representations and Warranties.** Guarantor represents and warrants that:
  - a) It is a \_\_\_\_\_ duly [organized][formed], validly existing, and in good standing under the laws of the State of \_\_\_\_\_;
  - b) It has all requisite [corporate][partnership][limited liability company] power and authority to execute, deliver and perform this Guaranty;
  - c) the execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary corporate action on the part of Guarantor;

- d) this Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;
  - e) Neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an Event of Default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under (1) [the certificate of incorporation or by-laws][certificate of limited partnership or partnership agreement][certificate of formation or limited liability company agreement] of Guarantor, (2) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (3) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;
  - f) It now has and will continue to have full and complete access to all information concerning the transactions contemplated by the Project Documents or referred to therein, the financial status of the Design-Builder and the ability of the Design-Builder to pay and perform the Guaranteed Obligations;
  - g) It has reviewed and approved copies of the Project Documents and is fully informed of the remedies ICTC may pursue, with or without notice to the Design-Builder or any other Person, in the Event of Default of any of the Guaranteed Obligations;
  - h) It has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of the Design-Builder and will keep itself fully informed as to all aspects of the financial condition of the Design-Builder, the performance of the Guaranteed Obligations of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of ICTC to disclose any matter, fact or thing relating to the business, operations or conditions of the Design-Builder now known or hereafter known by ICTC;
  - i) No consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date hereof; and
  - j) There is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Authority which challenges the validity or enforceability of this Guaranty.
9. **Governing Law.** The validity, interpretation and effect of this Guaranty are governed by and will be construed in accordance with the laws of the State of California applicable to contracts made and performed in such State and without regard to conflicts of law doctrines except to the extent that certain matters are preempted by Federal law or are governed by the law of the jurisdiction of organization of the respective parties.
10. **Entire Document.** This Guaranty contains the entire agreement of Guarantor with respect to the transactions contemplated hereby, and supersede all negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date hereof, written or oral, with respect to the subject matter hereof. No waiver, modification or amendment of any provision of this Guaranty is effective unless made in writing and duly signed by ICTC referring specifically to this Guaranty, and then only to the specific purpose, extent and interest so provided.

11. **Severability.** If any provision of this Guaranty is determined to be unenforceable for any reason by a court of competent jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties and all the provisions not deemed unenforceable will be deemed valid and enforceable to the greatest extent possible.
12. **Notices.** Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to ICTC: Imperial County Transportation Commission  
Attn: Ms. Virginia Mendoza  
1503 North Imperial Avenue; Suite 104  
El Centro, California 92243  
Telephone: (760) 952-4494

With copies to: Mr. Mark Baza  
Executive Director

If to Guarantor: \_\_\_\_\_

Attn: \_\_\_\_\_

Telephone: \_\_\_\_\_

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

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

1. **Captions.** The captions of the various Sections of this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Guaranty.
2. **Construction of Guaranty.** Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party but will be construed in the manner that most accurately reflects the parties' intent as of the date hereof.
3. **No Waiver.** Any forbearance or failure to exercise, and any delay by ICTC in exercising, any right, power or remedy hereunder will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.
4. **Bankruptcy; Reinstatement of Guaranty.** The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Design-Builder or by any defense which the Design-Builder may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. ICTC is not obligated to file any claim relating to the Guaranteed Obligations

if the Design-Builder becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of ICTC so to file will not affect Guarantor's obligations under this Guaranty.

5. **Attorneys' Fees.** Guarantor agrees to pay to ICTC without demand reasonable attorneys' fees and all costs and other expenses (including such fees and costs of litigation, arbitration and bankruptcy, and including appeals) incurred by ICTC in enforcing, collecting or compromising any Guaranteed Obligation or enforcing or collecting this Guarantee against Guarantor or in attempting to do any or all the foregoing.
6. **Consent to Jurisdiction.** GUARANTOR AND ICTC AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN GUARANTOR AND ICTC CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS GUARANTY MAY ONLY BE BROUGHT IN THE SECOND JUDICIAL DISTRICT COURT OF CALIFORNIA. EACH OF GUARANTOR AND ICTC ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. IF NOT A RESIDENT OF THE STATE OF CALIFORNIA, GUARANTOR SHALL APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

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

a \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FORM 17  
DBE CERTIFICATION**

**DBE REQUIREMENTS**

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

- Design – five (5) percent.
- Construction – nine (9) percent.

**DBE Certification**

By signing below, the Proposer certifies that Design-Builder will provide a Good Faith Effort to meet the DBE goals.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Proposer's Name: \_\_\_\_\_

**APPENDIX G  
RESERVED**



**APPENDIX H  
RESERVED**

# **APPENDIX I PROPOSAL CHECKLIST**

**SUMMARY AND ORDER OF PROPOSAL CONTENTS**

| <b>Administrative Information – Volume 1A</b>   |                                       |                               |
|---|---------------------------------------|-------------------------------|
| Proposers shall follow the order of this checklist in their submissions. A copy of this document shall be submitted with Volume 1A – Administrative Submittals. |                                       |                               |
| <b>Proposal Component</b>   | <b>Form (if any)</b>                  | <b>ITP Cross-Reference</b>    |
| <b>A. Proposer Information, Certifications &amp; Documents</b>  |                                       |                               |
| Technical Proposal Letter   | Form 1A                               | §4.6; Appendix B §B3.1        |
| Authorization Documents   | No forms provided                     | §4.6; Appendix B §B3.1, B3.11 |
| Key Personnel Commitment  | Form 2                                | Appendix B §B3.2              |
| Conflict of Interest Disclosure Statement   | Form 4                                | §1.16.3; Appendix B §B3.3     |
| Equal Employment Opportunity Certification  | Form 5                                | Appendix B §B3.4              |
| Debarment and Suspension Certification  | Form 6                                | Appendix B §B3.5              |
| Certification Regarding Contract Funds for Lobbying   | Form 7                                | §1.14; Appendix B §B3.6       |
| Reserved  | Form 10                               | Appendix B §B3.7              |
| Changes in Proposer's Organization  | Letter from ICTC approving the change | §1.10; Appendix B §B3.8       |
| Evidence of Good Standing   | No forms provided                     | Appendix B §B3.9              |
| Organizational Documents  | No forms provided                     | Appendix B §B3.10             |
| Draft Special Purpose Entity Corporate Formation Documents  | No forms provided                     | Appendix B §B3.10             |
| Executed copy of Partnering/Consortium Agreements   | No forms provided                     | Appendix B §B3.10             |
| Insurance Certificates/Letters  | No forms provided                     | §4.13; Appendix B §B3.12      |

| <b>Administrative Information – Volume 1B</b>   |                                       |                            |
|---|---------------------------------------|----------------------------|
| Proposers shall follow the order of this checklist in their submissions. A copy of this document shall be submitted with Volume 1B – Administrative Submittals. |                                       |                            |
| <b>Proposal Component</b>   | <b>Form (if any)</b>                  | <b>ITP Cross-Reference</b> |
| <b>A. Proposer Information, Certifications &amp; Documents</b>  |                                       |                            |
| Price Proposal Letter   | Form 1B                               | §4.6; Appendix B §B4.1     |
| Authorization Documents   | No forms provided                     | §4.6; Appendix B §B4.1     |
| Non-Collusion Affidavit   | Form 3                                | §1.16.2; Appendix B §B4.2  |
| Certification Regarding Contract Funds for Lobbying   | Form 7                                | §1.14, Appendix B §3.6     |
| Buy America Certification   | Form 8                                | Appendix B §B4.3           |
| Letter of Commitment from Surety or Bank  | No forms provided                     | Appendix B §B4.5           |
| DBE Certification and Program Description   | Form 17                               | §1.13; Appendix B §B4.7    |
| Changes in Proposer's Organization  | Letter from ICTC approving the change | §1.10; Appendix B §B4.8    |
| <b>B. Proposal Security</b>   |                                       |                            |
| Proposal Bond or Proposal Letter(s) of Credit   | Form 11                               | §4.10; Appendix B §B4.4    |
| An irrevocable letter signed by the Guarantor (if applicable)   | Form 16                               | Appendix B §B4.6           |

| <b>Technical Proposal</b>   |                      |                            |
|---|----------------------|----------------------------|
| Proposers shall follow the order of this checklist in their submissions. A copy of this document shall be submitted with Volume 2 - Technical Proposal. See Appendix I-1 for additional information regarding the components of the Technical Proposal. |                      |                            |
| <b>Proposal Component</b>   | <b>Form (if any)</b> | <b>ITP Cross-Reference</b> |
| <b>A. Technical Proposal Executive Summary</b>  |                      |                            |
| Technical Proposal Executive Summary  | No forms provided    | Appendix C §C1             |
| <b>B. Management/Administration</b>   |                      |                            |
| Preliminary Project Management Plan   | No forms provided    | Appendix C §C2.1           |
| Preliminary Design Approach Submittal   | No forms provided    | Appendix C §C2.2           |

| <b>Technical Proposal</b>   |                   |                  |
|---|-------------------|------------------|
| Environmental Compliance Plan   | No forms provided | Appendix C §C2.3 |
| Risk Management Plan  | No forms provided | Appendix C §C2.4 |
| Utility Coordination  | No forms provided | Appendix C §C2.5 |
| <b>C. Project Schedule, Construction Phasing/Sequencing Plan, and Safety and Security Program</b> |                   |                  |
| Project Schedule  | No forms provided | Appendix C §C3.1 |
| Construction Phasing/Sequencing Plan  | No forms provided | Appendix C §C3.2 |
| Safety and Security Program   | No forms provided | Appendix C §C3.3 |

| <b>Price Proposal</b>   |                      |                            |
|---|----------------------|----------------------------|
| Proposers shall follow the order of the Price Proposal Checklist in their submissions. A copy of this document shall be submitted with Volume 3 – Price Proposal. |                      |                            |
| <b>Proposal Component</b>   | <b>Form (if any)</b> | <b>ITP Cross-Reference</b> |
| <b>A. Price Proposal</b>  |                      |                            |
| Price Proposal  | Form 9               | Appendix D §D2, 1(a)       |
| Bridge Cost Estimate for Federal and State Reporting  | Form 14              | Appendix D §D2, 2(a)       |

**APPENDIX I-1  
TECHNICAL PROPOSAL SUBMITTAL DETAILS**

All hardcopy materials shall be double side printed in color and provided in plastic coil bound volumes. Each USB flash drive shall be clearly labeled.

| TECHNICAL PROPOSAL<br>SUBMITTAL DETAILS<br>Item  | Media  | Label  |
|--|--|--|
| <b>A. Technical Proposal Executive Summary</b>   |  |  |
| <u>Written Technical Proposal</u><br>Executive Summary   | 8-½-by-11-inch and 11-by-17-inch<br>USB with original electronic file format and PDFs of all items                                   | USB Label:<br><u>Vol 2 Technical Proposal - 1. Technical Proposal Executive Summary</u>  |
| <b>B. Management / Administration</b>  |  |  |
| <u>Written Technical Proposal</u><br>Preliminary Project Management Plan<br>Preliminary Design Approach Submittal<br>Environmental Compliance Plan<br>Risk Management Plan<br>Utility Coordination | 8-½-by-11-inch and 11-by-17-inch<br>USB with original electronic file format and PDFs of all items                                   | USB Label:<br><u>Vol 2 Technical Proposal – 2. Management/Administration</u>             |
| <u>Preliminary Plans (if required)</u><br>Layout Plan<br>Profiles<br>Typical Cross-Sections<br>Pavement Structural Sections<br>Drainage Plans<br>Identified Utilities<br>Structures Concept        | 11-by-17-inch<br>USB with original file electronic format and PDFs of all items  | USB Label:<br><u>Vol 2 Technical Proposal-2.2 Preliminary Design Approach Submittal</u>  |
| <b>C. Project Schedule, Construction Phasing/Sequencing Plan, and Safety and Security Program</b>  |  |  |
| Project Schedule   | 24-by-36-inch color plots in Primavera or Microsoft Project format<br>USB with original electronic file format and PDFs of all items | USB Label:<br><u>Vol 2 Technical Proposal – 3.1 Project Schedule</u>                     |
| <u>Written Technical Proposal</u><br>Construction Phasing/Sequencing Plan  | 8-½-by-11-inch and 11-by-17-inch<br>USB with original electronic file format and PDFs of all items                                   | USB Label:<br><u>Vol 2 Technical Proposal – 3.2 Construction Phasing/Sequencing Plan</u> |
| <u>Written Technical Proposal</u><br>Safety and Security Program   | 8-½-by-11-inch<br>USB with original electronic file format and PDFs of all items   | USB Label:<br><u>Vol 2 Technical Proposal – 3.3 Safety and Security Program</u>          |