

Invitation for Bid
IFB #2022-02
For:
Exterior Painting

Eastern Contra Costa Transit Authority

801 Wilbur Avenue

Antioch, CA 94509

April 4, 2022

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Section 1

Notice Inviting Bids

Notice Inviting Bids

For

Exterior Painting

Eastern Contra Costa Transit Authority

Notice and Invitation to Bidders

Eastern Contra Costa Transit Authority (ECCTA), a Joint Powers Agency (JPA) located in eastern Contra Costa County, California, is accepting sealed bids for the partial painting and minor repair of its blue exterior lobby entrance. This project shall include the furnishing of all labor, equipment, materials, testing, tools, training, and other services as required by the Scope of Work section and other contract documents.

ECCTA was formed in 1976 as a JPA consisting of the cities of Antioch, Brentwood, Pittsburg and the county of Contra Costa. Oakley incorporated as a city and joined the JPA in 1999. ECCTA provides over 2,000,000 trips each year to a population of nearly 315,000 residents in the 225 square miles of eastern Contra Costa County.

Pre-Bid Conference

A pre-bid conference will be followed by a site tour at 10:00 a.m. local time, on Wednesday, April 20 in the ECCTA boardroom located at the address below. A site tour will be conducted after the meeting. All prospective bidders and subcontractors are encouraged to attend. The purpose of the site tour is to acquaint the bidders with any and all conditions at the work site.

Deadline for Receipt of Bids

Sealed bids will be received by Eastern Contra Costa Transit Authority (ECCTA) until 3:00 p.m. local time, on Wednesday, May 4 at ECCTA's facility located at 801 Wilbur Avenue, Antioch, CA 94509. Bids received after the said time or at any other place other than the time and place stated in this IFB will not be considered. Bids must be received on the enclosed ECCTA bid form with the required certification forms listed in the bid documents. Bids submitted on any other forms will be considered non-responsive and will be rejected.

Bid Documents/ECCTA Representative

Copies of the IFB documents may be obtained from the following ECCTA representative:

Joe Chappelle
Manager of Administrative Services
Eastern Contra Costa Transit Authority
801 Wilbur Avenue
Antioch, CA 94509
Fax: (925) 757-2530
procurement@eccta.org

ECCTA may change the identity or contact information of the ECCTA representative at any time.

Following the closure of the bid submittal period, bids will be publicly opened and evaluated as provided in the Information for Bidders.

All bids must be furnished in accordance with the terms and conditions of the contract documents, including the Information for Bidders, General Conditions, Special Conditions, Scope of Work, and Bid Form. All prospective bidders receiving bid documents directly from ECCTA will be notified of all addenda and will receive copies.

Contractor License Requirements

In accordance with provisions of California Public Contract Code section 3300, ECCTA has determined that the contractor shall possess and maintain valid State of California Class C-33 contractor's license and all other licenses necessary at the time the bid is submitted. Failure to possess the specified license shall render the bid non-responsive.

Legal Requirements

This contract may be subject to a grant contract between the Metropolitan Transportation Commission (MTC) and ECCTA. The contract is subject to laws and regulations governing the use of such funds. Bidders will be required to certify that they have not been suspended or debarred from participation in federal or state funded contracts. Full compliance with applicable Safety and Health Standards, DBE requirements, Equal Employment Opportunity and Americans with Disabilities Act laws and regulations will be required of the successful bidder.

ECCTA has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation, 49 Code of Federal Regulations (CFR) Part 26, and as a recipient of federal financial assistance, ECCTA has signed an assurance that it will comply with 49 CFR Part 26. As such, ECCTA hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this IFB, Disadvantaged Business Enterprises (DBE) will be afforded full opportunity to submit a bid in response to this request and will not be discriminated against on the basis of race, color, sex, or national origin in consideration for an award and fully encourages all bidders to seek DBE participation in their bids.

Prevailing Wages

Subject to Labor Code Section 1771.1, as amended by SB 854, this bid is subject to prevailing wages compliance monitoring and enforcement by the Department of Industrial Relations (DIR).

ECCTA will only award this bid to contractors (including listed subcontractors) that are currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5.

Pursuant to Section 1770, et seq. of the California Labor Code, the successful bidder and all subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the DIR. A copy of such prevailing rate of per diem wages is included in the bid documents.

Substitution of Securities

Pursuant to Public Contract Code Section 22300, for monies earned by the contractor and withheld by ECCTA to ensure the performance of the contract, the contractor may, at its option, choose to substitute securities meeting the requirements of Public Contract Code Section 22300.

Reserved Rights

ECCTA reserves the right to reject any and all bids, to waive any irregularities or informalities in any bid or in the bidding procedure, to make any awards or any rejections in what it alone considers to be in the best interest of ECCTA, or to postpone the bid opening or award for any reason whatsoever in ECCTA's sole discretion. No bidder may withdraw its bid for a period of 60 calendar days after the date of opening of the bids. Each bidder will be notified of the award of contract, if an award is made.

Office of the Chief Executive Officer
April 4, 2022

Section 2

Key Bid Dates

Key Bid Dates
Exterior Painting
IFB #2022-02

<u>Task</u>	<u>Date</u>
Invitation for Bid issue date:.....	Monday, April 4, 2022
Pre-bid conference:	Wednesday, April 20 at 10:00 a.m.
Last day for questions/ Requests for Substitutions due date:.....	Thursday, April 28 by 3:00 p.m.
Bid opening and due date:.....	Wednesday, May 4 by 3:00 p.m.
ECCTA Board of Directors award contract:.....	Wednesday, May 25 at 4:00 p.m.

Section 3

Information for Bidders

Information for Bidders

Exterior Painting

IFB #2022-02

Scope and Location of Work

The work to be performed under this contract consists of the furnishing of all labor, materials, tools, equipment, and services for the painting and minor repair of its blue exterior lobby entrance. The work is to be performed in the City of Antioch, County of Contra Costa, State of California. Contract documents contain a complete description of the work.

Inspection of Site of Work

Bidders are encouraged to inspect the work site in order to satisfy themselves, by personal examination, or by such other means as they may prefer, of the location of the proposed work and the actual conditions of, and at, the site. Bidders may apply to ECCTA for additional information and explanation before submitting bids. However, no supplemental information requested or furnished shall vary the terms of the contract documents or impact the contractor's sole responsibility to satisfy itself as to the conditions of the work to be performed. No claim for additional compensation will be allowed which is based upon a lack of knowledge of the actual conditions or location of the work.

Submission of a bid by the bidder shall constitute acknowledgment that, if awarded the contract, the bidder has relied, and is relying, on their own examination of (a) the work site, (b) access to the site, and (c) all other data, matters, and things requisite to the fulfillment of the work, including but not limited to, the availability of labor and materials and on their own knowledge of existing facilities on, and in the vicinity of, the site of the work to be performed under the contract, and not on any representation of warranty of the above items.

Examination of Contract Documents/Notification of Errors

Each bidder shall thoroughly examine and be familiar with legal and procedural documents, general conditions, specifications, and addenda (if any). Submission of a bid shall constitute acknowledgment, upon which ECCTA may rely, that the bidder has thoroughly examined and is familiar with the contract documents. Failure or neglect of a bidder to receive or examine any of the contract documents shall in no way relieve them of any obligation with respect to their bid or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any contract documents.

Additionally, bidders shall review the technical specifications and prior to submission of the bid, report any errors and omissions noted by the contractor to ECCTA. The review by the contractor shall be confined to the contractor's capacity as a contractor and not as a licensed contractor.

It shall also be the bidder's responsibility to call to ECCTA's attention any missing pages in the contract documents, including the addenda. These items shall be brought to the attention of ECCTA, in writing, at least one week prior to the bid opening date.

Interpretation of Contract Documents

No oral representation or interpretations will be made to any bidder as to the meaning of the contract documents. Requests for interpretation shall be made in writing and delivered to ECCTA no later than 10 business days before the time announced for opening the bids. Interpretations, where necessary, will be made by ECCTA in the form of an addendum to the contract documents. Addendums will be sent as promptly as is practical to all parties to whom the bid documents have been issued. All such addenda shall become part of the contract. Requests for information before the award of contract shall be directed to the ECCTA representative identified in the Notice Inviting Bids.

Term and Time of Performance/Liquidated Damages

Within 10 business days from the Notice to Proceed or date specified in the Notice to Proceed, the contractor shall commence work on the project. The project is to be completed within one month from the date work is commenced. This contract shall be in effect, commencing on the date of the Notice to Proceed, and lasting until the completion of the project.

Pre-bid Conference and Site Tour

A pre-bid conference and site tour will be held at the time and place indicated in the Notice to Bidders and in the Key Dates section. Attendance at this conference is recommended but not required.

Questions about the bid or exceptions/objections to the requirements of the bid, including any objections to the terms and conditions of the contract, should be submitted in writing to the ECCTA representative prior to the meeting in order to provide ECCTA staff sufficient time to prepare responses.

Written questions submitted prior to, and questions raised at the conference, will be answered in a written addenda to the bid and will be made available to all bidders regardless of whether they attended the pre-bid conference.

Following the pre-bid conference, ECCTA will make a list of all those to whom the bid was furnished, as well as those attending the meeting, available to interested parties.

Prior Approval of Substitutions

A bidder may submit to ECCTA requests for approved substitutions or clarifications regarding any requirements, terms, or conditions contained herein. Any such requests must be received by ECCTA, in writing, by the date and time indicated in Key Bid Dates on page six of this IFB, on the "Request for Substitution" form in Section 7 of this IFB. Any requests for substitutions must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal to, or better than, that specified in the contract documents. ECCTA shall make a determination on each bidder's request under this procedure in writing. The written determination shall be mailed or otherwise furnished to the bidders so as to be received by or before 3:00 p.m. on Thursday, April 28. Failure of ECCTA to respond within the time limit shall be deemed to be a denial of request.

In the event that a request for an approved equal or modification is granted, an addendum detailing the approved equal or modification will be mailed or otherwise furnished to all potential bidders who received bid documents from ECCTA.

Bids

General

All bids shall give, in the space provided, all other information requested therein, and shall be signed by the bidder, or an authorized representative, with their address. Bids will be evaluated as provided in “Evaluation of Bids” below.

Bidders must prepare and submit all required documents. Failure to properly complete and sign any forms may be cause for rejection of a bid.

Every contractor, other than a joint venture, who submits a bid, must, at the time the bid is awarded, have a State of California Class C-33 contractor’s license in good standing. Pursuant to PCC 20103.5, if the bidder fails to obtain proper licensing before time of the award, said failure will constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

Each bid shall be enclosed in a sealed envelope or package, labeled and delivered to the ECCTA at the place, and on or before the time, indicated in the Notice Inviting Bids. Bids should be labeled as follows:

ORIGINAL: EXTERIOR PAINTING

Bids received after this time, or at any other location, will not be considered. ECCTA shall not be responsible for the failure of mailed or delivered bids to actually be received by ECCTA by the time due on the date due.

Any bids accompanied by an insufficient or irregular bid guaranty, or from bidders who have previously failed to perform properly, or failed to complete contracts of any nature on time may be rejected. No oral, telegraphic, or telephone (including facsimile) bids or modifications will be considered.

Telephones will not be available to bidders for the preparation of the bids or for calling bid results. Bid forms received after the designated time will not be accepted. Bidders and their authorized agents are invited to attend the bid opening.

No bidder may withdraw its bid for a period of 60 calendar days after the date set for the opening of bids.

ECCTA reserves the right to reject any or all bids, to make any awards or any rejections in what it alone considers to be in the best interest of ECCTA, and to waive any informalities or irregularities in the bids.

Addenda

Each bid shall include specific acknowledgment (in space provided) of the receipt of all addenda issued during the bidding period. Failure to so acknowledge all addenda may result in the bid being rejected as non-responsive.

Bid Prices

Bid prices shall include everything necessary for the completion of, and fulfillment of, the contract including, but not limited to, furnishing all transportation, materials, equipment, tools, and all management, superintendence, labor and services, except as may be provided otherwise in the contract documents. In the event that the product of a unit price and an estimated quantity does not equal the extended amount quoted, the unit price shall govern and the correct product of the unit price and the estimated quantity shall be deemed to be the amount bid. In the event that the indicated sum of any column of figures is incorrect, the correct sum shall govern and the correct sum shall be deemed the amount indicated.

Bid prices shall include all applicable federal, state, and local taxes. Upon award of contract the contractor shall submit to ECCTA a completed IRS Form W-9 Request for Taxpayer Identification Number and Certification.

All bid prices shall include freight (FOB) to the designated delivery point. ECCTA will reject requests for additional compensation for freight charges unless it has requested expedited delivery.

Evaluation of Bids

General

If a contract is to be awarded, it shall be awarded to the lowest responsible responsive bidder who demonstrates the attributes of trustworthiness as well as quality, fitness (including financial qualifications), and the capacity and experience to enable it to prosecute the work successfully and properly and to complete the work within the time period named in the contract documents.

Determination of Apparent Low Bidder

ECCTA will open each bidders' bid envelopes at the time and place indicated in Notice to Bidders, initially evaluate them for responsiveness, and determine an apparent low bidder as specified herein and in the Bid Form. All bidders are required to submit bids on all bid items.

ECCTA will evaluate bidders for responsiveness and for responsibility, including all information required by the "Contractor's Experience and Qualifications" form in Section 10 of this IFB. All bidders must complete and submit that form with bid documents. If the apparent low bidder is determined to be non-responsive or non-responsible, then ECCTA may proceed to the next apparent low bidder's bid pursuant to any procedures determined in its reasonable discretion, and proceed for all purposes as if this apparent low bidder were the original apparent low bidder.

Evaluation of Bids

Bids must be full, complete, clearly written and using required forms. Bidders shall make any change in the Bid Form by crossing out the original entry, and entering and initialing the new entry. A bidder's failure to submit all required documents strictly as required entitles ECCTA to reject the bid as non-responsive. All bidders must submit bids containing each of the fully executed documents supplied in this IFB.

Discrepancies shall be resolved as provided in “Bid Prices” above.

In evaluating bids, ECCTA will consider bidders’ qualifications (including without limitation information contained in the “Contractor’s Experience and Qualifications” form in Section 10 of this IFB), whether or not the bids comply with the prescribed requirements, unit prices, and other data, as may be requested prior to the notice of award. ECCTA shall have sole discretion to determine what contracts are of like nature and magnitude and comparable difficulty and rates of progress.

ECCTA may conduct reasonable investigations and reference checks of bidder and other persons and organizations as ECCTA deems necessary to assist in the evaluation of any bid and to establish bidder’s responsibility, qualifications, financial ability, and capability to perform the work in accordance with the contract documents to ECCTA’s satisfaction within the prescribed time. ECCTA shall have the right to consider information provided by sources other than the bidder, and communicate directly with the bidder’s surety regarding the bidder’s bonds. Submission of a bid constitutes bidder’s consent to the foregoing.

Bids shall be deemed to include the written responses of the bidder to any questions or requests for information of ECCTA made as part of the bid evaluation process after submission of the bid.

Modification of Bid

Modification of a bid already received will be considered only if the modification is received prior to the time established for receiving bids. All modifications shall be made in writing, executed, and submitted in the same form and manner as the original bid.

Postponement of Opening

ECCTA reserves the right to postpone the date and time for receiving and/or opening of bids at any time prior to the date and time established in the Notice Inviting Bids.

Relief of Bidders

Attention is directed to the provisions of Public Contract Code Section 5100, et seq., concerning relief of bidders, and in particular to the requirement therein that if a bidder claims a mistake was made in its bid, the bidder must give ECCTA written notice within five working days, excluding Saturdays, Sundays, and state holidays, after the opening of the bids of the alleged mistake, specifying the notice, in detail, how the mistake occurred. The bidder is cautioned that, pursuant to Public Contract Code Section 5105, a bidder who claims a mistake or who forfeits their bid guaranty shall be prohibited from participating in further bidding on the project in which the mistake was claimed or security forfeited.

Bid Protest Procedures

These procedures will apply to all procurement actions whether by sealed bid, request for proposal or sole source and regardless of the stage of the procurement process at which the protest is filed.

Protest Before Bid Opening

Protests based upon restrictive specifications or alleged improprieties in the bidding procedure shall be filed, in writing, 10 business days prior to the bid opening date. A detailed description of the facts underlying the protest plus any supporting documentation must be included with the written protest. The protest must be submitted to the ECCTA representative identified in the Notice Inviting Bids.

Protest of Award

A bidder may file a protest with ECCTA alleging a violation of applicable federal or state law relative to the seeking, evaluating and/or awarding of a procurement contract. Such protest must be submitted to the ECCTA representative identified in the Notice Inviting Bids no later than three business days after the date of the notice of intent to award of the contract by ECCTA. ECCTA will use reasonable efforts to deliver by facsimile or email a copy of the notice of intent to award or pre-award to all bidders who submitted bids no later than the business day after issuance, although any delay or failure to do so will not extend the bid protest deadline described herein.

The initial protest document must contain a detailed description of the legal and/or factual grounds for the protest, including references to the specific portion(s) of all document(s) that form the basis for the protest and all supporting documentation. The protest must state the form of relief requested. For protests containing elements not based on publicly released information, the protest must contain documentation clearly showing the date on which the protestor received the information.

The protest must contain the IFB solicitation number and title under which the protest is submitted, and must include the name, address, and telephone number of the person representing the protesting party, and the signature of the protestor or authorized representative of the protestor.

The written decision of the ECCTA representative or designee on the protest shall be served upon the protesting bidder and any bidder subject to the protest within five business days of receipt of the bid protest. The ECCTA representative or designee may extend the five business days if necessary to review additional information requested from any bidder or otherwise received.

If the subject matter of the project is receiving any state or federal funds which require a protest procedure different than the procedures stated above, then that protest procedure shall control.

The procedure and time limits set forth in this section are mandatory and are bidder's sole and exclusive remedy in the event of a bid protest. A bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including appealing the ECCTA representative's decision, filing a Government Code Claim or other legal proceedings. A bidder may not rely on a protest submitted by another bidder, but must timely pursue its own protest.

Appeal of Decision

If any bidder is not satisfied with the decision of the ECCTA Representative the bidder may appeal the decision, in writing, within three business days to ECCTA's CEO:

Office of the CEO
Eastern Contra Costa Transit Authority
801 Wilbur Avenue
Antioch, CA 94509

The CEO shall investigate and shall respond in writing, within five business days, specifying any differences between their findings and those of the Manager of Administrative Services. The CEO shall state the action to be taken by ECCTA or the fact that no action shall be taken. The decision of the CEO is the final decision of ECCTA.

Public Records Act Requests

In accordance with the California Public Records Act, ECCTA will make available to the public bidder's "Contractor/Subcontractor Worker Classification" form in Section 10 of this IFB, all correspondence and written questions submitted during the bid period, all bid submissions opened in accordance with the procedures set forth herein, and all subsequent bid evaluation information. All submissions not opened will remain sealed and shall be returned to the submitter. Except as otherwise required by law, ECCTA will not disclose trade secrets or proprietary financial information submitted by bidders that has been designated as confidential by bidder (including, without limitation, the Contractor/Subcontractor Worker Classification form). Any such trade secrets or proprietary financial information that bidder believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid. The specific confidential information must be clearly identified as such.

Information disclosed in the Contractor/Subcontractor Worker Classification form and the attendant opened submissions are the property of ECCTA unless bidder makes specific reference to data that is considered proprietary. Subject to the requirements in the Public Records Act, reasonable efforts will be made to prevent the disclosure of information except on a need-to-know basis during the evaluation process.

Section 4

General Conditions

General Conditions

Exterior Painting

IFB #2022-02

Interpretation of Contract Documents

Intent of Contract Documents

The intent of the contract documents is to prescribe the details for the completion of the work which the contractor undertakes to perform in accordance with the terms of the contract. Where the specifications describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the best quality are to be used.

Unless otherwise specified, the contractor shall furnish all labor, material, tools, equipment, and incidentals, and do all the work involved in executing the contract in a satisfactory and workmanlike manner.

Coordination of Contract Documents

The Instructions to Bidders, General Conditions, Special Conditions, Scope of Work, and all other documents required by the IFB are essential parts of the contract. The documents are intended to be complementary, and a requirement occurring in one is binding as though occurring in all.

In the case of discrepancy or ambiguity in the contract documents, the following order of precedence shall prevail:

1. Modifications in inverse chronological order (i.e., most recent first), and in the same order as specific portions they are modifying
2. Contract (sample included in Section 11 of this IFB)
3. Special Conditions and Scope of Work
4. General Conditions and Instructions to Bidders

Any conflict between a bill or list of materials shown in the contract documents and the actual quantities required to complete the work required by contract documents, will be resolved in favor of the actual quantities.

Approximate Quantity Estimate

The quantities given in the bid and contract forms are approximate only, being given as a basis for the comparison of bids, and ECCTA does not, expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work, as may be deemed necessary or advisable by ECCTA.

General

Rendition of Services

By submitting a bid, the bidder agrees to undertake, carry out, and complete all work established in a professional and timely manner satisfactory to ECCTA standards as described in this IFB.

Release of Information

Neither the successful contractor nor any unsuccessful bidder shall release any reports, information, or promotional materials prepared in connection with a contract award without obtaining prior permission from ECCTA.

Prohibited Interest

By submitting a bid, the bidder represents and warrants that neither the CEO, nor any director, officer, agent nor employee of ECCTA, has in any manner any interest, contractual or non-contractual, financial or otherwise, in this transaction or in the business of the bidder.

If any such interest comes to the knowledge of the bidder at any time, a full and complete disclosure of all such information shall be made in writing to ECCTA, even if such interest would not be considered a conflict of interest under Article IV of Division 4 (commencing with Section 1090) or Division 4.5 (commencing with Section 3600) of the Government Code of the State of California.

No member, officer, or employee of ECCTA or of any of its member jurisdictions during their tenure of office, or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds therefrom.

No member or a delegate to the Congress of the United States shall be admitted to any share or part of the contract awarded under this bid or to any benefits arising therefrom.

Bidder's Status

Neither the bidder nor any party contracting with the bidder shall be deemed to be an agent or employee of ECCTA. The bidder is and shall be an independent contractor, and the legal relationship of any person performing work for the bidder shall be one solely between said parties.

Ownership of Work

All reports, drawings, plans, specifications, and other materials prepared, or in the process of being prepared, for the services to be performed by the bidder shall be and are the property of ECCTA, and ECCTA shall be entitled access to, and copies of, during the progress of the work.

In the event that the work which is the subject of the contract is not completed, for any reason whatsoever, all designs and materials generated under this contract shall be delivered as ECCTA may direct.

Proprietary Information

Bidders are to identify all parts of the bid the bidder considers proprietary and include written justification for the claim, as the bid could be made public as a result of Freedom of Information Act requests.

Subcontracts

Pursuant to California Public Contract Code section 4100 et seq., applicable subcontracts under this contract must have the prior written approval of ECCTA's CEO. In the event the contractor enters into one or more subcontracts pursuant to this paragraph, it is understood and agreed that the participating subcontractors shall be solely and directly responsible to the contractor and that ECCTA shall have no obligation to them.

Insurance, Bonds and Indemnity

Insurance Requirements

A. Insurance Certificates, Riders, Stipulations

The successful contractor shall furnish original certificates of insurance showing a commencement date no later than the effective date of the contract. The insurance shall be in compliance with the stipulations outlined in the scope of work.

With respect to all coverages, the certificates of insurance shall include a stipulation that the insurer will notify ECCTA no less than 30 calendar days prior to any change, termination or cancellation of the insurance policy or coverages provided under such policy.

With respect to all coverages, the certificates of insurance shall indicate that ECCTA, its directors, officers, agents, and employees are additional insureds under said policies and that the contractor's policies are primary and no insurance of ECCTA shall be called upon to contribute to any loss up to the limits of contractor's policy.

The contractor shall indemnify, keep and hold harmless, ECCTA, its directors, officers, agents, employees, and member jurisdictions against all suits or claims that may be based on any injury to persons or property that may occur, or that may be alleged to have occurred, in the course of the performance of this contract by the contractor, whether or not it shall be claimed that the injury was caused through a negligent act or omission of the contractor or its employees, and the contractor shall, at its own expense, defend any and all such actions, and shall at its own expense pay all charges of attorneys and all costs and other expense arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against ECCTA in any such action, the contractor shall, at its own expense, satisfy and discharge the same.

B. Worker's Compensation

The contractor and subcontractors, at their own cost and expense, shall carry and maintain Statutory Worker's Compensation Insurance and Employer's Liability Insurance with limits not less than \$1,000,000 with an insurance carrier that is satisfactory to ECCTA that has a Best's rating of no less than A: VII.

C. General Liability

The contractor and subcontractors, at their own cost and expense, shall maintain liability insurance for the period covered by the contract in an amount not less than \$1,000,000 per occurrence combined single limit coverage. Such coverage shall include, but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under the contract. The insurance is to be placed with insurers with a Best's rating of no less than A: VII, shall be with insurers and under forms of policies that is satisfactory in all respects to ECCTA, and shall provide that notice to ECCTA 30 calendar days prior to cancellation or material change. The following endorsements shall be included with the policy:

- The policy shall cover on "an occurrence basis."
- The policy shall cover personal injuries as well as bodily injuries. The exclusion of contractual liability must be eliminated from personal injury endorsement.
- The policy shall cover contractual liability insuring the obligations assumed by contractor under the contract.
- ECCTA, its officers, agents, and employees shall be named as additional insureds, and the policy shall stipulate that this insurance will operate as primary insurance and that no other insurance held by ECCTA will be called upon to contribute.

D. Vehicle Liability

The contractor and subcontractors, at their own cost and expense, shall maintain liability insurance for the period covered by the contract in an amount not less than \$1,000,000 combined single limit. Coverage shall include owned vehicles, hired vehicles, and non-owned vehicles, as well as bodily injury, property damage, collision and comprehensive, and include coverage for damage to ECCTA vehicles.

The insurance is to be placed with insurers with a Best's rating of no less than A: VII, shall be with insurers and under forms of policies that is satisfactory in all respects to ECCTA, and shall provide that notice to ECCTA 30 calendar days prior to cancellation or material change.

E. All Risk Property Insurance

The contractor and subcontractors, at its own cost and expense, shall maintain insurance coverage for full replacement cost on the contractor's tools, equipment, or other property whether it is owned or leased, brought onto ECCTA property, or used in connection with the project. The insurance is to be placed with insurers with a Best's rating of no less than A: VII.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

A. Separation of Insureds

The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverages afforded shall apply as though separate policies had been issued to each insured.

B. Additional Insured Status

ECCTA and its member jurisdictions, together with their respective officers, officials, employees, and volunteers are to be covered as additional insureds on the general liability policy with respect to liability arising, directly or indirectly, out of work, operations, services, acts, errors or omissions in performance by or on behalf of the contractor, including services, materials, parts or equipment furnished in connection with such work or operations. General liability coverage must be provided in the form of an endorsement to the contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms, if later revisions are used).

ECCTA and its member jurisdictions, together with their respective officers, officials, employees, and volunteers are to be covered as additional insureds on the vehicle liability policy with respect to liability arising out of contractor's use of vehicles in connection with this IFB.

C. Primary Coverage

For any claims related to this contract, the contractor's insurance coverage shall be primary and noncontributing insurance as respects ECCTA and its respective officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by ECCTA and its respective officers, officials, employees, or volunteers shall be excess of the contractor's insurance and shall not contribute with it.

D. Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with 30 calendar days' notice to ECCTA by certified mail. The contractor shall obtain an endorsement to each policy required by this IFB reflecting the contract by the insurer to provide such notice. In addition, the contractor is responsible to notify ECCTA within 5 business days of any cancellation, non-renewal, reduction in limits, or material change that affects required insurance coverage.

E. Waiver of Subrogation

The contractor will grant to ECCTA a waiver of subrogation of any right to subrogation which any insurer of said contractor may acquire against ECCTA and its respective officers, officials, employees, and volunteers by virtue of the payment of any loss under such insurance, including the coverages required in this IFB.

The contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not ECCTA has received a waiver of subrogation endorsement from the insurer.

F. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by ECCTA. ECCTA may require the contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense

expenses within the retention. Any deductibles or self-insured retention shall be the responsibility of the contractor to satisfy.

G. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to ECCTA.

H. Verification of Coverage

The contractor shall furnish ECCTA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by these insurance requirements. The certificates, endorsements and applicable policy language to be provided must include proof of (1) the coverages required; (2) the required limits; (3) separation of insureds; (4) additional insured status; (5) primary coverage; (6) notice of cancellation; and (7) waiver of subrogation. All certificates and endorsements are to be received and approved by ECCTA before work commences, and must be provided annually thereafter for the duration of the contract. However, failure to obtain the required documents prior to the work beginning or thereafter shall not waive the contractor's obligation to provide them. ECCTA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Indemnity

To the furthest extent permitted by law (including, without limitation, Civil Code Section 2782), the contractor shall defend, indemnify, and hold harmless, ECCTA and each of its officers, officials, employees, consultants and agents including, without limitation, the governing board, project manager and each ECCTA representative, from claims, suits, actions, losses and liability of every kind, nature and description including, without limitation, claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with, or resulting from performance of the work, failure to perform the work, or condition of the work that is caused in whole or part by any act or omission of the contractor, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, resulting from any cause whatsoever except for liability for loss, damage, or expense arising from ECCTA's sole negligence, willful misconduct, or active negligence.

With respect to third-party claims against the contractor, the contractor waives any and all rights to any type of express or implied indemnity including, without limitation, costs of defense, against ECCTA and each of its officers, officials, employees, consultants and agents including, without limitation, ECCTA, the governing board, project manager and each ECCTA representative. ECCTA shall provide timely notice to the contractor of any third-party claim relating to the contract documents, in accordance with Public Contract Code section 9201.

Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the contractor, its subcontractors of any tier, or the officers or agents of any of them.

To the furthest extent permitted by law (including, without limitation, Civil Code section 2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout contract documents shall apply even in the event of breach of contract, passive negligence, fault or strict liability of the party(ies) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of contract documents. If the contractor fails to perform any of these defense or indemnity obligations, ECCTA may in its discretion back charge the contractor for ECCTA's costs and damages resulting therefrom and withhold such sums from progress payments or other Contract moneys which may become due.

Commencement of Work

Notice to Proceed

As soon as practical after execution of the contract, and after receipt of acceptable insurance certificates by ECCTA, a written "Notice to Proceed" will be mailed to successful bidder. The effective date of the notice to proceed will be the date stated in the notice.

Commencement of Work, Progress, and Time for Completion

The contractor shall begin work within 10 business days after receipt of the Notice to Proceed or the date specified therein and shall diligently prosecute the same to completion within the time set forth in these contract documents.

Hours of work - Overtime and holidays. The contractor shall perform all work during the working hours of 7:30 a.m. to 5:00 p.m., Monday through Friday (unless otherwise noted below). If the contractor wishes to work during any other hours or on weekends, written permission must be received from ECCTA.

The request must be received at least two business days in advance of any work. No work will be allowed on ECCTA holidays except in the case of an emergency. A listing of ECCTA holidays is on file in the office of ECCTA.

If contractor requests overtime work in which ECCTA will incur costs, ECCTA reserves the right to bill the contractor at time and one half to cover the costs incurred.

Changes

General

ECCTA reserves the right to make such alterations, deviations, additions to or omissions from the contract documents, including the right to increase or decrease the quantity of any item or portion of the work or to omit any item or portion of the work, as may be deemed necessary or advisable and to require such extra work as may be determined by ECCTA to be required for the proper completion or construction of the whole work contemplated.

Any such changes will be set forth in a contract change order which will specify, in addition to the work to be done in connection with the change made, adjustment of contract time, if any, and the basis of

compensation for such work. A contract change order will not become effective until approved by ECCTA.

All changes in the work shall be made as provided in the contract documents. Notice is hereby given that under certain circumstances, changes may require the approval of the legislative body, and may further require notice to affected property owners and the conduct of a public hearing.

Extra Work

New and unforeseen work will be classed as extra work when such work cannot be covered by any of the various items or combination of items for which there is a bid price. The contractor shall do no extra work except upon written order from ECCTA. Compensation for authorized extra work will be paid as previously agreed upon in writing.

Owner Rights

Authority of ECCTA

ECCTA shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed and as to the manner or performance and loss of progress of the work; all questions which may arise as to the interpretation of the technical specifications; all questions as to the acceptable fulfillment of the contract on the part of the contractor; and all questions as to compensation. ECCTA's decision shall be final and shall have authority to enforce and make effective such decisions and orders which the contractor shall carry out promptly.

Contractor's Responsibility for Work and Materials

Until the final acceptance of the contract, the contractor shall have the charge and care of the work and of the materials to be used therein, including materials for which partial payment has been received. ECCTA shall not be held responsible for the care or protection of any material or parts of the work prior to final acceptance and must be notified of any potential deliveries of any materials or parts prior to delivery.

Risk of Loss

All loss of damage arising from any unforeseen obstruction or difficulties, either natural or artificial, which may be encountered in the furnishing of the supplies, materials, or equipment, or from any action of the elements prior to final written acceptance of the supplies, materials, or equipment, or from any act or omission not authorized by the contract documents on the part of the contractor or any agent or person employed by it, shall be sustained and borne solely by the contractor.

Certain Acts of God

The contractor shall not be responsible for the cost of repairing or restoring damage to the work which damage is determined to have been proximately caused by an act of God, in excess of the contracted amount, provided that the work damaged was built in accordance with accepted and applicable building standards and the plans and specifications of ECCTA. The contractor shall obtain insurance to indemnify ECCTA for any damage to the work caused by an act of God if the insurance premium is a separate bid item in the bidding schedule for the work. For purposes of this section, the term "Acts of God" shall

include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale, and tidal waves.

Compliance with Applicable Laws and Regulations

The contractor shall keep fully informed concerning all requirements of law including, but not limited to, all federal, state, and local laws, regulations, and ordinances which affect the performance of work under the contract.

The contractor shall at all times observe, and shall cause all employees and subcontractors to observe, all such requirements of law and shall protect, indemnify, and hold harmless ECCTA, its directors, officers, agents, and employees against all claims and liabilities arising from, or based on, the violation of any such requirement of law whether by the contractor or their employees or subcontractors.

If any discrepancy or inconsistency is discovered in the contract documents of the work in relation to any such requirements or laws, the contractor shall immediately report the same to ECCTA.

The contractor shall, if requested by ECCTA, provide certification and evidence of such compliance. If any part of the contract documents is declared invalid by a court of law, such decision will not affect the validity of the remaining portion, which shall remain in full force and effect.

Prior to award of a contract, the bidder shall furnish upon ECCTA's request verification of payment to its employees California's minimum wage as required by law. In addition, upon ECCTA's request, the bidder shall promptly furnish verification that its employees have legal rights to work in the United States of America and in the State of California.

Labor

General

This is a public works contract within the meaning of Part 7 of Division 2 of the California Labor Code (Sections 172, et seq.), and the contractor and any subcontractor shall pay not less than the specified prevailing rates of wage to all workers employed. Pursuant to the provisions of Section 1770 of the Labor Code of the State of California, the Board of Directors of Eastern Contra Costa Transit Authority has obtained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension, and similar purposes in ECCTA, a copy of which is on file in the office of ECCTA and shall be made available for viewing to any interested party upon request. The contractor shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each worksite.

Attention is directed to the provisions in Section 1777.5 and 1777.6 of the California Labor Code concerning the employment of apprentices by the contractor or any subcontractor under the contractor. It shall be the responsibility of the contractor to effectuate compliance on the part of itself and any subcontractors with the requirements of said sections in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

Pursuant to the requirements of Division 4 of the California Labor Code, the contractor will be required to secure the payment of worker's compensation to its employees in accordance with the provisions of Section 3700 of the California Labor Code.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefore.

Pursuant to Labor Code Section 1771(a), as amended by SB 854, contractor represents that it and all of its subcontractors are currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. The contractor covenants that any additional or substitute subcontractors will be similarly registered and qualified.

Prevailing Wage Requirements

Pursuant to Labor Code Section 1771(a), contractor represents that it and all of its subcontractors are currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. The contractor covenants that any additional or substitute subcontractors will be similarly registered and qualified.

This project is subject to prevailing wage compliance monitoring and enforcement by the Department of Industrial Relations (DIR). The contractor and subcontractors must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman apprentice, worker, or other employee employed by him or her in connection with the work. Each payroll record shall contain or be verified by a written declaration as required by Labor Code Section 1776. On a weekly basis, the contractor shall also deliver certified payrolls to ECCTA, and concurrently therewith directly to the Labor Commissioner in the format prescribed by the Labor Commissioner.

The payroll records enumerated above must be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor as required by Labor Code Section 1776.

The contractor shall inform ECCTA of the location of records enumerated above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated above. In the event that the contractor or subcontractor fails to comply with the ten-day period, they shall, as a penalty to ECCTA on whose behalf the contract is made or awarded, forfeit \$100.00 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. The

contractor is not subject to a penalty assessment pursuant to this paragraph due to the failure of a subcontractor to comply with this paragraph.

The contractor shall forfeit, as a penalty to ECCTA, \$200.00 for each laborer, worker, or mechanic employed in performing labor in and about the work provided for in the contract documents for each day, or portion thereof, that such laborer, worker or mechanic is paid less than the said stipulated rates for any the work done under the contract documents by him or her or by any subcontractor under him or her, in violation of Articles 1 and 2 of Chapter 1 of Part 7 of Division II of the Labor Code. The sums and amounts that are forfeited pursuant to this paragraph and the terms of the Labor Code shall be withheld and retained from payments due to the contractor under the contract documents, pursuant to these General Conditions and the Labor Code, but no sum shall be so withheld, retained or forfeited except from the final payment without a full investigation by either the State Department of Industrial Relations or by ECCTA. The Labor Commissioner pursuant to Labor Code Section 1775 shall determine the final amount of forfeiture.

The contractor shall insert in every subcontract or other arrangement which the contractor may make for performance of the work or labor on the work provided for in the contract, provision that subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code.

Completing and signing required forms

Attention is directed to the forms included in the contract documents in Section 10 which must be completed and signed. FAILURE TO PROPERLY COMPLETE AND SIGN ANY FORMS MAY BE CAUSE FOR REJECTION OF A BID.

Questions regarding prevailing wage and apprenticeship

Questions pertaining to pre-determined wage rates should be directed to:

Division of Labor Statistics and Research
P.O. Box 420603
San Francisco, CA 94142-0603
Phone: (415) 703-4774

Questions pertaining to apprenticeship crafts should be directed to:

Division of Apprenticeship Standards
P.O. Box 420603
San Francisco, CA 94142-0603
Phone: (415) 703-4920

Any contractor who is awarded a public works project and intends to use a craft or classification not shown on the general prevailing wage determinations may be required to pay the wage rate of the craft or

classification most closely related to it as shown on the general determinations effective at the time of the call for bids.

The wage rates for any classification not listed in the foregoing publications will be the prevailing wage for such work.

All above wage rates will be subject to any recent negotiations.

General Labor Code Requirements

The contractor and its subcontractors shall be responsible for compliance with Labor Code Sections 1810-1815.

Eight hours of labor performed in execution of the contract constitutes a legal day's work. The time of service of any worker employed on the project is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week.

The contractor and its subcontractors shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the project. The record shall be kept open at all reasonable hours to the inspection by the owner and the Division of Labor Standards Enforcement.

The contractor or its subcontractors shall, as a penalty to the owner, forfeit \$25.00 for each worker employed in the execution of the contract documents by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code Sections 1810-1815.

The work performed on the project by employees of the contractor or its subcontractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

Fair Employment Practices: California State Fair Employment Housing Act

The contractor shall comply with the State Fair Employment and Housing Act (California State Government Code Sections 12900 through 12996), and the regulations promulgated by the California State Fair Employment and Housing Commission to implement said Act.

The contractor shall comply with Section 1735 of the California State Labor Code, which reads as follows:

“No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex of such persons, except as provided in Section 12940 of the Government Code, and every contractor for public works in violation this section is subject to all the penalties imposed for a violation of this chapter.”

The contractor shall include, and shall cause all sub-consultants to include, the provision of California's Fair Employment Practices Article in every subcontract entered into, related to this contract.

The contractor shall complete and submit with the bid documents the "Fair Employment Practices Certificate" form in Section 10 of this IFB.

Nondiscrimination

In the performance of the contract, the contractor agrees that it shall not discriminate against any employee or applicant for employment because of race, color, national origin, ancestry, sex, gender, sexual orientation, gender expression, gender identity, religious creed, age, medical condition, disability, genetic information, marital status, or military and veteran's status in any manner prohibited by law.

The contractor shall take affirmative actions to ensure that applicants are hired and that employees are treated during employment in accordance with this non-discrimination obligation.

Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this article.

Violation of the State Fair Employment and Housing Act

Upon finding a violation of the California State Fair Employment and Housing Act by contractor, or a finding in a final judgment by a court of competent jurisdiction in an action to which contractor is a party, that contractor has unlawfully discriminated against any employee or applicant for employment, ECCTA will notify contractor that unless it demonstrates to the satisfaction of ECCTA within a stated period that the violation has been corrected, contractor's right to proceed with the work may be suspended or terminated, in whole or in part. ECCTA will deem a finding of violation of the California State Fair Employment and Housing Act to have occurred in performance of this contract upon receipt of written notice from the California State Fair Employment and Housing Commission that it has investigated and determined that contractor has violated this act in performance of this contract, and that said Commission has issued a final order under California State Government Code Section 12970 or obtained a final judgment under California State Government Code Section 12973; provided, however, that for purposes of this Fair Employment Practices Article, a judgment, order or injunction shall not be considered final: (a) if, and for the period that, the same is stayed or subject to further administrative or judicial review, or (b) if the same is vacated, reversed or set aside in whole or in substantial part as a result of subsequent administrative or judicial proceedings.

Travel and Subsistence Payments

The contractor shall make travel and subsistence payments to each worker needed to execute the work in accordance with the requirements in Section 1773.8 of the California State Labor Code.

Payroll Records

The contractor shall comply with the provisions of California State Labor Code Sections 1776 and 1812, and shall be responsible for compliance by its subcontractors. The penalties specified in subdivision (f) of

California State Labor Code Section 1776 for noncompliance may be deducted from any monies due or which may become due to the contractor.

A certified copy of payroll records provided for in California State Labor Code Section 1776 shall be furnished to ECCTA.

Apprentices

The contractor shall fully comply with the requirements of section 1777.5 of the California State Labor Code and the regulations of the California Apprenticeship Council. In accordance with section 1777.5, the contractor shall secure the necessary certificates and shall contribute to the apprenticeship fund or funds, as provided for therein. The contractor shall require each subcontractor who will perform work or labor or render service to the contractor in or about the construction of the work to comply fully with section 1777.5. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations, office of the Administrator of Apprenticeship, State Building Annex, 455 Golden Gate Avenue, San Francisco, or from the California State Division of Apprenticeship Standards and its branch offices. It is ECCTA's policy to encourage the employment and training of as many apprentices on ECCTA contracts as may be permitted under applicable apprenticeship standards.

Contractor Responsibilities

Contractor's Licensing Laws

Attention is directed to California Business and Professions Code Sections 7000 et seq. concerning the licensing of contractors. All bidders and subcontractors shall be licensed in accordance with the laws of this State and any bidder or subcontractor not so licensed is subject to penalties imposed by such laws. The contractor must possess a California Class C-33 contractor's license.

Patents

The contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the work. The contractor shall indemnify, defend, and hold ECCTA, its elected and appointed officials, and employees harmless against any claim in which a violation of intellectual property rights including, but not limited to, copyright or patent rights is alleged that arises out of contractor's work under this contract.

Safety

The contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property on or near the project or adjacent to the site of the work during the performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

The duty of ECCTA to conduct review of the work does not include review or approval of the adequacy of the contractor's safety program, safety supervisor, or any safety measures taken in, on or near the job site.

Safety provisions shall conform to Cal-OSHA Safety Orders, and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The contractor's failure to thoroughly familiarize itself with the aforementioned safety provisions shall not relieve it from compliance with the obligations and penalties set forth therein.

The contractor shall develop and maintain for the duration of this contract, a safety program that will effectively incorporate and implement all required safety provisions.

The contractor shall appoint an employee who is qualified and authorized to supervise and enforce compliance with the safety program. The safety program shall be posted at the project site.

Warranty of Title

The contractor warrants to ECCTA, its successors, and assigns that the title to the materials, supplies, or equipment covered by the contract, when delivered to ECCTA or to its successors or assigns, is free from all liens and encumbrances.

Warranty of Fitness

The contractor warrants that all materials, supplies, and products furnished meet the requirements and conditions of the contract documents and are fit for the purpose intended.

Environmental Compliance

The contractor shall comply with all laws, regulations, orders and decrees of any federal, state or local government authority or court concerning environmental compliance including, but not limited to, (i) air pollution and emission of air contaminants, including without limitation the regulations of the California Air Resources Board and the Bay Area Air Quality Management District; (ii) management of waste water and groundwater, including without limitation the requirements of the State Water Resources Control Board, the San Francisco Bay Regional Water Quality Control Board and local sanitary districts; and (iii) management and disposal of solid and hazardous wastes generated or discovered in connection with the work, including without limitation Title 22 of the California Code of Regulations, Title 40 of the Code of Federal Regulations and the requirements of the California Integrated Waste Management Board.

The contractor shall act as the generator of all hazardous waste created by or produced in connection with the prosecution of the work and shall comply with all requirements applicable to generators, including without limitation the payment of any taxes and fees applicable to such generators or their activities, provided, however, that the contractor shall not be required to act as generator of hazardous waste existing on the site of the work prior to the date of the contract. In the event hazardous waste existing on the site of the work prior to the date of the contract is discovered, the contractor shall immediately notify ECCTA.

With the submission of the contractor's invoice or within 25 business days of delivery, the seller must provide to ECCTA a Safety Data Sheet (SDS) for each product which contains any substance on "The List of 800 Hazardous Substances", published by the State Director of Industrial Relations (See

Hazardous Substances Information and Training Act, California State Labor Code Sections 6360 through 6399.7)

Cleanliness and Disposal

The contractor shall at all times while performing the work, keep the immediate and surrounding service area(s) clean and free of debris. The contractor shall ensure that all tools and equipment will be removed from the service area when the work is complete and/or when work will cease for a time period exceeding one hour. The contractor's equipment, including vehicles, shall be kept clean and free of debris, which includes, but not limited to, dirt, mud, leaking fluids, and loose gravel. In the event debris or leaking fluids fall from the contractor's vehicles, the contractor shall remove said debris/fluids immediately. If, however, ECCTA is required to provide labor or equipment to remove said debris and/or fluids, the cost of ECCTA provided labor and equipment will be deducted from the contractor's invoice.

All materials removed shall become the property of the contractor. Removal and proper disposal of all chemicals and debris shall comply with all local, state and federal laws concerning toxic waste use and disposal and will be done at the contractor's expense. The contractor shall not use ECCTA's utilities for disposal purposes.

The contractor shall not discharge any pollutants or hazardous materials to the curbs, gutters, inlets, or any part of the storm drain system under any circumstances and as stipulated herein.

Differing Site Conditions

The contractor shall promptly, and before the following conditions are disturbed, notify ECCTA in writing of any:

- a) Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the California Health and Safety Code that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- b) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract.
- c) Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.

ECCTA shall promptly investigate the conditions, and if it finds that such conditions do materially so differ, or do involve hazardous waste, and cause an increase or decrease in the contractor's cost of, or the time required for, performance of any part of the work, it shall issue a change order under the provisions described in the contract documents. No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in the contract documents.

In the event a dispute arises between ECCTA and the contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, contractor shall not be excused from completing the work as provided in the contract documents.

The contractor shall proceed with all work to be performed under the contract. The contractor shall retain any and all rights provided either by this contract or by law which pertain to the resolution of disputes and protests.

Utility Facilities

The contractor shall protect from damage any utility facilities that are to remain in place, be installed, relocated or otherwise rearranged.

If contractor while performing the work discovers utility facilities not identified in the contract documents, contractor shall immediately notify ECCTA and the utility owner. ECCTA shall arrange the removal, relocation, or protection of existing main or trunk line utility facilities located at the site of the work but not identified in the contract.

If the contractor is required to locate, repair damage not due to the contractor's failure to exercise reasonable care, and remove or relocate existing main or trunk line utility facilities, it shall be compensated, including payment for equipment on the project necessarily idled during such work.

The contractor will not be entitled to damages or additional payment for delays caused solely by the failure of ECCTA, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not identified in the contract documents, except for equipment necessarily idled during such work.

The contractor shall not be assessed liquidated damages for delay in completing the work solely attributable to the failure of ECCTA, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not indicated in the contract documents with reasonable accuracy.

The right is reserved by ECCTA and the owners of facilities or their authorized agents, to enter the job for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The contractor shall cooperate with forces engaged in such work and shall conduct his operations in such a manner as to avoid any delay or hindrance to the work being performed by such other forces.

Attention is directed to the possible existence of underground facilities not known to ECCTA, or in a location different from that described in the technical specifications. The contractor shall take all steps reasonably necessary to ascertain the exact location of all underground facilities prior to doing work that may damage such facilities or interfere with their service, including but not limited to calling Underground Service Alert to mark utilities.

Records/Audit

The contractor and subcontractors shall establish and maintain records pertaining to this contract. The contractor's accounting systems shall conform to generally acceptable accounting principles and all records shall provide a breakdown of total costs charged under this contract, including properly executed payrolls, time records, invoices and vouchers.

The contractor shall permit ECCTA and its authorized representatives to inspect, audit, and examine the contractor's books, records, accounts, and any and all data relevant to this contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by the contractor pursuant to this contract. The contractor shall provide such assistance as may be reasonably required in the course of such inspection.

Contractors shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three years after the termination of this contract. ECCTA further reserves the right to examine and re-examine said books, records, accounts, and data during the three-year period following the termination of this contract.

Pursuant to California Government Code, the parties to this contract shall be subject to the examination and audit of a representative of the Auditor General of the State of California for a period of three years after the termination of this contract. The examination and audit shall be confined to those matters connected with the performance of this contract including, but not limited to, the cost of administering the contract.

Where ECCTA has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of contractor's business, ECCTA may, by written request, require that custody of the records be given to ECCTA and that the records and documents be maintained at ECCTA's facility. Access to such records and documents shall be granted to any party authorized by contractor, contractor's representatives, or contractor's successor in interest.

Liquidated Damages/Excusable Delays

Liquidated Damages

In the event of delay in completion of the work listed in the Scope of Work, or beyond authorized extensions thereof, damage will be sustained by ECCTA. It is and will be impracticable to determine the actual amount of damage by reason of such delay. It is therefore agreed that ECCTA shall be paid liquidated damages in the amount of \$100.00, or in the amount otherwise specified in the contract, for each and every workday that the completion extends beyond the delivery date, unless the delay is caused by an Excusable Delay (as defined below). The parties agree this sum is reasonable considering the totality of circumstances, including the relationship of the sum to the range of harm to ECCTA that reasonably could be anticipated and the anticipation that proof of actual damages would be costly, inconvenient, or impossible.

An extension of time without liquidated damage liability shall be granted by ECCTA upon a proper showing and finding by ECCTA that the extension is justified. The bidder shall have the burden of showing that the delay was beyond their control. The findings by ECCTA shall be final and conclusive.

Liquidated damages for delay shall only cover administrative, overhead and general loss of public use damages suffered by ECCTA as a result of delay. Liquidated damages shall not cover the cost of completion of the work and/or damages resulting from defective work.

Excusable Delays

Excusable Delays include only the following, to the extent not caused by the fault or negligence of contractor: fire, flood, earthquake, acts of ECCTA, acts of another contractor (not a contractor subcontractor) in the performance of a contract with ECCTA, epidemics, quarantine restrictions, strikes, freight embargoes (not freight delays by a contractor subcontractor or supplier), and adverse weather (as specified below).

Claims Procedures

Should it appear to the contractor that the work to be performed or any of the matters relative to the contract documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the contract documents, or should any dispute arise regarding the true value of any work performed, work omitted, extra work that the contractor may be required to perform, time extensions, payment to the contractor during performance of this contract, performance of the contract, and/or compliance with contract procedures, or should contractor otherwise seek extra time or compensation FOR ANY REASON WHATSOEVER (collectively, "Disputed Work"), the contractor shall seek resolution as otherwise provided in contract documents or, if no procedures are specified, through regular project communication procedures. If a dispute remains, the contractor shall give submit a written claim to ECCTA. Routine contract materials, for example, correspondence, RFI, change order requests, or payment requests shall not constitute a claim. The contractor shall bear all costs incurred in the preparation and submission of a claim.

The contractor's written claim must identify itself as a "claim" under this Article Claims Procedures and must include the following: (i) a narrative of pertinent events; (ii) citation to contract provisions; (iii) theory of entitlement; (iv) complete pricing of all cost impacts; (v) a time impact evaluation of all time delays that shows actual time impact on the critical path; (vi) documentation supporting items (i) through (v); and (vii) a verification under penalty of perjury of the claim's accuracy. The claim shall be priced like a change order, and must be updated monthly as to cost and entitlement if a continuing claim.

Any claim shall be decided by ECCTA's CEO, who shall reduce their decision to writing and mail or otherwise furnish a copy thereof to contractor. The decision of the CEO shall be final and conclusive unless within 30 calendar days from the date of receipt of such copy, the contractor mails or otherwise furnished a written appeal to ECCTA's Board of Directors.

Notwithstanding any dispute, Disputed Work or claim, the contractor shall continue to prosecute the work and the Disputed Work in accordance with ECCTA's determinations. The contractor's sole and exclusive remedy for Disputed Work is to file a written claim within the time limits set forth in this section setting forth the contractor's position as required herein.

Public Contract Code Section 20104, et seq., specifies required provisions on resolving contract claims less than \$375,000. This statutes constitute a part of this contract. In the event any other contract provision violates such statutes, the applicable statute controls.

Abandonment or Delay of Work

ECCTA may terminate the contract for the following causes:

- The contractor is insolvent or has made a general assignment for the benefit of creditors, or a receiver has been appointed on account of the insolvency of the contractor.
- The contractor or any of its subcontractors violate any of the material provisions of the contract or fail to perform the work within the time specified in the contract documents.
- The contractor or any of its subcontractors should fail to make prompt payment to subcontractors or material suppliers for material or for labor.
- The contractor or a subcontractor persistently disregards laws, ordinances, or the instructions of ECCTA.
- The contractor fails to abide by a proper stop work notice or fails to correct rejected work or materials.
- The contractor fails to provide and keep in full force and affect all required insurance or fails to cause all subcontractors to so comply.
- The contractor fails to supply a sufficient number of properly skilled workers or proper materials, or fails to diligently prosecute the work.
- The contractor commits any substantial violation of the contract which constitutes a material breach of the contract.

ECCTA may, without prejudice to any other right or remedy, give written notice to the contractor of its intention to terminate the contract. Unless within seven business days of the delivery of such notice, the contractor shall cease such violation or otherwise make satisfactory arrangements for a correction thereof, which arrangements are set forth in a written agreement signed by the contractor and ECCTA, the contractor's right to complete the work shall cease and terminate.

In the event of any such termination, ECCTA shall immediately give written notice thereof to the contractor. If ECCTA takes over the work, it may prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the contractor and the contractor shall be liable to ECCTA for any excess costs, including management, supervision, and design support, occasioned thereby. In such event, ECCTA may, without liability, take possession of and utilize in completing the work, the contractor's materials and equipment to be incorporated into the work, whether stored at the site or elsewhere. Whenever the contractor's right to proceed is terminated, the contractor shall not be entitled to receive any further payment until the work is finished.

If ECCTA terminates the contract for cause, ECCTA may retain out of any funds due or to become due the contractor the amount of the cost of completing the work and any expense incidental to reletting the contract or performing the work, and may also hold the contractor and the contractor's sureties responsible for such cost and expense, and for any damages resulting from the abandonment or failure, upon the bond. The contractor shall not receive any further payment until the work is complete.

Payment and Invoicing

General

During the term of this contract, ECCTA will make payments to the contractor in accordance with receiving an invoice. Invoices for payments that are due and which are received shall be paid within thirty days following the approval and authorization of payment.

Substitutions of Securities for Withheld Amounts

Pursuant to Public Contract Code Section 22300, the contractor may substitute securities for any monies withheld to ensure performance. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with ECCTA, or with a state or federally chartered bank in California as the escrow agent, and ECCTA shall then pay such monies to the contractor.

Alternatively, the contractor may request that ECCTA make payment directly to the escrow holder, to be invested at the contractor's expense and direction.

Eligible securities shall include those listed in Government Code Section 16430, or bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the ECCTA. The contractor shall be the beneficial owner of any securities substituted for monies, and shall receive any interest on such securities.

Any escrow agreement shall be substantially similar in form to the form of escrow agreement included in Public Contract Code Section 22300(f).

Conflict of Interest

No employee, director, officer, or agent of ECCTA shall participate in selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, agent, any member of their immediate family, their partner, an organization which employs, or is about to employ, any of the above interest in the firm is selected for award.

ECCTA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or have a financial or other interest in the firm selected for award.

Prohibited Interest

By submitting a bid, the contractor represents and warrants that neither the CEO, nor any director, officer, agent, nor employee of ECCTA, has in any manner any interest, contractual or non-contractual, financial or otherwise, in this transaction or in the business of the contractor. If any such interest comes to the knowledge of the contractor at any time, a full and complete disclosure of all such information shall be made in writing to ECCTA, even if such interest would not be considered a conflict of interest under Article IV Division 4 (commencing with Section 1090) or Division 4.5 (commencing with Section 3600) of the Government Code of the State of California.

No member, officer, or employee of ECCTA or of any of its member jurisdictions during their tenure of office, or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds therefrom.

No member or a delegate to the Congress of the United States shall be admitted entitled to any share or part of the contract awarded under this bid or to any benefits arising therefrom.

Penalty for Collusion

If at any time it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any bid or bids colluded with any other party or parties, then the contract so awarded shall be null and void and the bidder shall be liable to ECCTA for all loss or damage which ECCTA may suffer thereby and the Board of Directors may advertise for a new contract for said labor, supplies, materials, or equipment.

Termination

Termination for Convenience. ECCTA may terminate this contract, in whole or in part, at any time by written notice to the contractor when it is in the ECCTA's best interest. The contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The contractor shall promptly submit its termination claim to ECCTA to be paid the contractor. If the contractor has any property in its possession belonging to ECCTA, the contractor will account for the same, and dispose of it in the manner ECCTA directs.

Termination for Default [Breach or Cause]. If the contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the contractor fails to perform in the manner called for in the contract, or if the contractor fails to comply with any other provisions of the contract, ECCTA may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the contractor is in default.

The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by ECCTA that the contractor was prevented from performing due to an Excusable Delay, ECCTA, after setting up a new delivery of performance schedule, may allow the contractor to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure (General Provision). ECCTA in its sole discretion may, in the case of a termination for breach or default, allow the contractor 10 business days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If contractor fails to remedy to ECCTA's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within 10 business days after receipt by contractor or written notice from ECCTA setting forth the nature of said breach or default, ECCTA shall have the right to terminate the contract without any further obligation to contractor.

Any such termination for default shall not in any way operate to preclude ECCTA from also pursuing all available remedies against contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach. In the event that ECCTA elects to waive its remedies for any breach by contractor of any covenant, term or condition of this contract, such waiver by ECCTA shall not limit ECCTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

Termination for Default (Supplies and Service). If the contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the ECCTA may terminate this contract for default.

ECCTA shall terminate by delivering to the contractor a Notice of Termination specifying the nature of the default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of ECCTA.

Legal and Miscellaneous

Severability Clause

If any provision or any part of any provision of these contract documents is, for any reason, held to be invalid, unenforceable, or contrary to any public policy, law, statute, regulation or ordinance, then the remainder of these specifications shall not be affected thereby and shall remain valid and fully enforceable.

Governing Law

California law (including that state's statutes of limitation but excluding its choice of law rules) shall govern all matters arising under the contract.

Prevailing Wage Rates

Section 5

Special Conditions

Special Conditions

Exterior Painting

IFB #2022-02

Discrimination Prohibited

No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of this contract on the grounds of race, color, national origin or sex.

Prompt Payment to Subcontractors

The contractor shall pay any permitted subcontractors for work that has been satisfactorily performed no later than 10 business days from the date of contractor's receipt of payments from ECCTA. Within 10 business days of satisfactory completion of all work required of the subcontractor, the contractor shall release to the subcontractor any retainage payments withheld.

Any delay or postponement of payment to subcontractors for satisfactory work performance may take place only for good cause and with ECCTA's prior written approval. If the contractor determines the work of the subcontractor to be unsatisfactory, it must notify ECCTA immediately in writing and state the reasons.

If the contractor fails or refuses to comply with requirements of this prompt payment clause, ECCTA will issue an order stopping all or part of the payment or work until satisfactory action is taken. If the contractor still fails to comply, ECCTA may issue a termination for default proceeding.

Contractor's Organization and Equipment

Licenses and Registration

At the time of bidding and throughout the period of the contract, bidders and/or their technicians must possess the following licenses and registration:

- State of California Class C-33 contractor's license
- Business License
- Contractor's registration number with the California Department of Industrial Relations

Failure to possess the above specified licenses and registration number at the time of bid opening shall render the bid as non-responsive.

Character of Workers

If any subcontractor or person employed by the contractor shall appear to ECCTA to be incompetent or to act in a disorderly or improper manner, they shall be discharged immediately on the request of ECCTA, and such person shall not again be employed on the work.

COVID-19

Without limiting the contractor's other contract documents obligations to comply with applicable laws, the contractor shall comply with all federal, state, and local (including Contra Costa County) laws and requirements relating to COVID-19, whether in existence on the date bids are due or on any date thereafter, including without limitation (if and to the extent applicable) the Cal/OSHA COVID-19 General Checklist for Limited Services then in effect and all active health orders of the Contra Costa County Health Officer, all as amended, supplemented, and replaced from time to time ("Covid Requirements").

The contractor shall not be entitled to any increases in compensation or payment of any additional amounts on account of any changes to any applicable Covid Requirements or any new Covid Requirements, including without limitation any change in Contra Costa County's tier under California's Blueprint for a Safer Economy. Further, the contractor shall be solely responsible for keeping informed and current of all changes and additions to the Covid Requirements.

Environmental Matters

Noise and Sound Control

The contractor shall comply with all local sound control and noise level rules, regulations and ordinances which apply to any work performed pursuant to the contract.

Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without the muffler.

The noise level from the contractor's operations shall not exceed 80 dBA at a distance of 50 feet between the hours of 7:30 a.m. and 5:00 p.m. Construction services shall be restricted to the hours of 7:30 a.m. to 5:00 p.m., Monday through Friday. No construction will be held on weekends or federal holidays.

Said noise level requirement shall apply to all equipment on the job, or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by the contractor. The use of loud sound signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefore.

Stormwater Pollution Prevention

The contractor shall identify and implement the specific Best Management Practices (BMP) it proposes to use in the performance of the work under this contract to prevent the discharge of pollutants into surface waters, groundwater, or storm and sewer systems. The contractor shall keep a copy of its BMP on site at all times and shall make it available to ECCTA and regulatory officials upon request.

The contractor is advised that implementation of its BMP does not relieve contractor of compliance with other State, County, and local governments' regulations including those relating to storm water management or non-point source runoff controls.

Upon completion of the work, the contractor shall provide information and otherwise assist ECCTA in revising and updating ECCTA's current documents for on-going storm water monitoring as necessary to reflect any changes created by the work of this contract.

The contractor's duty to indemnify, defend and hold harmless ECCTA, its elected and appointed officials, agents and employees as provided in the contract documents shall apply, without limitation, to proceedings, fines, penalties, judgments, and other liabilities arising from contractor's actual or alleged failure to comply with the California State Water Resources Control Board requirements.

Privacy Act

The following requirements apply to contractor and any of its employees that may administer any system of record on behalf of the federal government under any contract:

The contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirement of the Privacy Act of 1974, U.S.C. Section 552a.

Among other things, the contractor agrees to obtain the express consent of the federal government before the contractor or its employees are a system of record on behalf of the federal government.

The contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

The contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the federal government financed in whole or in part with federal assistance provided by the FTA.

Conflict of Interest

The contractor understands that its professional responsibility is solely to ECCTA. The contractor warrants that it presently has no interest, and will not acquire any direct or indirect interest, that would conflict with its performance of this contract. The contractor shall not knowingly, and shall take reasonable steps to ensure that it does not, employ a person having such an interest in the performance of this contract. If contractor discovers that it has employed a person with a direct or indirect interest that would conflict with its performance of this contract, contractor shall promptly disclose the relationship to ECCTA and take such action as ECCTA may direct to remedy the conflict.

The contractor (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this contract or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of contractor's services hereunder.

The contractor further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this contract.

The contractor is not a designated employee within the meaning of the Political Reform Act because contractor:

- Will conduct research and arrive at conclusions with respect to their rendition of information, advice, recommendation or counsel independent of the control and direction of ECCTA or of any ECCTA official other than normal contract monitoring.
- Possesses no authority with respect to any ECCTA decision beyond the rendition of information, advice, recommendation or counsel (FPPC Reg. 18700(a) (2)).

Records

The contractor and its subcontractors shall establish and maintain complete records pertaining to the contract. The contractor and subcontractors accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under the contract, including properly executed payrolls, time records, invoices and vouchers.

The contractor shall permit the U.S. Secretary of Transportation, the Comptroller General of the United States, the State of California, ECCTA and/or their authorized representatives to inspect and examine contractor's books, records, accounts, and any and all data relevant to the contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by contractor pursuant to the contract and shall provide such assistance as may be reasonably required in the course of such inspection.

The contractor shall not dispose of, destroy, alter, or mutilate said books, records, accounts, and data for three years after the termination of the contract. ECCTA reserves the right to examine and re-examine said books, records, accounts, and data during the three year period following the termination of the contract. In addition, the parties to the contract shall be subject to the examination and audit by a representative of the Auditor General of the State of California for a period of three years after final payment under the contract.

Contractor/Subcontractor Worker Classification

Bidders shall complete and submit with bid documents the certification regarding "Contractor/Subcontractor Worker Classification" form in Section 10 of this IFB.

Section 6

Scope of Work

Scope of Work
Exterior Painting
IFB 2022-02

Scope of Work

The contractor shall provide all equipment, materials, and labor for the preparation, cleaning, and painting of ECCTA’s blue fiberglass exterior lobby entrance located at its main facility at 801 Wilbur Avenue in Antioch, CA 94509.

All work shall exclude window trimmings and the front entrance doors, and shall be backed by a five-year warranty.

The contractor shall:

- Remove and reinstall drain pipes.
- Pressure wash all surfaces of the blue exterior portion of the building.
- Sand all surfaces of the blue exterior portion of the building in such a way as to prepare it for repainting.
- Seal any existing cracks or seams as necessary.
- Apply one layer of acrylic latex bonding primer/sealer to all surfaces of the blue exterior portion of the building.
- Apply two coats of blue acrylic latex paint to all surfaces of the blue exterior portion of the building. Paint color must match as closely as possible to that of the current paint color and must be approved by ECCTA prior to application.

The areas to be worked on are pictured below. The approximate work area combined is 1,776 square feet. The total height of this portion of the building is 16 feet.





Section 7

Request for Substitution Form

REQUEST FOR SUBSTITUTION

Project:

Substitution Request Number:

To:

From:

Re:

Date:

Project Number:

Contract For:

Specification Title: _____ Description: _____

Section: _____ Page: _____ Article/Paragraph: _____

Proposed Substitution:		
Manufacturer:	Address:	Phone:
Trade Name:		Model No.:
Installer:	Address:	Phone:

History:

- New Product
- 2-5 years old
- 5-10 years old
- More than 10 years old

Differences between proposed substitution and specified product: _____

Point-by-point comparative data attached.

Reason for not providing specified item:

Similar Installation:

Project:	Architect:
Address:	Owner:

Date Installed:

Proposed substitution affects other parks of work: ___ Yes ___ No; explain:

Savings to ECCTA for accepting substitution:

Proposed substitution changes contract time: ___ Yes ___ No [Add][Deduct]days _____

Supporting Data Attached:

- Drawings
- Product Data
- Samples
- Tests
- Report

REQUEST FOR SUBSTITUTION (CONTINUED)

The undersigned certifies that:

- The proposed substitution has been fully investigated and determined to be equal or superior in all respects to the original specified product.
- The same warranty will be furnished for the proposed substitution as for the original specified product.
- The same maintenance service and source of replacement parts, as applicable, is available.
- The proposed substitution will have no adverse effect on other trades and will not affect or delay progress schedule.
- The cost data as stated above is complete. Claims for additional costs related to accepted substitution which may subsequently become apparent are to be waived.
- The proposed substitution does not affect dimensions and functional clearances.
- Payment will be made for changes to building design, including A/E design, detailing, and construction costs caused by the substitution, if applicable.
- Coordination, installation, and changes in the work as necessary for accepted substitution will be complete in all respects.

Submitted by:
Signed by:
Firm:
Address:
Telephone:
Attachments:

ECCTA’S REVIEW AND ACTION

- Substitution Approved – Prepare submittals.
- Substitution Approved, as noted – Prepare submittals.
- Substitution Rejected – Use specified materials.
- Substitution Request received too late – Use specified materials.

Signed by: _____ Date: _____

Additional Comments:

- Contractor _____
- Subcontractor _____
- Supplier _____
- Manufacturer _____

Section 8

Bid Form

BID COVER FORM
For
IFB #2022-02

Eastern Contra Costa Transit Authority (ECCTA)
Antioch, CA

DATE SUBMITTED: _____

NAME OF INDIVIDUAL SUBMITTING BID: _____

CONTACT PERSON: _____

NAME UNDER WHICH BUSINESS IS CONDUCTED: _____

STREET ADDRESS: _____

MAILING ADDRESS, IF DIFFERENT: _____

TELEPHONE: _____

FAX: _____

PLEASE COMPLETE THE FOLLOWING TWO BOXES.

The names of all persons interested in the foregoing bid as principals are as follows:	
1.	2.
3.	4.

Bidder holds California Contractor's License No.:	
Classification:	The license expiration date is:
Department of Industrial Relations (DIR) registration number:	
<i>Bidder declares under penalty of perjury that the foregoing is true and correct.</i>	

CONDITIONS:

1. The undersigned understands that they will be bound by the bid as expressed by these forms if an award is made by ECCTA. The contract will be in accordance with this bid.
2. The Invitation for Bid, Information for Bidders, General Conditions, Scope of Work, Special Conditions, Bid Forms, Required Certifications, and Addenda, if any, are made a part of this bid.

3. The undersigned understands that any clarification made to the bid form or any new and different conditions or information submitted in or with the bid form, other than that requested, may render the bidder unresponsive.
4. The undersigned acknowledges the receipt of the following addenda:

5. The undersigned understands that ECCTA reserves the right to reject any or all bids or to waive any informality or technicality in any bid in the interest of ECCTA.
6. The undersigned understands that all bids shall remain in effect for sixty calendar days from the day of the bid opening.
7. The undersigned certifies that the bidder and list of subcontractors are currently registered with the Department of Industrial Relations.
8. The undersigned understands that the award of the bid shall only be made to a contractor and subcontractors who are currently registered with the Department of Industrial Relations.
9. The undersigned has carefully examined the location of the proposed work, the annexed proposed form of contract, and the contract documents therein referred to.
10. The undersigned certifies that the bid includes all costs for labor, materials, taxes, insurance, overhead, profits, storage, delivery, and all other costs necessary to perform the work in accordance with the contract documents.
11. The undersigned acknowledges that if this bid is accepted and the undersigned shall fail to contract with and give the required bonds and evidence of the required insurance within the time period specified in the Instruction to Bidders, ECCTA may void this bid and cause a forfeiture of the undersigned's bid security as provided in the Information for Bidders.
12. The undersigned will place the bid package in one or more sealed envelopes marked and deliver them to ECCTA in manner, and by the times, provided in the IFB..

WORK ITEM PRICES

The following bid item list includes all costs for labor, materials, taxes, insurance, overhead, profits, and all other costs necessary to perform the work in accordance with the contract documents. The **Grand Total Bid Amount** set forth below will be used to determine apparent low bid.

GRAND TOTAL BID AMOUNT:

\$ _____

Any errors or inconsistencies shall be resolved by ECCTA as provided in the Information for Bidders above.

IF INDIVIDUAL OR SOLE OWNER OF BUSINESS:

Signature and Printed Name

IF PARTNERSHIP OR JOINT VENTURE:

The undersigned certify that we have full and proper authority to sign this bid form.

Partnership or Joint Venture Composed of:

Signature, Printed Name, Title, and Company Name

Signature, Printed Name, Title, and Company Name

Partnerships and Joint Ventures must complete and submit the Power of Attorney form included with these bid documents.

IF CORPORATION:

The undersigned certify that we sign this bid form with full and proper authorization to do so. We also have included a fully executed Power of Attorney form identifying the Managing Sponsor in our bid packet.

Signature, Printed Name, and Title

Signature, Printed Name, and Title

The Corporation is incorporated under the laws of the State of: _____

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS. That _____ (name of partnership/joint venture/corporation) which is desirous of entering into a contract with the Eastern Contra Costa Transit Authority, do so hereby designate and appoint _____ (one of the general partners/ventures' or officer of the corporation) hereinafter called the "Managing Sponsor," as their true and lawful attorney with the power, on their behalf and in the name and on behalf of the _____ (name of partnership/joint venture/corporation), to execute a bid for IFB #2022-02 and to execute and enter into a contract with the Eastern Contra Costa Transit Authority, and to represent and bind the partnership/joint venture/corporation, in all matters in connection with such bid and contract, and the undersigned specifically acknowledge and agree that the execution of such bid or contract by the Managing Sponsor shall constitute the agreement of each general partner/venturer/corporation to be jointly and severally liable for any and all of the duties and obligations of the partnership/joint venture/corporation arising from such bid or contract.

In witness whereof the undersigned have executed this Power of Attorney this ____ day of _____, 20__.

Company Name: _____

By: _____

Title: _____

Subscribed and Sworn to before me

This ____ day of _____, 20__.

Notary Public in and for State of _____

Residing at _____

Section 10

Required Certifications

Required Certifications

All forms must be properly signed and notarized (as required) and returned with the Bid Form.

- Certification Concerning Control of Employees
- Certification Regarding Workers' Compensation
- Contractor/Subcontractor Worker Classification
- Contractor's Experience and Qualifications
- Fair Employment Practices Certificate
- Non-Collusion Affidavit

CERTIFICATION CONCERNING CONTROL OF EMPLOYEES

The bidder, by entering into this contract with ECCTA to perform or provide work, services, or materials to ECCTA, does hereby certify and assure that in performing the services under this contract, the bidder shall act as an independent bidder and shall have full control of the work and bidder's employees. Bidder, and its employees, in no circumstances whatsoever shall imply or be considered as an agent(s) or employee(s) of ECCTA. Bidder employees in no circumstances shall be entitled to part of any pension plan, insurance, bonus or any similar benefits which ECCTA provides its own employees.

Any infraction of this certification shall be cause for termination of this contract.

PRINTED NAME

SIGNED

AUTHORIZED REPRESENTATIVE OF BIDDER

TITLE

DATE

CERTIFICATE REGARDING WORKERS' COMPENSATION

Contract with the EASTERN CONTRA COSTA TRANSIT AUTHORITY, 801 Wilbur Avenue, Antioch, California 94509, for the partial painting and minor repair of its blue exterior lobby entrance.

IFB #2022-02

Labor Code Section 3700:

“Every employer, except the State, and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers, duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to employees.”

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance. In accordance with the provisions of that code, I will comply with such provisions before commencing the performance of the work of this contract.

DATE: _____, 20__.

BY: _____

OFFICIAL TITLE: _____

(SEAL)

(Labor Code Section 1861, provides that the above certificate must be signed and filed by the bidder with the Authority prior to performing any work under this contract.)

CONTRACTOR'S EXPERIENCE AND QUALIFICATIONS

The following statements as to the experience and qualifications of the bidder are to be submitted with the bid, as a part thereof. The truthfulness and accuracy of the information is guaranteed by the bidder.

1. The bidder has been engaged in the contracting business, under the present business name, for _____ years. Experience in work of a nature similar to that covered in the bid extends over a period of _____ years.
2. The bidder, as a contractor, has successfully completed at least two projects of like magnitude, comparable difficulty and rates of progress to the work, including:

LIST TWO OR MORE PROJECTS

3. The bidder, as a contractor, has never failed to satisfactorily complete a contract awarded to the contract, except as follows:

NAME ANY AND ALL EXCEPTIONS AND REASONS THEREFORE

4. The bidder has satisfactorily completed the following contracts in the last three years, for the owner indicated, and to whom reference is made,

LIST THREE CONTRACTS AND PROVIDE CONTACT PERSON AND TELEPHONE NUMBER FOR EACH PROJECT

Year	Type of Work	Contract Amount	Contact (Name and Number)

5. The names of all persons interested in the foregoing bids as principals are as follows:

(If bidder of other interested person is:

- A corporation: state the legal name of the corporation, along with the names of the president, secretary, treasurer, and manager thereof.
- A general partnership: state true name of the firm, as well as the names of all individual partners composing the firm.
- A limited partnership: state the names of all general partners and limited partners.
- An individual: state first and last names in full.)

Contractor's License Number: _____

License Expiration Date: _____

Department of Industrial Relations (DIR) Registration Number: _____

CONTRACTOR/SUBCONTRACTOR WORKER CLASSIFICATION

Eastern Contra Costa Transit Authority is required to complete and submit the PWC-100 form within five business days of award of a public works project.

The completion and the submission of this form fulfills the required public works project award notification to both the Division of Apprenticeship Standards (Labor Code sec 1773.3 (replacing former DAS-13 notification)) and the Division of Labor Standards Enforcement Public Work Compliance Monitoring Unit (8 Cal. Code Reg. Sec. 16451(a))

Prime Contractor (All fields must be completed)

Project No.:		Project Title:	
Name of Price Contractor:		Prince Contractor's License Number:	
Mailing Address:	City:	State:	Zip Code:
Prime Contractor's Telephone Number:		Prime Contractor's Email Address:	
Project Manager (Name):	Project Manager's Email Address:	Project Manager's Phone Number:	

Prime Contractors' Worker Classifications (select classifications that apply)			
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Boilermaker	<input type="checkbox"/> Bricklayers	<input type="checkbox"/> Carpenters
<input type="checkbox"/> Carpet/Linoleum	<input type="checkbox"/> Cement Masons	<input type="checkbox"/> Drywall Finisher	<input type="checkbox"/> Drywall/Lathers
<input type="checkbox"/> Electricians	<input type="checkbox"/> Elevator Mechanic	<input type="checkbox"/> Glaziers	<input type="checkbox"/> Iron Workers
<input type="checkbox"/> Laborers	<input type="checkbox"/> Millwrights	<input type="checkbox"/> Operating Engineer	<input type="checkbox"/> Painters
<input type="checkbox"/> Pile Driver	<input type="checkbox"/> Pipe Trades	<input type="checkbox"/> Plasterer	<input type="checkbox"/> Roofers
<input type="checkbox"/> Sheet Metal	<input type="checkbox"/> Sound/Comm	<input type="checkbox"/> Surveyors	<input type="checkbox"/> Teamster
<input type="checkbox"/> Tile Workers			

Prime contractor is to include this form for all subcontractors.

Subcontractor (All fields must be completed)

Name of Subcontractor:		Subcontractor's License Number:	DIR Registration Number:
Mailing Address:	City:	State:	Zip Code:
Subcontractor's Telephone Number:		Subcontractor's Email Address:	

Subcontractors Worker Classifications (select classifications that apply)			
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Boilermaker	<input type="checkbox"/> Bricklayers	<input type="checkbox"/> Carpenters
<input type="checkbox"/> Carpet/Linoleum	<input type="checkbox"/> Cement Masons	<input type="checkbox"/> Drywall Finisher	<input type="checkbox"/> Drywall/Lathers
<input type="checkbox"/> Electricians	<input type="checkbox"/> Elevator Mechanic	<input type="checkbox"/> Glaziers	<input type="checkbox"/> Iron Workers
<input type="checkbox"/> Laborers	<input type="checkbox"/> Millwrights	<input type="checkbox"/> Operating Engineer	<input type="checkbox"/> Painters
<input type="checkbox"/> Pile Driver	<input type="checkbox"/> Pipe Trades	<input type="checkbox"/> Plasterer	<input type="checkbox"/> Roofers
<input type="checkbox"/> Sheet Metal	<input type="checkbox"/> Sound/Comm	<input type="checkbox"/> Surveyors	<input type="checkbox"/> Teamster
<input type="checkbox"/> Tile Workers			

Attach additional copies of this form if more space is needed and paginate the forms (e.g. "page _ of _")

FAIR EMPLOYMENT PRACTICES CERTIFICATION

In connection with the performance of work under this contract, the bidder agrees as follows:

1. The bidder will not willfully discriminate against any employer or applicant for employment because of race, color, religious creed, ancestry, national origin, age, sex, physical disability, mental disabilities, marital status, or medical condition as defined in Government Code §12926. The bidder will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religious creed, ancestry, national origin, age, sex, physical disability, mental disability, marital status, or medical condition as defined in Government Code §12926. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Fair Employment Practices section.
2. The bidder will send to each labor union or representative workers with which it has a collective bargaining agreement or other contract or understanding, a notice, advising the said labor union or workers' representative of the bidder's commitments under this section; and the bidder shall post copies of the notice in conspicuous places available to employees and applicants for employment.
3. The bidder will permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Fair Employment Practices Commission, ECCTA or any other appropriate agency of the State of California designated by ECCTA for the purposes of investigation to ascertain compliance with the Fair Employment Practices section of this contract.
4. A finding of willful violation of the Fair Employment Practices section of this contract or of the Fair Employment Practices Act shall be regarded by ECCTA as a basis for determining the bidder to be not a "responsible bidder" as to future contracts for which such bidder may submit bids, for revoking the bidders pre-qualification rating, if any, and for refusing to establish, re-establish, or renew a pre-qualification rating for the bidder.

ECCTA shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the bidder has violated the Fair Employment Practices Act and has issued an order under Government Code §12970 or obtained a court order under Government Code §12973.

Upon receipt of such written notice from the Fair Employment Practices Commission, ECCTA shall notify the bidder that, unless it demonstrates to the satisfaction of ECCTA within a stated period that the violation has been corrected, the bidders pre-qualification rating will be revoked.

5. The bidder agrees that should ECCTA determine that the bidder has not complied with the Fair Employment Practices section of this contract then, pursuant to Labor Code Section 1735 and 1775, the bidder shall, as a penalty to ECCTA, forfeit, for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance, the penalties

- provided in the labor code for violation of prevailing wage rates. Such monies may be recovered from the bidder. ECCTA may deduct any such damages from any monies due the bidder.
6. Nothing contained in this Fair Employment Practices section shall be construed in any manner of fashion as to prevent ECCTA from pursuing any other remedies that may be available at law.
 7. Prior to award of the contract, the bidder shall certify to ECCTA that it has or will meet the following standards for affirmative compliance, which shall be evaluated in each case by ECCTA.
 - a. The bidder shall provide evidence, as required by ECCTA, that it has notified all supervisors, foremen and other personnel officers, in writing, of the content of the anti-discrimination clause and their responsibilities under it.
 - b. The bidder shall provide evidence, as required by ECCTA, that it has notified all sources of employee's referral (including unions, employment agencies, advertisements, Employment Development Department) of the content of the anti-discrimination clause.
 - c. The bidder shall file a basic compliance report as required by ECCTA. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also spell out the sources of the work force and who has the responsibility for determining whom to hire or whether or not to hire.
 - d. Personally, or through its representatives, the bidder shall, through negotiations with the unions with whom it has agreements, attempt to develop an agreement which will:
 - i. Spell out responsibilities for nondiscrimination in hiring, referral, upgrading, and training.
 - ii. Otherwise implement an affirmative anti-discrimination program in terms of the unions' specific areas of skill and geography to the end that qualified minority workers will be available and given an equal opportunity for employment.
 - e. The bidder shall notify ECCTA of opposition to the anti-discrimination clause by individuals, firms, or organizations during the period of its pre-qualification.
 8. The bidder will include the provisions of the foregoing Paragraphs 1 through 7 in every first tier subcontract so that such provisions will be binding upon each subconsultant.
 9. Statement and Payrolls. The bidder shall maintain its records in conformance with the requirements included in the Information to Bidders and the following Special Conditions:
 - a. The submission by the bidder of payrolls, or copies thereof, is not required. However, each bidder and sub-contractor shall preserve their weekly payroll records for a period of three years from the date of completion of this contract.
 - b. The payroll records shall contain the name, address and social security number of each employee, his/her correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made, and actual wages paid.
 - c. The bidder shall make its payroll records available at the project site for inspection by ECCTA and shall permit ECCTA to interview employees during working hours on the job.

The following certification is to be executed by every bidder and enclosed and forwarded in a sealed envelope containing the bid. The person signing the certification shall state his/her address and official capacity.

FAIR EMPLOYMENT PRACTICE CERTIFICATION

The undersigned, in submitting a bid for performing work as specified in the Scope of Work hereby certifies that the bidder will meet the above standards of affirmative compliance with the Fair Employment Practices Act.

BIDDER

SIGNATURE

PRINTED NAME OF SIGNER

TITLE

MAILING ADDRESS

CITY	STATE	ZIP CODE
------	-------	----------

TELEPHONE NUMBER

DATE

NON-COLLUSION AFFIDAVIT

PUBLIC CONTRACT CODE SECTION 7106

NON-COLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

BIDDER'S SIGNATURE: _____ DATE: _____

Section 11

Sample Contract

Sample Contract

This CONTRACT, is made and entered into this _____ day of _____ by and between the Eastern Contra Costa Transit Authority (hereinafter referred to as ECCTA), an entity formed under the California Joint Exercise of Powers Act, California Government Code Sections 6500 et seq., and _____ (hereinafter referred to as “Contractor”), a company in good standing under the laws of the State of California.

NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Contract Specifications

Contractor shall furnish ECCTA all labor, equipment, supplies, material, and services as specified in, and in full accordance with, the Invitation for Bid as issued by ECCTA and as described in the contractor’s bid, dated _____ (“Work”).

2. Term of Contract

The Work shall be completed and ready for ECCTA’s acceptance within _____ calendar days after receiving the Notice to Proceed with the Work.

3. Contract Sum

ECCTA agrees to pay, and the Contractor agrees to accept, in full payment for the above work, the sum \$_____. \$_____ is to be paid in accordance with the contract documents.

4. Contract Documents

The following contract documents relating to this Contract are hereby made a part of and incorporated by reference into this contract:

- a. This contract
- b. IFB #2022-02
- c. The contractor’s bid

Any work called for in one contract document not mentioned in another is to be performed and executed the same as if mentioned in all contract documents.

This contract (including all documents referred to above and incorporated herein) represents the entire and integrated contract between ECCTA and Contractor for the Work and supersedes all prior negotiations, representations, or contracts, either written or oral. This document may be amended only by written contract between the parties as provided in the contract documents.

5. Liquidated Damages

As liquidated damages for delay Contractor shall pay ECCTA \$100.00 for each day that expires after the time specified for Contractor to achieve substantial completion of the entire Work, until achieved, unless the delay is caused by an Excusable Delay.

Excusable Delays include only the following, to the extent not caused by the fault or negligence of contractor: fire, flood, earthquake, acts of ECCTA, acts of another contractor (not a contractor subcontractor) in the performance of a contract with ECCTA, epidemics, quarantine restrictions, strikes, freight embargoes (not freight delays by a contractor subcontractor or supplier), and adverse weather.

6. Workers' Compensation

By executing the contract, Contractor certifies as follows:

“I am aware of the provisions of Section 300 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this contract.”

7. Injury and Illness Prevention Program

Contract certifies that it is aware of and has complied with the provisions of California Labor Code Section 6401.7, which requires every employer to adopt a written injury and illness prevention program.

8. Equal Employment Opportunity

Contractor is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Contractors will not discriminate against any employee or applicant for employment because of race, color, national origin, ancestry, sex, gender, sexual orientation, gender expression, gender identity, religious creed, age, medical condition, disability, genetic information, marital status, or military and veterans status.

Contractor will take affirmative action to ensure the applicants are treated during such employment without regard to race, color, national origin, ancestry, sex, gender, sexual orientation, gender expression, gender identity, religious creed, age, medical condition, disability, genetic information, marital status, or military and veterans status. Such action shall include, but shall not be limited to, the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

9. Interest of Members and Employees of ECCTA

No member of ECCTA and no other officer, employee, or agent of ECCTA who exercises any functions or responsibilities in connection with the carrying out of any project to which this contract pertains, shall have any personal interest, direct or indirect, in this contract, nor shall any such person participate in any decision relating to this contract which affects their personal interests or the interest of any corporation, partnership or association in which they are directly or indirectly interested.

10. Liability of Members and Employees of ECCTA

ECCTA retains all rights of approval and discretion with respect to the projects and undertakings contemplated by this contract. Contractor, its officers, employees and agents shall not have any power to bind or commit ECCTA to any decision.

11. Independent Contractor

It is understood that Contractor, in the performance of the Work and services agreed to be performed by Contractor, shall act as and be an independent contractor and not an agent or employee of ECCTA; and as an independent contractor, Contractor shall obtain no rights to retirement benefits or other benefits which accrue to ECCTA's employees, and Contractor hereby expressly waives any claim it may have to any such rights.

12. Compliance with Laws

Contractor shall comply with all applicable federal, state and local laws, codes, ordinances and regulations. Contractor represents and warrants to ECCTA that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required for Contractor to perform the Work. Contractor represents and warrants to ECCTA that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this contract any licenses, permits, insurance and approvals which are legally required for Contractor to perform the Work.

13. Confidential Information

All data, documents, discussions, or other information developed or received by or for Contractor in performance of this contract are confidential and are not to be disclosed to any person except as authorized by ECCTA, or as required by law.

14. Assignment Prohibited

Contractor may not assign any right or obligation pursuant to this contract. Any attempted or purported assignment of any Contractor right or obligation hereunder shall be void and of no effect.

15. Notices

Any notices to be given by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage pre-paid, return receipt requested. Mailed notices shall be addressed to the parties at the addresses set forth below, but each party may change its address by written notice in accordance with this paragraph. Notices delivered personally shall be effective immediately. Notices sent by mail shall be effective one day after mailing.

ECCTA:

Jeanne Krieg
Chief Executive Officer
801 Wilbur Avenue
Antioch, CA 94509

CONTRACTOR:

16. Contractor’s Books and Records

Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks and other records or documents evidencing or relating to charges for services or expenditures and disbursement charged to ECCTA for a minimum period of three years, or for any longer period required by law, from the date of final payment to Contractor to this contract.

Contractor shall maintain all documents and records which demonstrate performance under this contract for a minimum period of three years, or for any longer period required by law, from the date of termination or completion of this contract.

Any records or documents required to be maintained pursuant to this contract shall be made available for inspection or audit, at any time during regular business hours, upon written request by ECCTA’s Attorney, ECCTA’s Auditor, ECCTA’s CEO, or a designated representative of any of these officers. Copies of such documents shall be provided to ECCTA for inspection at ECCTA’s offices when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor’s address indicated for receipt of notices in this contract.

Where ECCTA has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Contractor’s business, ECCTA may, by written request by any of the above-named officers, require that custody of the records be given to ECCTA and that the records and documents be maintained at ECCTA’s offices. Access to such records and documents shall be granted to any party authorized by Contractor, Contractor’s representatives, or Contractor’s successor-in-interest.

17. Validity

If any provision of this contract is held by a court of competent jurisdiction to be invalid, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

18. Governing Law

This contract shall be governed by and construed in accordance with the laws of the State of California, including that State’s statutes of limitation but excluding its conflict of law principles. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Contra Costa, California.

19. Severability

If any provision of this contract is declared void or unenforceable, such provision shall be deemed severed from this contract, which shall otherwise remain in full force and effect.

20. Attorney's Fees

In the event that it becomes necessary for either party to bring a lawsuit to enforce any provisions of the contract, the parties agree that the court having jurisdiction over such disputes shall have the authority to determine and fix reasonable attorney's fees to be paid to the prevailing party.

21. Subject to Disbursement of Funding

This contract shall be subject to disbursement to ECCTA by the United States Department of Transportation of funds previously allocated to ECCTA.

22. Waiver

Failure of any party to exercise any right or option arising out of a breach to this contract shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

23. Execution

This contract may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties hereto. In approving this contract, it shall not be necessary to produce or account for more than one such counterpart.

24. News Releases/Interviews

All Contractor and subcontractor news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by ECCTA.

25. Prompt Payment to Subcontractors

The Contractor shall pay any permitted subcontractors for work that has been satisfactorily performed no later than 10 business days from the date of Contractor's receipt of progress payment from ECCTA. Within 10 business days of satisfactory completion of all work required of the subcontractor, Contractor shall release to the subcontractor any retainage payments withheld.

Any delay or postponement of payment to subcontractors for satisfactory work performance may take place only for good cause and with ECCTA's prior written approval. If the Contractor determines the work of the subcontractor to be unsatisfactory, it must notify ECCTA's project manager and CRA immediately in writing and state the reasons.

If the Contractor fails or refuses to comply with requirements of this prompt payment clause, ECCTA will issue an order stopping all or part of the payment or work until satisfactory action is

taken. If the Contractor still fails to comply, ECCTA may issue a termination for default proceeding.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTOR'S STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OF OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION.

A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR CONTRACTOR'S STATE LICENSE BOARD: P.O. BOX 26000, SACRAMENTO, CA 95826.

This contract is executed by ECCTA upon approval by the Board of Directors at its regular scheduled meeting of _____, and the Contractor has caused this contract to be duly executed.

For ECCTA:

Dated: _____

By: _____

Jeanne Krieg, Chief Executive Officer

For Contractor:

Dated: _____

By: _____

Approved as to Legal Form and Content:

By: _____

Eli Flushman, General Counsel, ECCTA

Date: _____