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*Executive Director*

**ANDREW B. FREMIER**  
*Deputy Executive Director*

**September 12, 2014**

## **REQUEST FOR PROPOSAL (RFP)**

### **TOLL PLAZA OPERATIONAL IMPROVEMENTS EVALUATION ON THE BAY AREA TOLL BRIDGES**

NOTICE IS HEREBY GIVEN that the Bay Area Toll Authority (BATA) invites your firm to submit a proposal to assist BATA in completing a study to determine whether toll plaza operational improvements can be implemented on the seven state-owned toll bridges that BATA operates.

The Request for Proposal (RFP) documents for this project are available for download on the MTC website at <http://procurements.mtc.ca.gov/>. Proposers are responsible for checking the website for any Addenda that may be issued relative to this RFP. Responses should be submitted in accordance with the instructions set forth in the RFP.

Interested firms must submit an original and eight (8) copies, as well as one electronic PDF version, of their proposal by **4:00 p.m., Monday, October 13, 2014**, in accordance with the instructions contained in the RFP. Other key RFP Dates are listed in Section V, Consultant Selection Timetable of the RFP.

*BATA Point of Contact*  
Jeff Gerbracht, Project Manager  
Bay Area Toll Authority  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700  
Tel: 510/817-5746  
E-mail: [jgerbracht@mtc.ca.gov](mailto:jgerbracht@mtc.ca.gov)

Thank you for your interest.

Sincerely,

Steve Heminger  
Executive Director

SH: JG

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## **I. BATA, PROJECT BACKGROUND AND PROJECT DESCRIPTION**

### ***A. Description of BATA***

BATA was created by the California Legislature in 1997 to administer the base \$1 auto toll on the San Francisco Bay Area's seven state-owned toll bridges. In August 2005, the California Legislature expanded BATA's responsibilities to include administration of all toll revenue and joint oversight of the toll bridge construction program with Caltrans and the California Transportation Commission.

### ***B. Project Background***

In December 2007, BATA issued a Request for Proposals (RFP) to conduct an evaluation and develop a plan for implementation of a video tolling demonstration project. BATA completed a video tolling feasibility study in 2009, included within *Appendix E*, and subsequent discussions with the Golden Gate Bridge Highway and Transportation District (GGBHTD) led to the selection of the Golden Gate Bridge as a proposed demonstration site. The three month demonstration period occurred between February and April 2011, and the project was completed on May 31, 2011. A copy of the Video Tolling Demonstration Project Final Evaluation Report is attached as *Appendix F*. Based on the results and the lessons learned from the demonstration project, GGBHTD made the decision to proceed with full implementation of All Electronic Tolling (AET) on the Golden Gate Bridge in March 2013.

BATA is continually striving to increase the efficiency of toll operations at the seven state-owned toll bridges and considers AET to be one of several methods available to accomplish our goals of reducing toll collection and operating costs and decreasing congestion and travel times through the toll plazas, while improving customer convenience, motorist safety and air quality. This Toll Plaza Operational Improvements Evaluation will build on the results of the 2009 feasibility study to assist BATA with determining whether to convert some or all of the toll bridges it operates to a configuration utilizing AET, Open Road Tolling (ORT) or a combination of infrastructure improvements. Further, questions related to regional consistency with the Golden Gate Bridge offer another reason that BATA should examine toll collection processes for both ease of administration and to facilitate communication to drivers about their options for paying tolls in the region.

### ***C. Project Description***

To improve safety and efficiency at the point of toll collection and reduce congestion and net costs, BATA is evaluating whether to change how operations are managed at the seven state-owned toll bridges. The successful Consultant shall understand the factors that influence whether a tolling agency should convert their operations and analyze BATA's current operational status to ultimately provide recommendations for how BATA could increase the efficiency of toll operations. Since the video tolling feasibility study in 2009, BATA has undergone several infrastructure improvements at the toll plazas, upgraded its Advanced Toll Collection and Accounting System (ATCAS), and is in the process of updating its Regional Customer Service Center (RCSC). Additionally, the Bay Area Infrastructure Financing Authority (BAIFA) has initiated development of a 270-mile Regional Express Lane Network<sup>1</sup>.

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<sup>1</sup> More information about Express Lanes can be found at: [http://www.mtcexpresslanes.org/projects/express\\_lanes/](http://www.mtcexpresslanes.org/projects/express_lanes/)

The potential impacts on customers, operations, revenues and future costs must be understood to ensure a safe, reliable and efficient toll road system.

This study is divided into seven phases, where each completed task is followed by another task that builds upon the work completed within the previous task. An overview of each task is listed below:

- Forecast future traffic volumes, revenues and travel times, for the next five fiscal years and estimate transaction types and volumes, and estimate operational costs and revenues under AET;
- Develop AET Implementation Plans for Antioch, Dumbarton and San Mateo-Hayward Bridges;
- Develop AET Implementation Plans for Benicia-Martinez, Carquinez and Richmond-San Rafael Bridges;
- Develop AET Implementation Plan for San Francisco-Oakland Bay Bridge;
- Assess whether toll plaza civil enhancements, such as ORT, are viable options to improve traffic operations;
- Evaluate the impacts of AET Implementation on the seven state-owned toll bridges; and
- Perform other assignments as needed.

## **II. PROPOSER MINIMUM QUALIFICATIONS**

Proposals must demonstrate that the firm or team submitting the proposal (“Proposer”) meets the following Minimum Qualifications to be eligible for consideration for this project:

- Proposer shall have completed at least one (1) similar study leading to a decision by the procuring authority/client to either adopt or reject an AET implementation program.

## **III. SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET**

### ***A. Scope of Work***

All work will be assigned pursuant to BATA-initiated task orders, which will include a specific scope of work based on the tasks identified in *Appendix A, Preliminary Scope of Work*. Payment for work performed under task orders may be deliverables-based or time and materials, as determined by the BATA Project Manager. A sample task order form is attached hereto as Attachment A-2, *Task Order Form* to *Appendix D, BATA Standard Consultant Contract*.

### ***B. Period of Performance***

BATA expects the work to commence on or about January 1, 2015, and to be completed no later than January 31, 2017. At BATA’s sole option, the contract may be extended for two (2) additional years for work related to the *Appendix A, Preliminary Scope of Work*.

**C. Budget**

BATA has budgeted approximately four-hundred and fifty thousand dollars (\$450,000) for this effort. Additional funding may be available in future Fiscal Years (FY) subject to approval of future BATA budgets.

**IV. PROPOSERS' CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS**

A Proposers' Conference will be held at 2:00 p.m. on Wednesday, September 25, 2014 at the Joseph P. Bort MetroCenter Building, 101 8<sup>th</sup> Street, Oakland, in the 1<sup>st</sup> floor Auditorium.

Any addenda will be posted on BATA's website. All Proposers are responsible for checking the website for any addenda to the bid documents.

Any requests for clarification of or exceptions to RFP requirements must be received by BATA no later than 4:00 p.m., on Thursday, October 2, 2014, to guarantee response or consideration.

BATA reserves the right to reject any proposal that contains unauthorized conditions or exceptions.

**V. CONSULTANT SELECTION TIMETABLE**

2:00 p.m., on September 25, 2014	Proposers' Conference, at 101 8 <sup>th</sup> Street, Oakland, CA 94607, 1 <sup>st</sup> Floor Auditorium
4:00 p.m., on Wednesday, October 2, 2014	Closing date/time for receipt of requests for modifications/exceptions
No later than three (3) working days prior to the date proposals are due.	Deadline for protesting RFP provisions
<b>4:00 p.m., Monday, October 13, 2014*</b>	<b>Closing date/time for receipt of proposals</b>
October 27-28, 2014*	Interviews/Discussions (if held)
4:00 p.m., Tuesday, November 4, 2014	Date for receipt of Best and Final Offers (if required)
November 12, 2014*	BATA Oversight Committee Approval

*\*Interview, award and approval dates are approximates and are subject to change before or after the closing date of the RFP.*

## VI. SUBMITTAL OF PROPOSALS

1. Interested firms must submit an original and eight (8) copies, as well as one electronic PDF version, of their proposal by **4:00 p.m., Monday, October 13, 2014. Submission of an electronic copy of the proposal without hard copies will not satisfy the submission requirement.**
2. Proposals are to be addressed as follows:

Toll Plaza Operational Improvements on the Bay Area toll bridges  
Attention: Jeff Gerbracht  
Bay Area Toll Authority  
101 8<sup>th</sup> Street, 3<sup>rd</sup> Floor Receptionist  
Oakland, CA 94607
3. Proposer's name and return address must also appear on the envelope.
4. Proposals will be received only at the address shown above and **no later than the date and time indicated**. BATA is not responsible for deliveries delayed for any reason. Any proposals received after said date and time or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened.
5. No proposals submitted solely by email and no faxed proposals will be considered.
6. All proposals, whether delivered by an employee of the Proposer, U.S. Postal Service, courier or package delivery service, must be received and time stamped at the stated address **prior to or no later than the time designated**. The timestamp located on the 3<sup>rd</sup> floor at the receptionist desk shall be considered the official timepiece for the purpose of establishing the time of receipt of proposals.
7. Consultant agrees and acknowledges all RFP specifications, terms and conditions and indicates ability to perform by submission of a proposal.
8. A signed proposal submitted to BATA in response to this RFP shall constitute a binding offer from Consultant to contract with BATA according to the terms of the proposal for a period of 180 days after the proposals are due to BATA.
9. A Proposal may be withdrawn at any time before the date and time when Proposals are due by submitting a written request for its withdrawal to the BATA Project Manager.
10. This RFP does not commit BATA to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP.
11. Only one proposal will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response.
12. BATA reserves the right to accept or reject all proposals submitted, waive minor irregularities, request additional information, or revisions to offers, and negotiate with any or all proposers.

13. BATA reserves the right in its sole discretion not to enter into any contract as a result of this RFP.
14. If the selected proposer fails to enter into a contract with BATA in a timely manner as determined by BATA, in accordance with the terms and conditions of this RFP, BATA reserves the right to reject the proposal and enter into a contract with the next highest scoring firm.

## **VII. FORM OF PROPOSAL**

Proposals must be signed in ink and include a statement that the person or persons signing the proposal is/are authorized to submit the proposal on behalf of the Proposer.

Page limits, where specified, are for single-sided print and unless otherwise specified are for 8-1/2" x 11" sized pages. Fonts shall not be less than size 11. Any materials exceeding the page limitations will not be read.

Proposers are encouraged to print double-sided copies to save paper.

Proposal content and completeness are most important. Clarity is essential and will be considered in assessing the Proposer's capabilities.

Proposers must provide the information listed below. Any material deviation from these requirements, including exceeding the page limits, may be cause for rejection of the proposal, as determined in BATA's sole discretion.

Each proposal must include the following:

### ***A. Transmittal Letter***

Proposals must include a transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm and the name and telephone number of a contact person, if different from the signatory. Indicate whether there are any conflicts of interest, actual or apparent, that would limit the Proposer's ability to provide the requested services and describe the plan for mitigating such conflicts. Acknowledge the receipt of any addendum to the RFP. Indicate that the Proposal is a firm offer to enter into a contract to perform work related to this RFP for a period of 180 days from the due date for Proposals. (Not to exceed one page)

### ***B. Title Page***

Proposals must include a title page that includes the RFP subject, the name of the proposer's firm, local address, telephone number, name of contact person, contact person's email address, and the date. (Not to exceed one page)

### ***C. Table of Contents***

Proposals must include a table of contents that includes a clear identification of the material by section and page number. (Not to exceed one page)

### ***D. Team Qualifications and Experience (Not to exceed eight pages total, this section)***

1. Describe proposed team's qualifications specific to the requirements set forth in Section II, Proposer Minimum Qualifications. Proposers are welcome to identify and provide examples of any other qualifications they feel are critical to the successful completion of the Preliminary Scope of Work attached as *Appendix A*. (Not to exceed 3 pages)
2. Include descriptions of up to five (5) relevant projects completed within the past four (4) years by the firm/team and include a description of the key staff involved in each project. The description should include the following: (Not to exceed 1 page per project.)
  - Project name;
  - Project category, one paragraph description of the type of project, purpose of the project, and the firm's scope of work;
  - Size of the project in terms of budget and scope;
  - Duration of project (e.g., 6 months) and year of completion;
  - Who, of the staff proposed for this contract, worked on the project and their role.
  - Client reference/contact

### ***E. Staff Qualifications and Experience (Not to exceed 4 pages total, excluding resumes)***

1. Identify key personnel (including subcontractor personnel) and summary qualifications of the key personnel who would be expected to work on the project, their availability, and the location of the office from which they do most of their work. Staff qualifications should include: a one-paragraph description of relevant experience specific to the project, proposed role, length of work experience and areas of expertise. (Not to exceed 2 pages)
2. Include an organizational chart that shows roles and responsibilities of key personnel and reporting structure, including reporting and communication relationships between BATA, Consultant staff, and subcontractors, if any. Key staff members who are proposed to contribute the majority of work hours should be highlighted on the organizational chart. (Not to exceed one 11" x 17" engineering-fold page)
3. Include a table expressing key personnel availability expressed as a percentage of their time commitments to the project relative to other assignments. (Not to exceed 1 page)
4. Full resumes for key personnel may be included as an appendix. (Each key personnel resume shall not exceed two pages)

***F. Summary of Approach (Not to exceed 5 pages total, this section)***

This section should clearly convey the Consultant's understanding of the nature of the work and the general approach to be taken, and identify any specific considerations. It should include, but not be limited to, the following:

1. A discussion of the project's purpose;
2. A summary of the proposed approach specific to each task;
3. Assumptions made in selecting the approach; and
4. Identification of any difficult issues that may affect the execution of the project and how these issues should be addressed.

***G. Detailed Work Plan (Not to exceed 5 pages, plus one 11" x 17" schedule, this section.)***

This section should present a work plan that follows or modifies the preliminary list of tasks described in *Appendix A, Preliminary Scope of Work*. The proposed work plan should:

1. Discuss how each task of the project will be conducted, identify deliverables, and propose a schedule. The description of the proposed approach to performing the project should fully discuss the tasks in sufficient detail to demonstrate a clear understanding of the project and component tasks. The proposal may include additional tasks or sub-tasks the Consultant believes necessary to accomplish the project goals. The schedule should show the expected sequence of tasks, subtasks and milestones. The selected Consultant, in consultation with BATA, will develop a final work plan and schedule for each deliverable.
2. Provide a staffing plan for each task. Identify all key personnel by name and the specific tasks for which each individual will be responsible. Identify other personnel by job description.
3. Describe approach to managing resources and maintaining quality results. Include a description of the role of any subconsultants, their specific responsibilities, and how their work will be supervised to maintain quality results. Detail where Consultant and subconsultants have worked together before.
4. Identify and explain any problem areas, scheduling bottlenecks, critical path items and any other obstacles to successful and timely completion of this project. Describe how you plan to address and overcome these obstacles, including methods, formal and informal, that you will use to track and resolve problems that arise during the project.

***H. References (Not to exceed 1 page total, this section, excluding attachments)***

1. Provide at least three (3) references attesting to the proposer's previous experience in performing work substantially similar or related to the Project Scope of Work. References should include, at a minimum, the contact for the reference projects that respond to requirements set forth in Section II, Proposer Minimum Qualifications. Please provide the names of current clients, along with the names and telephone numbers of client contact person(s) for each reference. (Not to exceed 1 page total.)

2. Provide in an appendix at least one sample of a written technical report or memo developed for one of the aforementioned reference projects. The samples must have been prepared by key members of the Consultant team and should identify the authors. Proposers are encouraged to provide a study described under Section II, Minimum Qualifications, as a work sample(s). Hard copies of the work sample are not required but please include this material with the electronic copy of the proposal. Work samples will be considered in evaluating firm and staff expertise and experience, and written presentation effectiveness. If a Proposer believes these materials contain trade secrets or other proprietary information the Proposer should follow the instructions included in Section IX, General Conditions, Article D, Public Records to indicate these pages are confidential.
3. Provide a table, as an attachment, listing all contracts your firm (including subcontractors) has held with BATA in the past three years, including a brief description of the scope of work, the contract amount, and date of execution.

### ***I. Cost Proposal***

Based on the tasks and staffing plan described in response to G.1 and G.2, listed above, provide a breakdown of the expected expenditures of funds for each task in each phase of work. The budget should include, but is not limited to, a task budget and a line item budget with billing rates for each phase.

1. The task budget should present a breakdown of hours and expenses by task and deliverable in each phase of the project. It should identify or refer to key personnel or job descriptions in relation to each task to provide a full explanation of the resources committed to the project. Expenses should be included such that all project costs are indicated. BATA will not pay for ordinary travel expenses, meals or lodging, for consultant staff or subconsultants who are based out of the local area, or permit add-on fees for use of subconsultants.
2. A line item budget should be submitted for each phase of the project. The line item budget should present a breakdown of costs by cost categories, including billing rates for key personnel and job classifications. The line item budget should be set forth on the Cost and Price Analysis Form attached hereto as *Appendix B* to this RFP. A line item budget should also be submitted for proposed subconsultants with contracts estimated to exceed \$25,000. *Appendix B* is available in electronic spreadsheet format upon request.
3. Please include information (date and outcome) on firm's most recent pre-award audit, if applicable.

### ***J. California Levine Act Statement***

Submit a signed Levine Act statement (*Appendix C*).

### ***K. Insurance Provisions***

Submit a signed acknowledgement that your firm agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix D-1, Insurance Requirements*, within ten (10) days of BATA's notice to firm that it is the successful proposer. (See Section IX.B of the RFP for how to request exceptions to the minimum insurance requirements.)

## **VIII. PROPOSAL EVALUATION**

### ***A. Verification of Minimum Qualifications***

The Project Manager will review proposals to ensure that each Proposal meets the Minimum Qualifications set out in Section II, Proposer Minimum Qualifications of this RFP. Proposers failing to meet the Minimum Qualifications will not be considered.

### ***B. Review for General Responsiveness***

The Project Manager, in consultation with the BATA's Office of General Counsel, will conduct an initial review of the proposals for general responsiveness and inclusion of the items requested in Section II, Proposer Minimum Qualifications. Proposers failing to meet the Minimum Qualifications listed herein this RFP will not be considered responsive. Also, any proposal that does not include enough information to permit the evaluators to rate the proposal in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. A proposal that fails to include one or more items requested in the Form of Proposal may be considered responsive, if evaluation in every criterion is possible. BATA reserves the right to request additional information from responsive proposers prior to evaluation.

### ***C. Evaluation Panel and Evaluation Criteria***

Responsive proposals will be evaluated by an evaluation panel of BATA and other partner agency staff. The evaluation of the proposals shall be within the sole judgment and discretion of the evaluation panel. All contact during the evaluation phase shall be through the BATA Project Manager only. Proposers shall neither contact nor lobby any evaluation panel members during the evaluation process. Attempts by proposer to contact and/or influence members of the evaluation panel may result in disqualification of proposer.

Responsive proposals shall be evaluated on the basis of the following evaluation factors, with their relative importance indicated by percentages:

1. Approach to work (30%);
2. Experience and qualifications of the firm(s) and of proposed staff in relation to the expertise sought by BATA, as listed and described in *Appendix A, Preliminary Scope of Work*; (20%);
3. Depth of staff resources to work on multiple projects at the same time (20%);
4. Written and oral communication, as evidenced in the submitted proposal and through oral interviews (see below), if held (15%);
5. Cost Effectiveness (10%); and
6. References (5%).

#### ***D. Proposer Discussions***

Following the initial evaluation, the evaluation panel may elect to recommend award to a particular proposer (with or without interviews), or to enter into discussions with a “short list” of proposers, consisting of those proposers reasonably likely, in the opinion of the panel, to be awarded the contract.

The purpose of discussions with a Proposer on the “short list” will be to identify to that Proposer the specific deficiencies and weaknesses in its proposal and to provide the Proposer with the opportunity to consider possible approaches to alleviating or eliminating them. These deficiencies or weaknesses may include such things as technical issues, management approach, cost, or team composition. Discussions may take place through written correspondence and/or during face-to-face interviews. The Proposer’s project manager, as well as other key personnel identified by the evaluation panel, will be expected to participate in any discussions. A proposer on the “short list” invited to participate in discussions will be expected to provide a presentation limited to 20 minutes consisting of an overview of its approach to the Project.

#### ***E. Request for Best and Final Offer***

Following discussions, if held, proposers on the “short list” will be given the opportunity to revise their written proposals to address the concerns raised during discussions through issuance of a Request for Best and Final Offer (BAFO). Following receipt of the BAFOs, the evaluation panel will evaluate the BAFOs against the evaluation criteria.

MTC reserves the right not to convene oral interviews or discussions, and to make an award on the basis of initial proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint. References may be contacted at any point in the evaluation process.

The panel will recommend a Consultant to the MTC Executive Director, based on their evaluation of the written proposals or BAFOs and oral interviews or discussions (if held). The Executive Director will review the recommendation and, if he agrees, he will forward the recommendation to the BATA Oversight Committee for approval.

### **IX. GENERAL CONDITIONS**

#### ***A. Award***

Any award made will be to the Consultant whose proposal is most advantageous to BATA based on the evaluation criteria defined in Section VIII. If the selected firm fails to enter into a contract with BATA in a timely manner as determined by BATA, in accordance with the terms and conditions of this RFP, BATA reserves the right to reject the proposal of the selected firm and enter into a contract with the next highest scoring firm.

## ***B. Contract Arrangements***

BATA Standard Consultant Contract is attached as *Appendix D*. If a proposer wishes to propose a change to any standard BATA contract provision, the provision and the proposed alternative language must be submitted prior to the closing date for receipt of requests for clarifications/exceptions. If no such change is requested, the Proposer will be deemed to accept BATA's standard contract provisions.

The selected Consultant will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1, Insurance Requirements*. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix D-1*, within ten (10) days of BATA's notice that it is the successful proposer. Requests to change BATA's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions. BATA will review the requests and issue an addendum if material changes requested by a prospective proposer are acceptable. Objections to BATA determinations on requests to change insurance requirements pursuant to the protest provisions of this RFP must be brought to BATA's attention no later than the deadline for protesting RFP provisions or compliance with all material insurance requirements will be assumed.

The Consultant will be compensated for all work pursuant to BATA-initiated task orders, which will include a specific scope of work based on the tasks identified in *Appendix A, Preliminary Scope of Work*. Payment for work performed under task orders may be deliverables-based or time and materials, as determined by the BATA Project Manager.

## ***C. Selection Disputes***

A Proposer may object to a provision of the RFP on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular Consultant on the grounds that BATA procedures, the provisions of the RFP or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than 4:00 p.m. on the third day prior to the date proposals are due, for objections to RFP provisions; or
2. No later than 4:00 p.m. on the third day after the date the firm is notified that it did not meet the minimum qualifications or was found to be non-responsive; or
3. No later than 4:00 p.m. on the third day after the date on which the firm is notified that it was not selected, or if applicable the date the appropriate committee authorizes award, whichever is later, for objections to consultant selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the BATA Oversight Committee authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the BATA review officer to recommend a resolution to the Executive Director.

The BATA Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. Should a proposer wish to appeal the decision of the BATA Executive Director, it may file a written appeal with the BATA Oversight Committee, no later than 4:00 p.m. on the third business day after receipt of the written response from the BATA Executive Director. The BATA Oversight Committee's decision will be the final agency decision.

Authorization to award an agreement to a particular consultant by BATA shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the BATA Executive Director or, if the decision of the BATA Executive Director is appealed, the issuance of the BATA Oversight Committee's decision.

#### ***D. Public Records***

This RFP and any material submitted in response to this RFP are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt by law. Other than proprietary information or other information exempt from disclosure by law, the content of proposals submitted to BATA will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the proposer believes any proposal content contains trade secrets or other proprietary information that the proposer believes would cause substantial injury to the proposer's competitive position if disclosed, the proposer may request that BATA withhold from disclosure such proprietary materials by marking each page containing proprietary information as confidential and shall include the following notice at the front of its proposal:

“The data on the following pages of this proposal marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the proposer's competitive position. The proposer requests that such data be used for review by BATA only, but understands that exemption from disclosure will be limited by BATA's obligations under the California Public Records Act. If an agreement is awarded to the proposer submitting this proposal, BATA shall have the right to use or disclose the data, unless otherwise provided by law. [List pages].”

Failure to include this notice with relevant page numbers shall render any “confidential/proprietary” markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire proposal confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the proposer may not designate any required proposal forms or the cost proposal as confidential. Consequently, any language purporting to render any proposal forms or the cost proposal as confidential or proprietary will be regarded as ineffective and will be disregarded.**

In the event properly marked data is requested pursuant to the California Public Records Act, the proposer will be advised of the request. If the Proposal requests that BATA withhold such data from disclosure and BATA complies with the proposer's request, the proposer shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend BATA

and hold it harmless from and against all claims, legal proceedings, and resulting damages and costs (including but not limited to attorneys' fees that may be awarded to the party requesting such proposer information); and pay any and all costs and expenses relating to the withholding of the proposer information.

If the proposer does not mark each page containing proprietary information as confidential, does not include the statement described above at the front of its Proposal, and/or does not request that BATA withhold information marked as confidential and requested under the California Public Records Act, BATA shall have no obligation to withhold the information from disclosure, and the proposer shall not have a right to make a claim or maintain any legal action against BATA or its commissioners, officers, employees or agents in connection with such disclosure.

### ***E. Key Personnel***

Key staff persons assigned to the project are expected to remain on the project. Any change in key staff persons of the proposed project team is subject to prior written approval of BATA. Removal of any key staff persons identified in the proposal without written consent of the Project Manager may be considered a material breach of contract.

### ***F. Conflicts Of Interest***

By submitting a Proposal, the Proposer represents and warrants that no commissioner, officer or employee of BATA is in any manner interested directly or indirectly in the Proposal or in the contract that may be made under it or in any profits expected to arise therefrom, as set forth in California Government Code Section 1090.

The Proposer further warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code Sections 1090 *et seq.* or 87100 *et seq.* during the performance of services under any contract resulting from this RFP and that it will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable.

Whenever BATA is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the Proposer, and if so, whether any potential bias can be mitigated acceptably by BATA and the Proposer. After award, the Consultant shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the agreement resulting from this and other BATA solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to BATA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other project.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this Agreement if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

***G. Personally Identifiable Information***

Consultant agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in Attachment G, Special Conditions Regarding Personally Identifiable Information of *Appendix D*, BATA Standard Consultant Contract.

## **APPENDIX A, PRELIMINARY SCOPE OF WORK**

A preliminary scope of work is provided below. All required services will be authorized by Task Order, initiated and developed according to the Task Order Process described in Attachment A-1, of *Appendix D, BATA Standard Consultant Contract*. Task Orders will include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subconsultant participation (if any), in a completed form as shown in Attachment A-2, Task Order Form, Appendix D, BATA Standard Consultant Contract, attached hereto and incorporated herein by this reference.

### **Project Overview**

Building on the outcomes of the Video Tolling Demonstration Project, the selected Consultant will perform a series of tasks to assist BATA in deciding whether individual toll bridges can be converted to AET. The first task is to generate baseline information for expanding AET on BATA bridges. If the baseline data indicates that AET may be viable for any or all toll bridges, the consultant shall develop AET implementation plans for the state-owned toll bridges. Each implementation plan shall include an assessment of the operational readiness of lanes and communications systems, the Regional Customer Service Center (RCSC), plaza lane configuration, signage, monitoring requirements along with a customer communications plan. Each deployment plan will contain a schedule, budget, risks and transition activities. The consultant may be expected to provide support during AET implementations. Each plaza will then be examined to determine whether civil improvements, including ORT, are feasible to further improve traffic operations. The final task would be to evaluate the impacts AET conversions had on the state-owned toll bridges. In addition to general Project Management, there are seven tasks as currently planned which include:

- Task 1 – Develop Baseline Information for Expanding AET on Bay Area Toll Bridges
- Task 2 – Develop AET Implementation Plans for Antioch, Dumbarton and San Mateo-Hayward Bridges
- Task 3 – Develop AET Implementation Plans for Benicia-Martinez, Carquinez and Richmond-San Rafael Bridges
- Task 4 – Develop AET Implementation Plan for San Francisco-Oakland Bay Bridge
- Task 5 – Feasibility of Future Civil Enhancements
- Task 6 – Evaluate the Impacts of AET Implementation on Bay Area Toll Bridges
- Task 7 – Perform other assignments as needed

### **Scope of Services**

#### **Task 0. Project Management**

- 0.1. **General Support.** Consultant will provide general project administrative support, including, but not limited to, managing the overall study progress and schedule, meetings, and coordination with other agencies for the duration of the project.
- 0.2. **Manage Subcontractors.** Consultant will prepare and manage subcontracts, if applicable, as required for completion of the scope of services.

- 0.3. **Monthly Invoicing.** Consultant will prepare and submit monthly invoices for the duration of the project. For purposes of estimating labor hours, assume that project management activities will last for 24 months for Tasks 1 through 7. Consultant will need to monitor and coordinate work to assure quality, accuracy and consistency of all documents and deliverables.
- 0.4. **Meeting Coordination.** Consultant's Project Manager and other Key Personnel (see requirements in the RFP) will attend project coordination meetings as needed with BATA, GGBHTD, Caltrans, the RCSC contractor, ATCAS contractor, and members of the project team. For purposes of estimating labor hours, assume that BATA will hold monthly meetings for the duration of the project. Consultant will prepare the meeting agendas, summary meeting notes (decisions/actions), and maintain a running list of open project action items for the duration of the project.

*Deliverables:*

- Meeting agendas and summary notes (Decisions/Actions). Assume 24 meetings for Tasks 0-7.
- Monthly invoices and progress reports. Assume 24 months for Tasks 0-7.

**Task 1. Develop Baseline Information for Expanding AET on Bay Area Toll Bridges**

- 1.1. **Traffic Volume and Travel Time Forecasting.** Consultant will forecast future traffic volumes and travel times and delay, for the next five fiscal years (FY 14-15 to FY 18-19), based on the three different scenarios listed below.

1. Maintain Current Plaza Configurations (Baseline)
2. Periodically Convert Cash Lanes to FasTrak<sup>®</sup> or closed
3. Full AET

***Traffic Volume Forecasting:***

Consultant will forecast future traffic volumes on the seven state-owned toll bridges using travel demand models constructed for BATA's facilities. For this task, BATA will furnish all historical traffic data that consultant will need to conduct this analysis.

***Travel Time Forecasting:***

Consultant will collect travel time and approximate queuing data, by booth payment type (Cash, FasTrak<sup>®</sup>, HOV), for each toll bridge approach corridor during each plaza's peak period. Forecasted data will estimate the potential benefits of the three scenarios listed above in terms of changes in vehicle travel times, queue lengths, and greenhouse gas emissions. During the proposal stage an appropriate method for gathering the travel time/queuing data shall be included.

- 1.2. **Review AET implementation at the Golden Gate Bridge.** Consultant shall review and analyze data, compiled by BATA, related to the AET implementation at the Golden Gate Bridge. Data and operational reports from before and after the conversion to AET will be provided.
- 1.3. **Financial Impact Analysis.** Consultant will analyze the financial impacts of the recommended operational changes at each of the seven state-owned toll bridges. Operational costs and toll revenue impacts will be analyzed over a five-year period (FY 14-15 through FY 18-19) for the three scenarios listed within Task 1.1 and should take into consideration

projected trends in bridge traffic, Electronic Toll Collection (ETC) penetration, current and future payment methods, violation rates and whether increased RCSC costs outweigh the costs of continuing to utilize toll collectors.

**Estimate transaction types and volumes on all state-owned bridges.** Consultant will review historical traffic volumes and RCSC violation data to forecast future yearly traffic demand and revenues. Forecasted volumes and revenues will be by transaction type for the three scenarios listed above. Assumptions about available payment methods and customers' use of each payment method after AET implementation should be documented. The transaction types to be considered include:

- Cash
- High Occupancy Vehicle (HOV)
- FasTrak<sup>®</sup> Valid Tag Read
- FasTrak<sup>®</sup> Image-Based Tolls (ITOL, VTOL)
- One-time payment tolls (ONETOL)
- License-plate toll (LTOL)
- True Violations

Consultant will offer a methodology, during the proposal stage, for predicting the potential conversion of cash toll payers to FasTrak<sup>®</sup>/HOV, post-paid invoice accounts, violations, or other payment methods.

**Provide Estimated Operational Costs.** Using projected transaction volumes, along with customer service center and bridge toll system financial data, compute the cost to collect for all RCSC transaction types for the three scenarios. Payment types include: Cash, HOV, FasTrak<sup>®</sup> valid tag read, FasTrak<sup>®</sup> image-based tolls (ITOL, VTOL), one-time payment tolls (ONETOL), license-plate tolls (LTOL), and true violations. These calculations shall consider and separately compute the costs by account type and according to the full life-cycle of a transaction (e.g., Posted in real-time, Late Posted, First Invoice Paid, Second Invoice Paid, First Violation Notice Paid, Second Violation Notice Paid, Sent to Collections Paid, Requested DMV hold, Uncollectable, etc.).

**Provide Estimated Net Revenue Impact.** Consultant will project operational expenses for all proposed scenarios, for the five year period, to calculate the estimated net revenue per year BATA would expect to receive from each of the scenarios. The analysis will compare operational costs (e.g., image review, increased CSC staffing, increased billing and statement costs, etc.) to the potential cost savings (e.g., reduction in toll collection staffing, reduction in cash handling costs, etc.) which may occur within each scenario. BATA will furnish program expenditure data (e.g. annual operations budget, Caltrans toll operations costs, etc.) needed for the analysis. If warranted, consultant may recommend administrative fees for specific payment types and the amount of the proposed fees.

- 1.4. **Determine Customer Service Strategies.** Successfully achieving a high level of customer satisfaction is a top priority for BATA. Shifting traffic operations to AET may cause existing FasTrak<sup>®</sup> customers or long-term cash customers or tourists to require additional assistance from the RCSC call center, which is the main point of contact for drivers. Consultant will evaluate how BATA currently processes customer service inquires and

propose strategies to handle changes that may occur if toll plazas are converted to an AET environment.

- 1.5. **Technical Memorandum.** Consultant will prepare a technical memorandum summarizing the results of Tasks 1.1 through 1.4. Included within the memorandum is a recommendation, established by an analysis of the results of the baseline data, whether AET may be viable for any or all toll bridges. Consultant will summarize the overall findings and submit one draft and one revised final draft of the memorandum that responds to a set of non-conflicting comments furnished by BATA and its partners to the original draft. If needed, Consultant will hold one or more meetings to resolve conflicting comments before submitting the final memorandum.

*Deliverables:*

- Draft and Final Technical Memorandum – Develop Baseline Information for Expanding AET on Bay Area Toll Bridges

**Task 2. Develop AET Implementation Plans for Antioch, Dumbarton and San Mateo-Hayward Bridges**

If BATA determines that AET may be a viable plan for its bridges based on Task 1 results, consultant shall develop AET implementation plans for Antioch, Dumbarton and the San Mateo-Hayward Bridges.

- 2.1. **Confirm Operational Readiness of BATA Systems.** Using volume and transaction data generated within Task 1, confirm system and operational readiness of lane systems, the RCSC, and the BATA communications system if the Antioch, Dumbarton and San Mateo-Hayward Toll Bridges are converted to AET. Identify risks and describe anticipated impacts to the RCSC.

**Assess the Readiness of the ATCAS Lane, Plaza and Host Systems.** Consultant will perform a technology review of the ATCAS toll system to understand the system capabilities and to identify any deficiencies or necessary system modifications to support AET implementation on the state-owned toll bridges. This assessment will include, at a minimum, a review of the operating contract and the following types of investigations:

- Review the toll system upgrades made to the Advanced Toll Collection and Accounting System (ATCAS), completed in the fall of 2013. Determine if any current ATCAS equipment needs replacing, or new reports need to be created, prior to converting to an AET environment; and
- Examine the violation enforcement cameras that capture license plate images and automatically read license plate characters. Determine if all cameras used throughout the system function at a level necessary to convert to AET.

**Assess the Readiness of the RCSC Account Management, Violation Processing, Web Portal and Financial Systems.** The back-end RCSC functionality necessary to enable AET on the Golden Gate Bridge was implemented as part of the 2011 demonstration project. Specifically, BATA modified the RCSC business rules and account-handling

procedures including offering several options for customers to pay the toll, including via FasTrak<sup>®</sup> toll tags, as well as new payment methods that include license plate pre-paid accounts, one-time payments, and post-paid invoices. Violations are still enforced for any patron who does not pay tolls through one of these approved methods. Because of the GGBHTD implementation, much of the RCSC functionality currently exists if BATA chooses to pursue AET at the state-owned toll bridges. Consultant will perform a technology review of the RCSC that includes, at a minimum, a review of the operating contract and the following types of investigations:

- Evaluate the RCSC backend system to understand the system capabilities and to identify any deficiencies or necessary improvements to support AET implementation on the state-owned toll bridges;
- Assess the potential impacts on RCSC systems that could be anticipated from increased transaction volumes related to AET implementation. Consultant will utilize the projected transaction volumes determined within Task 1. Factors to be considered within this assessment include: impacts on file transfers, system interfaces and system performance impacts, the RCSC financial system's capabilities to handle additional billing, accounts receivable, check deposits, refunds, violations converted to tolls (VTOLs), image-based tolls (ITOLs) and account reconciliations;
- Recommend if certain transaction payment types (e.g. one-time payment tolls, etc.), related to AET, can be eliminated due to expected infrequent customer usage or whether certain transaction payment types are difficult for the public to understand; and
- Determine the impact converting to AET would have on the number of Customer Service Representatives (CSRs) needed to respond to the change in phone call frequency at the RCSC.

**Assess the Readiness of the BATA Communications System.** Consultant will investigate, with the assistance of BATA's Information Technology (IT) Manager, whether communications system upgrades (including network devices, communication links, servers, and storage systems) are needed to support AET implementation. Forecasted violation data from Task 1 will be used for estimating whether sufficient capacity exists for capturing, processing, storing, and transmitting the expected higher volume of image files. Additionally, communication requirements for remote operation scenarios of the plaza systems will be evaluated, including calculations for any additional video, image, and reporting feeds to offsite Caltrans Traffic Management Center (TMC), BATA auditors, and tolling system integrator.

- 2.2. **Corridor Improvements to Implement AET.** Consultant shall examine whether each tolling facility, as it is currently constructed and operating, is a good candidate for conversion to AET without making any major physical infrastructure improvements. Factors to consider include: the configuration of each toll plaza, lane striping, overhead fixed and electronic signage, toll plaza improvements, on-site operational monitoring requirements and all potential safety concerns.

**Examine Current Toll Plaza Configurations.** The existing lane configuration and geometry for each toll plaza shall be evaluated to determine whether they would support

AET, and if they do not, how each toll plaza would need to be modified to support AET operations. Consultant will update and expand upon the information contained in *Appendix E, Attachment D, Video Tolling Demonstration Project Task 4.0 – Facilities Review* to understand changes that have been implemented to plaza and lane configurations within the past several years (e.g., demolition of mini-plaza and construction of ORT lanes at the San Francisco-Oakland Bay Bridge). Consultant will utilize the traffic demand and queuing forecast data within Task 1, along with the latest Caltrans booth-by-booth usage tables reflecting the current daily operation of each toll plaza, to identify areas where toll plaza configurations would perform better if the combination of mixed-mode and dedicated lanes were different than the current configuration.

**Signage and Striping Improvements.** Consultant will evaluate whether changes to the existing bridge approach corridor signage and striping are necessary to support a change to AET. Consultant should pay particular attention to the frequency and spacing of overhead CMS/signing needs in each lane, and develop straight-line diagrams that illustrate recommended traffic control devices that are compliant with the latest edition of the California Manual on Uniform Traffic Control Devices (MUTCD). Specific areas to concentrate the analysis include:

- BATA’s existing changeable message sign (CMS) system which would need to support dedicated AET and/or ORT lane operations;
- Transitional signage from where Express Lanes terminate to where bridge tolling areas begin; and
- Determine whether existing fixed signs should be modified or upgraded to electronic.

**Toll Plaza Improvements.** Consultant will determine what toll plaza infrastructure improvements are necessary to assist with the conversion of each toll plaza to AET. A safety analysis should be performed, including an evaluation and integration of AET with existing and/or future mainline metering operations, with particular attention on frequency/spacing for overhead CMS/signing needs in each lane.

**Bridge Administration and Monitoring.** Toll plaza operations are monitored by various units including: on-site Caltrans Toll Supervisors, the Caltrans TMC, BATA Finance and other BATA and Caltrans staff with access to web-based cameras. Consultant will evaluate the current methods used by Caltrans and BATA to monitor toll plaza operations and recommend an approach to monitoring traffic after conversion to AET. This research should utilize lessons learned from the Golden Gate Bridge conversion or from other agencies that implemented AET.

- 2.3. **Public Outreach.** Consultant will propose a scope, schedule and budget for a customer communications plan to inform the media, drivers and other stakeholders about the transition to AET. This plan will outline techniques BATA can use to enable bridge users, and specifically cash paying customers, to understand and comply with the changes to toll plaza operations. This plan would also include, but not be limited to, the role media should play informing customers of operational changes, what type of roadway signage is necessary to minimize driver confusion, when to begin informing bridge users of any upcoming changes, how to minimize customers choosing one-time payment tolls (ONETOL) along with incorporating any lessons learned from other AET conversions.

- 2.4. **Risk Analysis.** Consultant will identify all relevant issues, potential obstacles and risks before transitioning each toll bridge or the entire BATA Bridge Program from its current operational paradigm to AET. Relevant issues to consider include: concurrent projects, Express Lane implementations<sup>2</sup>, metering lights or other changes in the environment that might impact drivers' ability to cope with tolling changes. Additionally, Consultant will assess all potential risks, and associated costs from each risk, with an emphasis on how safety is impacted by their recommendations. The Risk Analysis will utilize a risk register that defines the various levels of risk identified, estimates impacts associated with each risk, and appropriate mitigation strategies.
- 2.5. **Implementation Plans.** Consultant will develop an implementation plan for each bridge. If AET is not considered a viable option for any particular bridge, consultant will provide an alternative recommendation for improving toll plaza operational efficiency. The implementation of any proposed changes will require the completion of a number of parallel tasks and continuous communication and collaboration. Each plan will include at a minimum:
- The results from Tasks 2.1 through 2.4, including all relevant documentation describing how proposed recommendations can be executed.
  - A detailed capital cost estimate identifying the rough order of magnitude costs BATA would incur to complete the recommended changes shall be included. Consultant will describe, by bridge, all the costs associated with their recommendations for infrastructure improvements to convert plazas to AET, new signage or striping at or near each of the toll plazas, accommodating Express Lanes, or other proposed recommendations. Additional costs associated with the RCSC or ATCAS toll system modifications, bridge monitoring upgrades, a general public outreach campaign, or any other capital costs that could be incurred should also be included as separate system-wide expenditures.
  - A project schedule that identifies all of the major tasks that BATA and its partners (e.g., Caltrans, RCSC and ATCAS contractors) must complete, and what timeframe to implement those changes are practical and achievable given the aforementioned risks, costs, and potential obstacles that may occur. Consideration must be given to other BATA projects (e.g. Express Lanes) that could potentially affect customer resource allocation and call volume at the RCSC.
  - Ascertain whether amendments to existing agreements or new procurements are necessary to procure the services and/or supplies to support the recommended operational changes.
- 2.6. **Provide Technical Assistance.** During this task, Consultant may be asked to provide technical assistance to BATA and/or Caltrans, on a time and materials basis, during implementation of tolling improvements on the state-owned toll bridges. Specific activities would be defined at the time the Task Order is drafted for this work. Consultant should include a total of six months of support for the purposes of preparing a cost estimate.

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<sup>2</sup> Bay Area Express Lanes Concept of Operations May 23, 2013  
[www.mtc.ca.gov/projects/express\\_lanes/pdfs/bay\\_area\\_express\\_lanes\\_conops\\_20130523.pdf](http://www.mtc.ca.gov/projects/express_lanes/pdfs/bay_area_express_lanes_conops_20130523.pdf)

*Deliverables:*

- Implementation Plans for Antioch, Dumbarton and San Mateo-Hayward Toll Bridges

**Task 3. Develop AET Implementation Plans for Benicia-Martinez, Carquinez and Richmond-San Rafael Bridges**

Consultant will repeat Tasks 2.1 through 2.6 for the Benicia-Martinez, Carquinez and Richmond-San Rafael Bridges.

*Deliverables:*

- Implementation Plans for Benicia-Martinez, Carquinez and Richmond-San Rafael Toll Bridges

**Task 4. Develop AET Implementation Plan for San Francisco-Oakland Bay Bridge**

Consultant will repeat Tasks 2.1 through 2.6 for the San Francisco-Oakland Bay Bridge.

*Deliverable:*

- Implementation Plan for San Francisco-Oakland Bay Toll Bridge

**Task 5. Feasibility of Future Civil Enhancements**

5.1. **Future Civil Enhancements.** Each of the toll facilities associated with the seven state-owned toll bridges, contains unique features. Multiple strategies may need to be executed to increase each facility's operational efficiencies. Consultant will assess the feasibility of further civil enhancements, including ORT, to improve traffic operations at all bridges once AET is implemented to achieve BATA's goal of reducing congestion, decreasing travel times, producing less carbon emissions while ensuring motorist safety. BATA has converted several lanes to ORT in the past by re-configuring a section of a toll plaza through the removal of toll booths. Future ORT enhancements should be analyzed, and plaza configurations evaluated, to determine the best location for ORT lane tolling installations.

5.2. **Technical Memorandum.** Consultant will prepare a technical memorandum summarizing the overall findings and submit one draft and one revised final draft of the memorandum that responds to a set of non-conflicting comments furnished by BATA and its partners to the original draft. If needed, Consultant will hold one or more meetings to resolve conflicting comments before submitting the final memorandum.

*Deliverables:*

- Draft and Final Technical Memorandum – Feasibility of Future Civil Enhancements

**Task 6. Evaluate the Impacts of AET Implementation on Bay Area Toll Bridges**

6.1. **Final Report Evaluating AET Impacts.** Consultant will assess toll plaza operations after the implementation plan has been executed for each of the toll bridges. The timing of each evaluation will be decided by BATA. The evaluation will consist of determining the impacts to drivers, the RCSC, toll collection system and toll revenue. Consultant will

submit one draft and one revised final draft of the memorandum that responds to a set of non-conflicting comments furnished by BATA and its partners to the original draft. If needed, Consultant will hold one or more meetings to resolve conflicting comments before submitting the final memorandum.

- 6.2. **Presentation Slides.** Consultant will prepare and submit a set of briefing slides, in Microsoft PowerPoint (.pptx) format, based on the corresponding Final Report. Consultant may be asked to present the findings in one or more staff, Executive, and/or Commission meetings.

*Deliverables:*

- Two Draft and Final Reports with Executive Summary and Recommendations
- PowerPoint Briefing Slides for Evaluation of Impact of AET on the Bay Area Toll Bridges

**Task 7. Perform Other Assignments As Needed**

Consultant may be asked to perform other assignments to BATA and/or Caltrans, as needed, on a time and materials basis, during implementation of tolling improvements on the state-owned toll bridges.

**APPENDIX B, COST AND PRICE ANALYSIS FORM<sup>3</sup>**

COST AND PRICE ANALYSIS - RESEARCH AND DEVELOPMENT CONTRACTS				
This form is to be used in lieu of FAA Form 3515 as provided under FAPR 2-16.260-2, it will be executed and submitted with proposals in response to "Requests for Proposals", for procurement of research and development services. If your cost accounting system does not permit analysis of costs as required, contact the purchasing office for further instructions.			PURCHASE REQUEST NUMBER	
NAME AND ADDRESS OF OFFERER		TITLE OF PROJECT		
DETAIL DESCRIPTION		ESTIMATED HOURS	RATE/HOUR	TOTAL ESTIMATED COST (Dollars)
1. DIRECT LABOR (Specify)				
TOTAL DIRECT LABOR				
2. BURDEN (Overhead-specify) Dept. or Cost Center		Burden Rate	X BASE	BURDEN (\$)
TOTAL BURDEN				
3. DIRECT MATERIAL				
TOTAL MATERIAL				
4. SPECIAL TESTING (Including field work at Government installations)				
TOTAL SPECIAL TESTING				
5. SPECIAL EQUIPMENT (If direct charge - specify in Exhibit B on reverse)				
6. TRAVEL (If direct charge)				
a. TRANSPORTATION				
b. PER DIEM OR SUBSISTENCE				
TOTAL TRAVEL				
7. CONSULTANTS (Identify - purpose - rate)				
TOTAL CONSULTANTS				
8. SUBCONTRACTORS (Specify in Exhibit A on reverse)				
9. OTHER DIRECT COSTS (Specify in Exhibit B on reverse - explain royalty costs, if any)				
10. TOTAL DIRECT COST AND BURDEN				
11. GENERAL AND ADMINISTRATIVE EXPENSE (Rate % of item nos.)				
12. TOTAL ESTIMATED COST				
13. FIXED FEE OR PROFIT (State basis for amount in proposal)				
14. TOTAL ESTIMATED COST AND FIXED FEE OR PROFIT				

<sup>3</sup> This document is available as an Excel spreadsheet by email upon request to Project Manager.

<b>15. OVERHEAD RATE AND GENERAL AND ADMINISTRATIVE RATE INFORMATION</b>			
A. GOVERNMENT AUDIT PERFORMED	DATE OF AUDIT	ACCOUNTING PERIOD COVERED	
B. NAME AND ADDRESS OF GOVERNMENT AGENCY MAKING AUDIT		C. DO YOUR CONTRACTS PROVIDE NEGOTIATED OVERHEAD RATES? ( ) NO ( ) YES <i>(IF YES, NAME AGENCY NEGOTIATING RATES)</i>	
D. (If no Government rates have been established, furnish the following information)			
DEPARTMENT OR COST CENTER	RATE	TOTAL INDIRECT EXPENSE POOL	BASE FOR TOTAL
16. EXHIBIT A - SUBCONTRACT COSTS (If more space needed, use blank sheets, identify item number)			
NAME AND ADDRESS OF SUBCONTRACTOR(S)	SUBCONTRACTED WORK	SUBCONTRACT	
		TYPE	AMOUNT
TOTAL			
17. EXHIBIT B - OTHER DIRECT COSTS (If more space needed, use blank sheets, identify item number)			
TOTAL			
<b>CERTIFICATE</b>			
<p>The labor rates and the overhead costs are current and other estimated costs have been determined by generally accepted accounting principles. Bidder represents: (a) that he ___has, ___has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure his contract, and (b) that he ___has, ___has not, paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer.</p> <p><i>For interpretation of the representation including the term "bona fide employee," see Code of Federal Regulations, Title 44, Part 150.</i></p>			
NO. OF CONTRACTOR EMPLOYEES: [ ] 500 AND UNDER      [ ] OVER 500 [ ] OVER 750              [ ] OVER 1,000		STATE INCORPORATED IN:	
DATE	SIGNATURE AND TITLE OF AUTHORIZED REPRESENTATIVE OF CONTRACTOR		

**APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT**

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

BATA’s commissioners include:

Alicia C. Aguirre	Federal D. Glover	Joe Pirzynski
Tom Azumbrado	Scott Haggerty	Jean Quan
Tom Bates	Anne W. Halsted	Bijan Sartipi
David Campos	Steve Kinsey	James P. Spering
Dave Cortese	Sam Liccardo	Adrienne J. Tissier
Bill Dodd	Mark Luce	Scott Wiener
Dorene M. Giacopini	Jake Mackenzie	Amy Rein Worth

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

YES  NO

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

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

YES  NO

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

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

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(SIGNATURE OF AUTHORIZED OFFICIAL)

\_\_\_\_\_  
(TYPE OR WRITE APPROPRIATE NAME, TITLE)

\_\_\_\_\_  
(TYPE OR WRITE NAME OF COMPANY)

**APPENDIX D, BATA STANDARD CONSULTANT CONTRACT**

PROFESSIONAL SERVICES AGREEMENT  
Between BAY AREA TOLL AUTHORITY  
And INSERT NAME OF CONSULTANT  
For INSERT BRIEF DESCRIPTION

THIS AGREEMENT is made and entered into as of the xx day of Month, 20\_\_\_\_, by and between the Bay Area Toll Authority (herein called "BATA"), established pursuant to Streets and Highways Code § 30950 *et seq.* and INSERT NAME OF CONSULTANT, (herein called "CONSULTANT") partnership, \_\_\_\_\_[state of incorporation] corporation/ nonprofit corporation/joint venture organized under the laws of the State of \_\_\_\_\_.

**RECITALS**

WHEREAS, BATA, intends to **INSERT BRIEF DESCRIPTION OF PROJECT** (herein called "the Project"); and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers and employees of BATA; and

WHEREAS, the parties hereto now wish to enter into an agreement (the "Agreement") pursuant to which CONSULTANT will render professional services in connection with the Project as hereinafter provided.

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF SERVICES

A general description of the tasks to be required of CONSULTANT is included in this Agreement as Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. All required services shall be authorized by Task Order. All services described in a duly executed Task Order are hereby incorporated into the Agreement upon their execution. All Task Orders shall be developed according to the process established in Attachment A-1, Task Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-2, Task Order Form.

In the performance of its services, CONSULTANT represents that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and CONSULTANT represents that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing. CONSULTANT agrees to perform or secure the performance of all specified services in their entirety with respect to fully executed Task Orders within the Maximum Payment

specified in Article 3. Jeff Gerbracht (herein called "BATA Project Manager") is responsible for communication with CONSULTANT and the administration of this Agreement. BATA'S Executive Director or designated representative may substitute a new BATA Project Manager by written notice to CONSULTANT.

CONSULTANT's point of contact and the individual authorized to communicate to BATA on behalf of CONSULTANT is INSERT NAME OF CONSULTANT'S PROJECT MANAGER ("CONSULTANT Project Manager"). A change in the CONSULTANT Project Manager requires BATA written approval.

### 1.1 PROGRESS REPORTS

CONSULTANT shall provide BATA with progress reports according to the schedule and form approved by the BATA Project Manager.

### 2. PERIOD OF PERFORMANCE

CONSULTANT's services hereunder shall commence on or after \_\_\_\_\_, 201\_\_, and shall be completed no later than \_\_\_\_\_, 201\_\_, unless extended by duly executed amendment or earlier terminated, as hereinafter provided. CONSULTANT's services shall be performed in accordance with the schedule included in each signed Task Order.

### 3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, BATA will pay CONSULTANT for its services as described in duly executed Task Orders a total amount, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors costs (including mark-up), travel, equipment, materials and supplies, expenses and any fixed fee, [**SPELL OUT AMOUNT IN WHOLE DOLLARS (\$\_\_\_\_\_)**] ("Maximum Payment"). BATA shall make payments to CONSULTANT in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

All invoices shall be made in writing and delivered or mailed to BATA as follows:

Attention: Accounting Section  
Bay Area Toll Authority  
Joseph P. Bort MetroCenter  
101 - 8th Street  
Oakland, CA 94607-4700

Payment shall be made by BATA within thirty (30) days of receipt of an acceptable invoice, approved by the Project Manager or a designated representative.

#### 4. KEY PERSONNEL

The key personnel to be assigned to this work by CONSULTANT and, if applicable, their hourly rates and the estimated hours to be supplied by each are set forth in Attachment D, Key Personnel, attached hereto and incorporated herein by this reference. Substitution of any of the personnel named in Attachment D or a decrease in the hours provided to the project by such personnel of more than 10% requires the prior written approval of the Project Manager or a designee. CONSULTANT shall maintain records documenting compliance with this Article, which shall be subject to the audit requirements of Article 15. CONSULTANT agrees that all personnel assigned to this work will be professionally qualified for the assignment to be undertaken. BATA reserves the right to direct removal of any individual, including key personnel, assigned to this work.

#### 5. AMENDMENTS

BATA reserves the right to request changes in the services to be performed by CONSULTANT. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and CONSULTANT and specifically identified as amendments to the Agreement. The BATA Project Manager is not a designated representative, for purposes of approving an amendment.

#### 6. TERMINATION

A. Termination for Convenience. BATA may terminate this Agreement for convenience, in whole or in part, at any time by written notice to CONSULTANT. Upon receipt of notice of termination, CONSULTANT shall stop work under this Agreement immediately, to the extent provided in the notice of termination, and shall promptly submit its termination claim to BATA. For terminated deliverables-based Task Orders, CONSULTANT shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination and a reasonable profit not to exceed \_\_\_%, plus reasonable termination costs, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONSULTANT shall be paid for hours worked, plus authorized expenses and reasonable termination costs, not to exceed the maximum amount payable under the terminated Task Order. If CONSULTANT has any property in its possession belonging to BATA, CONSULTANT will account for the same, and dispose of it in the manner BATA directs. Except as provided above, BATA shall not in any manner be

liable for CONSULTANT's actual or projected lost profits had CONSULTANT completed the services required by this Agreement.

B. Termination for Default. If CONSULTANT does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if CONSULTANT fails to comply with any other material provision of the Agreement, BATA may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on CONSULTANT, setting forth the manner in which CONSULTANT is in default. If CONSULTANT does not cure the breach or describe to BATA's satisfaction a plan for curing the breach within the fifteen (15) day period, BATA may terminate the Agreement for default. In the event of such termination for default, CONSULTANT will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: For terminated deliverables-based Task Orders, CONSULTANT shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONSULTANT shall be paid for hours worked, plus authorized expenses, not to exceed the maximum payable under the terminated Task Order. Such reimbursement will be offset by any costs incurred by BATA to complete work required under the Agreement. In no event shall BATA be required to reimburse CONSULTANT for any costs incurred for work causing or contributing to the default. If CONSULTANT has any property in its possession belonging to BATA, CONSULTANT will account for the same, and dispose of it in the manner BATA directs. BATA shall not in any manner be liable for the CONSULTANT's actual or projected lost profits had the CONSULTANT completed the services required by this Agreement.

C. If it is determined by BATA that CONSULTANT's failure to perform resulted from unforeseeable causes beyond the control of CONSULTANT, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of CONSULTANT, BATA, after setting up a new delivery or performance schedule, may allow CONSULTANT to continue work, or treat the termination as a termination for convenience.

## 7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS

CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All insurance must be placed with insurers with a Best's rating of A-VIII or better.

## 8. INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor and not an employee or agent of BATA and has no authority to contract or enter into any agreement in the name of BATA. CONSULTANT has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by CONSULTANT who are assisting in the performance of services under this Agreement. CONSULTANT shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONSULTANT shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

## 9. INDEMNIFICATION

To the maximum extent permitted by law, CONSULTANT shall indemnify, keep and hold harmless BATA and those entities (if any) identified as additional insureds in Attachment E, Insurance and Financial Security (Bond) Provisions, and their commissioners, directors, officers, agents, and employees (“BATA Indemnified Parties”) against any and all demands, claims, suits or actions arising out of any of the following:

Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by CONSULTANT caused by any breach of the Agreement or negligent act or omission or willful misconduct of the CONSULTANT or its officers, employees, subconsultants or agents; or  
Any allegation that materials or services provided by CONSULTANT under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

CONSULTANT further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the BATA Indemnified Parties, CONSULTANT shall, at its expense, satisfy and discharge the same. The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

## 10. DATA TO BE FURNISHED BY BATA

All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials (“BATA Data”) made available to CONSULTANT by BATA for use by CONSULTANT in the performance of its services under this Agreement shall remain the property of BATA and shall be returned to BATA at the completion or termination of this Agreement. No license to such BATA Data, outside of the

Scope of Work of the Project, is conferred or implied by CONSULTANT's use or possession of such BATA Data. Any updates, revisions, additions or enhancements to such BATA Data made by CONSULTANT in the context of the Project shall be the property of BATA and subject to the provisions of Article 11.

#### 10.1 PERSONALLY IDENTIFIABLE INFORMATION

CONSULTANT agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in Attachment F, Special Conditions Regarding Personally Identifiable Information, attached hereto and incorporated herein by this reference.

#### 10.2 NONDISCLOSURE OF CONFIDENTIAL INFORMATION

BATA may be required to make available to CONSULTANT certain confidential, non-public or proprietary information ("Confidential Information") for purposes of carrying out the Project. Confidential Information may be tangible, intangible, visual, oral, written, and/or electronic information, present or future, and includes: (i) proprietary information learned through inspection of drawings, specifications or equipment; (ii) descriptions of proprietary processes, designs, functionality or know-how; (iii) proprietary software, programming data, code or information; and (iv) other information disclosed in writing and marked as "Confidential" or with a similar notice. As between BATA and CONSULTANT, Confidential Information shall remain the sole and exclusive property of BATA, and no license or other rights to Confidential Information or any works deriving from Confidential Information is granted or implied hereby. Confidential Information does not include information that: a) is now or subsequently becomes generally available to the public through no fault of CONSULTANT; b) CONSULTANT can demonstrate to have had rightfully in its possession prior to disclosure by BATA or its contractors, vendors or licensors; c) CONSULTANT rightfully obtains from a third party who has the right to transfer or disclose it; or (d) is required to be disclosed by law or applicable legal process.

CONSULTANT agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized in writing by BATA. CONSULTANT further agrees to disclose Confidential Information only to its directors, officers, employees and consultants who need to know such information, and who have agreed to be bound by the terms and conditions of this Agreement. Promptly upon the request of BATA, at any time and for any reason, CONSULTANT shall destroy or return to BATA, at BATA's option, all documents, computer files and other tangible

materials that contain Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing by BATA.

## 11. OWNERSHIP OF WORK PRODUCTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products (“Work Products”) prepared or assembled and furnished to BATA by CONSULTANT or its subconsultants pursuant to this Agreement shall be and are the property of BATA. BATA shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the CONSULTANT or in the hands of any subconsultant upon completion or termination of the work shall be immediately delivered to BATA. CONSULTANT hereby assigns to BATA ownership of any and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. CONSULTANT also agrees to execute all papers necessary for BATA to perfect its ownership of the rights in the Work Product. Notwithstanding the above, “Work Products” are not intended nor shall they be construed to include CONSULTANT’S pre-existing intellectual property secured, developed, written, or produced by CONSULTANT prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; CONSULTANT shall retain all right, title and interest in any such pre-existing intellectual property.

CONSULTANT shall be responsible for the preservation of any and all such Work Products prior to transmittal to BATA, and CONSULTANT shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to BATA.

CONSULTANT represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

## 12. SUBCONTRACTS

A. Subconsultants approved by BATA for subcontract work under this Agreement are listed in Attachment G, Subconsultant List, attached hereto and incorporated herein by this reference. Any subconsultants must be engaged under written contract with the CONSULTANT with provisions allowing the CONSULTANT to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a

subconsultant to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONSULTANT.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between BATA and any subcontractors, and no subcontract shall relieve CONSULTANT of his/her responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to BATA for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subcontractors is an independent obligation from BATA's obligation to make payments to CONSULTANT.

C. Any substitution of subcontractors listed in Attachment F must be approved in writing by BATA's Project Manager in advance of assigning work to a substitute subcontractor.

D. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under of this Agreement.

### 13. ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement, or any part thereof without prior express written consent of the Project Manager or a designated representative, and any attempt thereat shall be void and unenforceable.

### 14. RECORDS

CONSULTANT agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. CONSULTANT further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer.

### 15. AUDITS

CONSULTANT shall permit BATA, and its authorized representatives to have access to CONSULTANT's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. CONSULTANT shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

CONSULTANT further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subcontractor agrees that BATA, or any of its duly authorized



No member, officer, employee or agent of BATA, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, CONSULTANT further covenants that it has made a complete disclosure to BATA of all facts of which it is aware upon due inquiry bearing upon any possible interest, direct or indirect, which it believes any member, officer, agent or employee of BATA (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by BATA.

#### 18.1 ORGANIZATIONAL CONFLICTS OF INTEREST

CONSULTANT shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to BATA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONSULTANT shall not engage the services of any subconsultant or independent contractor on any work related to this Agreement if the subconsultant or independent contractor, or any employee of the subconsultant or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONSULTANT becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONSULTANT shall immediately provide BATA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONSULTANT's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, BATA becomes aware of an organizational conflict of interest in connection with CONSULTANT's performance of the work hereunder, BATA shall similarly notify CONSULTANT. In the event a conflict is presented, whether disclosed by CONSULTANT or discovered by BATA, BATA will consider the conflict presented and any alternatives proposed and meet with CONSULTANT to determine an appropriate course of action. BATA's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject the CONSULTANT to damages incurred by the BATA in addressing organizational conflicts that arise out of work performed by CONSULTANT, or to termination of this Agreement for breach.

## 19. LAWS AND REGULATIONS

CONSULTANT shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of such government, including but not limited to BATA, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations and procedural requirements which are imposed on BATA as a recipient of federal or state funds are hereby in turn imposed on CONSULTANT.

## 20. CLAIMS OR DISPUTES

CONSULTANT shall be solely responsible for providing timely written notice to BATA of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is BATA's intent to investigate and attempt to resolve any CONSULTANT claims before CONSULTANT has performed any disputed work. Therefore, CONSULTANT's failure to provide timely notice shall constitute a waiver of CONSULTANT's claims for additional compensation and/or time.

CONSULTANT shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by BATA, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given BATA due written notice of a potential claim. The potential claim shall set forth the reasons for which CONSULTANT believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to BATA prior to the time that CONSULTANT has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner as directed by BATA, and shall be governed by all applicable provisions of the Agreement. CONSULTANT shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached which resolves CONSULTANT's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to the CONSULTANT claim, they may choose to pursue dispute resolution pursuant to Article 24, DISPUTE RESOLUTION, or BATA may terminate the Agreement.

## 21. REMEDIES FOR BREACH

In the event CONSULTANT fails to comply with the requirements of the Agreement in any way, BATA reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by BATA or CONSULTANT shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## 22. TEMPORARY SUSPENSION OF WORK

BATA, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as BATA may deem necessary. The suspension may be due to the failure on the part of CONSULTANT to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of CONSULTANT. The CONSULTANT shall comply immediately with the written order of BATA to suspend the work wholly or in part. The suspended work shall be resumed when CONSULTANT is provided with written direction from BATA to resume the work.

If the suspension is due to CONSULTANT's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of the CONSULTANT, all costs shall be at CONSULTANT's expense and no schedule extensions will be provided by BATA.

In the event of a suspension of the work, CONSULTANT shall not be relieved of CONSULTANT's responsibilities under this Agreement, except the obligations to perform the work which BATA has specifically directed CONSULTANT to suspend under this section.

If the suspension is not the responsibility of CONSULTANT, suspension of all or any portion of the work under this Section may entitle CONSULTANT to compensation and/or schedule extensions subject to the Agreement requirements.

## 23. WARRANTY OF SERVICES

A. In the performance of its services, CONSULTANT represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing. In

addition, CONSULTANT shall provide such specific warranties as may be set forth in specific Task Orders as agreed upon by the parties.

B. In the event that any services provided by CONSULTANT hereunder are deficient because of CONSULTANT's or subconsultants failure to perform said services in accordance with the warranty standards set forth above, BATA shall report such deficiencies in writing to the CONSULTANT within a reasonable time. BATA thereafter shall have:

The right to have CONSULTANT re-perform such services at the CONSULTANT's expense; or

The right to have such services done by others and the costs thereof charged to and collected from the CONSULTANT if within 30 days after written notice to CONSULTANT requiring such re-performance, CONSULTANT fails to give satisfactory evidence to the BATA that it has undertaken said re-performance; or

The right to terminate the Agreement for default. CONSULTANT shall be responsible for all errors and omissions and is expected to pay for all deficient work as a result of errors and omissions.

#### 24. DISPUTE RESOLUTION

A. Informal Resolution of Disputes. CONSULTANT and BATA shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that BATA provide a written determination as to the proposed resolution of the dispute. Within twenty-one (21) calendar days of the request, BATA's Project Manager shall provide a written determination as to the dispute, which shall include the basis for its decision. Upon CONSULTANT's written acceptance of the Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, BATA may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the Project Manager's determination.

If the Project Manager's determination is not accepted by CONSULTANT, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty calendar (30) days of commencement of senior management negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between BATA and CONSULTANT which cannot be resolved through the informal efforts described above, may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is,

mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. CONSULTANT must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner as directed by BATA, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or terminations of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

## 25. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.

## 26. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

## 27. PARTIAL INVALIDITY

If any term or condition of the Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

28. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

30. ENTIRE AGREEMENT; MODIFICATION

This Agreement for Services, including any attachments, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. CONSULTANT represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both the CONSULTANT and BATA. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the Agreement has been executed by the parties hereto as of the day and year first written above.

BAY AREA TOLL AUTHORITY

NAME OF CONSULTANT

---

Steve Heminger, Executive Director

---

Insert Appropriate Name, Title

***ATTACHMENT A - SCOPE OF WORK***

Outline of Services

All services under the Agreement shall be authorized by Task Order, initiated and developed according to the detailed task order process described in Attachment A-1, Task Order Process, attached hereto and incorporated herein by this reference. Task Orders shall include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subconsultant participation (if any), in a completed form as shown in Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference.

Examples of some of the services to be performed by CONSULTANT are:

### ***ATTACHMENT A-1, - TASK ORDER PROCESS***

Detailed Task Order Process:

Task Orders will be numbered sequentially. The period of performance shall be as set forth in the individual Task Order. The process for developing, signing and tracking task orders is summarized as follows:

Step 1 – The BATA Project Manager (“BATA PM”) prepares a draft Task Order to issue to CONSULTANT. The BATA PM may solicit feedback from CONSULTANT to facilitate drafting the Task Order.

Step 2\* – CONSULTANT prepares a proposal in response to the draft Task Order. A draft Task Order, as included in this Agreement as Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference, shall be provided to CONSULTANT for review and comment.

Step 3\* – The BATA PM reviews CONSULTANT’s proposal to determine if it meets the objectives of the draft Task Order and if CONSULTANT’s proposed costs are reasonable. The BATA PM may solicit early feedback from the BATA Director of Electronic Payments at this time, if necessary. Any changes to the draft Task Order deemed appropriate by BATA shall be incorporated in a draft Final Task Order.

Step 4\* – The BATA PM forwards the draft Final Task Order to the BATA Contract Administrator for review and approval. Once approved, the BATA PM forwards two copies of the Task Order to the BATA Director of Electronic Payments, for review and approval. The BATA Director of Electronic Payments signs both copies of a Final Task Order to signify approval and returns them to the BATA PM.

Step 5 – The BATA PM sends both copies of the signed Final Task Order to CONSULTANT, who signs both copies and returns one to the BATA PM.

Step 6 – The BATA PM sends one copy of the fully executed Task Order to the BATA or BATA Task Lead who initiates work, and sends another copy to BATA Finance to encumber funds against the Task Order. The BATA PM keeps the original fully-executed Task Order for the official project record.

Step 7 – Any services added to the Agreement by a Task Order shall be subject to all applicable conditions of the Agreement. Revisions to Task Orders shall require written approval by both the BATA Director of Electronic Payments and CONSULTANT. Revisions to Task Orders shall require written approval by both the BATA Director of Electronic Payments and CONSULTANT.

Step 8 – The BATA PM is responsible for overseeing the successful conclusion of the Task Order, and will manage the progress of the work, track invoices against the Task Order budget, and track milestone completion against the Task Order schedule.

Step 9 – Once the BATA PM determines the Task Order is complete, the BATA PM will send written notification to CONSULTANT that the Task Order is complete and that all associated invoices are due to BATA within 30 days. Any balance of budget is made available to spend on future task orders at the BATA PM's discretion.

Step 10 – The BATA PM will annually assess the need for a Contract audit.

*\*The BATA Project Manager may revise the Task Order and/or CONSULTANT may be asked to revise the proposal based on feedback received during Steps 2 through 4.*

**ATTACHMENT A-2 - TASK ORDER FORM**

1. Task Order No. (include FY)	
2. Title of Task:	
3. BATA or BATA Task Lead (if different from BATA Project Manager):	
4. Description of work:	<i>Summarize key task expectations. For more information, see attached <u>Task Order Budget and Schedule</u> and <u>Detailed Description of Work</u> (attached).</i>
5. Original Maximum Payment:	
6. Amended Maximum Payment:	<i>Include each amendment to maximum payment, by amendment number, for particular fiscal year.</i>
7. Completion Date:	Date Schedule attached.
8. Payment terms:	<i>Check the one that applies (see below for more information):</i> <input type="checkbox"/> Time and Materials <input type="checkbox"/> Deliverables

Payment Terms [*complete A for Task Orders including one or more deliverables-based payments or B for Time and Materials Task Orders.*]

A. Deliverables-based.

	<u>Deliverable</u>	Total Cost*
1.		\$1
2.		\$1
3.		\$1
4.		\$1
5.		\$1
6.		\$1
7.		\$1
	<b>Total:</b>	\$7.00

\*Due upon satisfactory completion as determined by the BATA Project Manager.

**B. Time and Materials**

*Specify hourly rate for applicable personnel and include estimate of expenses.*

	<u>Personnel/Expense</u>	<u>Duties</u>	<u>Rate</u>	<u>Est. Hours</u>	<u>Total Cost</u>
			\$		\$1
			\$		\$1
			\$		\$1
			\$		\$1
			\$		\$1
<b>Total:</b>					<b>\$5.00</b>

<u>Activity</u>	<u>Lead</u>	<u>Estimated Amount</u> <u>Budgeted</u>
		\$1
		\$1
		\$1
		\$1
		\$1
		\$1
<b>TOTAL MAXIMUM PAYMENT</b>		<b>\$6.00</b>

BAY AREA TOLL AUTHORITY

CONSULTANT

\_\_\_\_\_  
Director of Electronic Payments  
Date: \_\_\_\_\_

\_\_\_\_\_  
Insert name and title of authorized individual  
Date: \_\_\_\_\_

Task Order Schedule

<u>Deliverable/Milestone</u>		<u>Due Date</u>
		Date

Detailed Description of Work

**Task Order #: Title**

Description of subtask 1.

***Deliverable – deliverable name***

Description of subtask 2.

***Deliverable – deliverable name***

Description of subtask 3.

***Deliverable – deliverable name***

Etc.

***ATTACHMENT B - PROJECT SCHEDULE***

CONSULTANT's services shall be performed in accordance with the schedule included in each duly executed Task Order.

***ATTACHMENT C - COMPENSATION AND METHOD OF PAYMENT***

A. Compensation. CONSULTANT shall be compensated for its work as specified in signed Task Orders. All Task Orders shall be developed according to the process established in Attachment A-1, Task Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-2, Task Order Form. Payment terms may be based on acceptance of agreed-upon deliverables or upon time and materials reimbursement, depending on the requirements of each Task Order. For time and materials-based payment of Task Orders, labor rates in Attachment D, Key Personnel Assignments, shall apply. The hourly rates in Attachment D include all applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies. Said hourly rates shall remain in effect for the term of the Agreement, unless BATA prior written authorization is obtained for any changes. In no event shall the total compensation to be paid CONSULTANT under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Expenses. For time and materials Task Orders, BATA will reimburse CONSULTANT for all expenses deemed reasonable and necessary by BATA incurred by CONSULTANT in the performance of this Agreement. Such reimbursement shall include travel and personal expenses incurred by employees or agents of all CONSULTANTS in accordance with 48 Code of Federal Regulations Part 31 or Office of Management and Budget Circular A-122, as applicable.

C. Method of Payment. CONSULTANT shall submit invoices for services rendered no more frequently than on a monthly basis. Invoices shall identify work for which payment is requested by Task Order number (including fiscal year). All invoices will be dated, numbered in serial order, and signed by CONSULTANT. If applicable, CONSULTANT's final invoice must include the certification that all Personally Identifiable Information (PII) has been destroyed in accordance with Attachment G.

For Task Orders authorizing payment on the basis of satisfactory deliverables, CONSULTANT shall specify each deliverable for which payment is requested, the amount requested, and the total amount paid to date under the Task Order.

For Task Orders authorizing time and materials payment, CONSULTANT shall specifying the work performed, hours worked, and amount due (by personnel), authorized expenses (with receipts for such expenses), the total amount claimed under the invoice and the amount paid to date under the Task Order.



***ATTACHMENT E - INSURANCE AND FINANCIAL SECURITY (BOND) PROVISIONS***

1. INSURANCE

A. Minimum Coverages. The insurance requirements specified in this section shall cover CONSULTANT's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that CONSULTANT authorizes to work under this Agreement (hereinafter referred to as "Agents.") CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

CONSULTANT is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, CONSULTANT shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONSULTANT's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event CONSULTANT or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that CONSULTANT's insurance be primary without right of contribution from BATA. Prior to beginning work under this contract, CONSULTANT shall provide BATA with satisfactory evidence of compliance with the insurance requirements of this section.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of BATA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal

& Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of BATA.

BATA and those entities listed in Part 3 of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Umbrella Insurance in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to BATA and having minimum limits of \$1,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage.

The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.

6. Property Insurance. Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of BATA (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of BATA.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to BATA, generally with a Best's Rating of A-VIII or better.

C. Self-Insurance. CONSULTANT's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to BATA.

D. Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from BATA. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that BATA seeks coverage as an additional insured under any CONSULTANT insurance policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONSULTANT, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONSULTANT or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, CONSULTANT shall:

Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;

Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and

If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONSULTANT shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT's personnel, subcontractors, and equipment have been removed from BATA's property, and the work or services have been formally accepted. CONSULTANT must notify BATA if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, CONSULTANT shall deliver to BATA Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT are not intended to and shall not in any manner limit or

qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant hereto, including, but not limited to, liability assumed pursuant to Article 9 of this Agreement.

2. NOT USED

3. ADDITIONAL INSUREDS

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as BATA Indemnified Parties, pursuant to Article 9 of the Agreement.

- Bay Area Toll Authority (BATA)
- California Department of Transportation (Caltrans)
- Golden Gate Bridge Highway and Transportation District (GGBHTD)

## ATTACHMENT F

### **Special Conditions Relating to Personally Identifiable Information**

CONSULTANT will have access to personally identifiable information (“PII”) in connection with the performance of the Agreement. PII is any information that is collected or maintained by MTC or CONSULTANT that identifies or describes a person or can be directly linked to a specific individual. Examples of PII include, but are not limited to, FasTrak®, customer account, license plate account, on-time payment account, and invoice account information (e.g. tag and/or license plate numbers, transaction records, name, address, phone or fax number, signature, or travel pattern data). The following special conditions related to the confidentiality and use of PII apply to this Agreement:

#### 1. Right to Audit

CONSULTANT shall permit MTC and its authorized representatives to audit and inspect: (i) CONSULTANT’s facilities where PII is stored or maintained; (ii) any computerized systems used to share, disseminate or otherwise exchange PII; and (iii) CONSULTANT’s security practices and procedures, data protection, business continuity and recovery facilities, resources, plans and procedures. The audit and inspection rights hereunder shall be for the purpose of verifying CONSULTANT’s compliance with this Agreement, and all applicable laws.

#### 2. General Confidentiality of Data

All PII made available to or independently obtained by CONSULTANT in connection with this Agreement shall be protected by CONSULTANT from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to MTC. This includes, but is not limited to, the secure transport, transmission and storage of PII used or acquired in the performance of this Agreement.

CONSULTANT agrees to properly secure and maintain any computer systems (hardware and software applications) that it will use in the performance of this Agreement. This includes ensuring all security patches, upgrades, and anti-virus updates are applied as appropriate to secure PII that may be used, transmitted, or stored on such systems in the performance of this Agreement.

CONSULTANT is prohibited from storing PII on portable media including, but not limited to, laptops, thumbdrives, disks and so forth.

Notwithstanding anything to the contrary in Article 14. Records, of this Agreement, CONSULTANT agrees to retain PII for no longer than [the term of the contract which ends January 31, 2017](#). At the conclusion of this retention period, CONSULTANT agrees to use Department of Defense (“DoD”) approved methods to permanently remove PII from any files. Discarded PII will be unavailable and unrecoverable following the purge on any storage media including, but not limited to, magnetic disk, optical disk, and memory chips (“Storage Media”). CONSULTANT agrees to destroy hard-copy documents containing PII by means of a cross-cut shredding machine. CONSULTANT also agrees to use DoD approved methods to sanitize any Storage Media prior to discarding or when useful life has ended, whichever comes first. At the

conclusion of the performance period of this Agreement, CONSULTANT shall submit a certification to the MTC Project Manager as follows: “All PII whether in electronic or hard-copy format, has been destroyed in accordance with the requirements contained in Section 2. General Confidentiality of Data of the Attachment F Special Conditions Relating to Personally Identifiable Information.” These requirements shall survive termination or expiration of this Agreement.

### 3. Compliance with Statutes and Regulations

CONSULTANT agrees to comply with the information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 *et seq.*) and in the California Streets and Highways Code Section 31490. In addition, CONSULTANT warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and MTC relating to the handling and confidentiality of PII, including the terms and conditions contained in this Attachment F, Special Conditions Relating to Personally Identifiable Information and agrees to indemnify MTC against any loss, cost, damage or liability by reason of CONSULTANT’s violation of this provision.

### 4. Subconsultants

MTC approval in writing is required prior to any disclosure by CONSULTANT of PII to a subconsultant or prior to any work being done by a subconsultant that entails receipt of PII. Once approved, CONSULTANT agrees to require such subconsultant to sign an agreement in substantially identical terms as this attachment, binding the subconsultant to comply with its provisions.

### 5. Consultant Guarantees

CONSULTANT shall not, except as authorized or required by its duties by law, reveal or divulge to any person or entity any PII which becomes known to it during the term of this Agreement.

CONSULTANT shall keep all PII entrusted to it completely secret and shall not use or attempt to use any such information in any manner which may injure or cause loss, either directly or indirectly, to MTC.

CONSULTANT shall comply, and shall cause its employees, representatives, agents and subcontractors to comply, with such directions as MTC may make to promote the safeguarding or confidentiality of all its resources.

If requested by MTC, CONSULTANT shall sign an information security and confidentiality agreement provided by MTC and attest that its employees, representatives, agents, and subcontractors involved in the performance of this Agreement shall be bound by terms of a confidentiality agreement with CONSULTANT substantially the same in its terms.

### 6. Notice of Security Breach

CONSULTANT shall immediately notify MTC when it discovers that there may have been a breach in security which has or may have resulted in compromise to PII. For purposes of this section, immediately is defined as within two hours of discovery. The MTC contact for such notification is as follows:

Privacy Officer  
privacyofficer@mtc.ca.gov  
(510) 817-5700

***ATTACHMENT G - SUBCONSULTANT LIST***

	<u>Name/Address of Subconsultant</u>	<u>Amount of Subcontract</u>	<u>Description of Work</u>

LIST "None" ABOVE IF NO SUBCONTRACTORS ARE BEING USED.

**APPENDIX D-1, INSURANCE REQUIREMENTS**

Minimum Insurance Coverages. Consultant shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, placed with insurers with a Best's rating of A-VIII or better.

Yes (√)	<b>Please certify by checking the box below that required coverages will be provided within ten (10) days of BATA's notice to firm that it wishes to contract with the firm.</b>
—	<u>Workers' Compensation Insurance</u> with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of BATA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
—	<u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of BATA.  The Bay Area Toll Authority (BATA), the California Department of Transportation (Caltrans) and the Golden Gate Bridge Highway and Transportation District (GGBHTD), their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.
—	<u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.
—	<u>Umbrella Insurance</u> in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.
—	<u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to BATA and having minimum limits of \$1,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage.

	<p>The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors &amp; Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.</p>
<p>_____</p>	<p><u>Property Insurance.</u> Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of BATA (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of BATA.</p>
<p>BATA, Caltrans, and GGBHTD, their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from Consultant's operations.</p> <p>All policies will be issued by insurers acceptable to BATA, generally with a Best's Rating of A-VIII or better.</p> <p>Consultant's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to BATA.</p> <p>Consultant shall be responsible for payment of any deductible or retention on Consultant's policies without right of contribution from BATA. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.</p> <p>In the event that BATA seeks coverage as an additional insured under any Consultant insurance policy that contains a deductible or self-insured retention, Consultant shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Consultant, subconsultant, subcontractor, or any of their employees, officers or directors, even if Consultant or subconsultant is not a named defendant in the lawsuit.</p> <p>If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, Consultant shall:</p> <ol style="list-style-type: none"> <li>1. Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;</li> <li>2. Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and</li> <li>3. If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, Consultant shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.</li> </ol>	

All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of Consultant's personnel, subcontractors, and equipment have been removed from BATA's property, and the work or services have been formally accepted. Consultant must notify BATA if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

Prior to commencement of any work hereunder, Consultant shall deliver to BATA Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant hereto, including, but not limited to, liability assumed pursuant to the Indemnification section of this Agreement.

**By signing below you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within ten (10) days of BATA's notice to firm that it wishes to contract with the firm.**

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

**NOTE: If you were unable to check "Yes" for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to BATA's attention no later than closing date/time for receipt of requests for modifications/exceptions. If such modifications/exceptions are not brought to BATA's attention consistent with the provisions of this RFP, compliance with the insurance requirements will be assumed.**

**APPENDIX E, VIDEO TOLLING DEMONSTRATION ATTACHMENTS A-P**

**APPENDIX F, VIDEO TOLLING DEMONSTRATION PROJECT FINAL REPORT**