

# REQUEST FOR PROPOSALS OF DESIGN-BUILD ENTITIES

## FOR FRESNO COUNTY RURAL TRANSIT AGENCY SELMA MAINTENANCE FACILITY PROJECT



**SUBMITTAL LOCATION: 2035 TULARE STREET, SUITE 201  
FRESNO, CA 93721**

**SUBMITTAL DEADLINE: WEDNESDAY, DECEMBER 1, 2021 BY 4:00 P.M. PDT**



Fresno County Rural Transit Agency (FCRTA) is requesting Proposals from qualified firms to provide Design-Build Services for the FCRTA Selma Maintenance Facility Project in Selma, California.

**Proposal** packages must be addressed and submitted to FCRTA on or before **4:00 PM, Wednesday, December 1, 2021**.

Proposal packages are to be submitted to:  
Janelle Del Campo, Operations Manager  
Fresno County Rural Transit Agency  
2035 Tulare Street, Suite 201  
Fresno, CA 93721

Solicitations may be obtained via FCRTA's webpage at <https://www.ruraltransit.org/documents/> or by contacting Janelle Del Campo at [delcampo@fresnocog.org](mailto:delcampo@fresnocog.org).

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**EXHIBITS (separate attachments)**

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| <b>EXHIBIT C</b> | <b>Federal Laws and Regulations</b>                                 |
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## 1. INTRODUCTION AND PROJECT SUMMARY

### 1.1 INTRODUCTION

The Fresno County Rural Transit Agency (FCRTA) is utilizing the Design-Build method of project delivery for the Selma Maintenance Facility, (Project), which will be constructed in Selma, California. FCRTA is issuing this Request for Proposals (RFP) for the stated purpose and to ensure that the stakeholders of FCRTA receive the highest quality facility at the most economical price. FCRTA wishes to implement an approach that integrates people, systems, and practices into a process that collaboratively employs the expertise, creativity, and insights of all participants to maximize efficiency through design and construction, optimize project results, and deliver the best value to the transit community.

This RFP provides instructions to the prospective Design-Build Entity (DBE) regarding the project requirements. For purposes of this solicitation, DBE is defined as the entity that will be awarded a contract for the complete design and construction of the Project and all its key design and subcontractor members, either pre-qualified or added later, per the terms of the contract documents. Federal and State Grant requirements mandate this Project to comply with the requirements of the California Public Contract Code and other provisions of State and Federal law applicable to this Project. Nothing in this RFP is intended nor should be interpreted as contravening the provisions of these codes. DBE shall be fully knowledgeable of, and shall comply with, the provisions of Federal, State and County law, rules and regulations applicable to this Project.

#### **Selma Maintenance Facility**

The Fresno County Rural Transit Agency (FCRTA) Selma Maintenance Facility Project (project) consists of developing approximately 7.5 acre, vacant parcels in Selma, California, to construct a maintenance facility for vehicles that serve rural Fresno County and accommodate future transit needs.

The proposed project site is part of the existing industrial park site for which City of Selma has approved the Nebraska-Saginaw Reorganization Specific Plan (Specific Plan). The Specific Plan Final Initial Study/Mitigated Negative Declaration (Final IS/MND) was certified as adequate and the Specific Plan was approved by the Selma City Council and Map 5429 was recorded on December 2, 2004. The proposed project is allowed under the Specific Plan as an industrial type use (M-1 Zoning) pursuant to acquiring a site plan review/ improvement plan review and approval by the City of Selma.

The Project will be funded by FCRTA utilizing a combination of Measure C local funding and an FTA awarded grant. FCRTA was awarded a grant from the Federal Transit Administration (FTA) 5339(b) Bus and Bus Facilities Program in the amount of \$5,145,281 for pre-construction and construction activities.

The table below summarizes the funding breakdown.

|                     |               |
|---------------------|---------------|
| FTA Grant:          | \$ 5,145,281  |
| Measure C:          | \$ 5,145,281  |
| Total Project Cost: | \$ 10,290,562 |

This is a Federally assisted construction project and Federal labor standards, including prevailing wage requirements of the Davis-Bacon Act and related acts, will be enforced. In the event of a conflict between Federal and State wages rates, the higher of the two will prevail.

Affirmative action to ensure against discrimination in employment practices on the basis of race, color, national origin, ancestry, sex, or religion will also be enforced.

FCRTA hereby affirmatively ensures that minority business enterprises will be afforded full opportunity to submit Proposals in response to this notice and will not be discriminated against on the basis of race, color, religion, ethnic or national origin, sex, or on the basis of age or with respect to an otherwise qualified handicap, in accordance with the Civil Rights Act of 1964, Title VI and Title I of the Housing and Community Development Act of 1974, Section 109 as amended, in any consideration leading to the award of the contract.

### **Best Value with Stipulated Sum Award**

The Project will be awarded to the selected DBE based on a best value evaluation pursuant to California Public Contract Code Section 22614 and in compliance with Federal regulations. The selection and award shall use a “Stipulated Sum” approach for the Price component, where the Stipulated Sum is included as a fixed price and will not be scored for purposes of the RFP best value competition. However, factors such as DBE’s design and preconstruction fees, along with general condition costs and markups, will be evaluated in the best value competition.

## **1.2 PROJECT DESCRIPTION AND SCOPE OF SERVICES Project Description**

The project shall include the following facilities by the DBE:

The proposed project would construct a new maintenance and operations facility for the FCRTA. The facility would include two (2) maintenance shop buildings with approximately 25,000-square-foot maintenance shop equipped to service both natural gas and 40 ft. electric transit buses, an approximately 25,000-square-foot maintenance shop devoted to light duty electric vehicles and vans, or a single maintenance building of approximately 50,000 square foot to service all vehicles. The project also includes a 10,000 square-foot office building; approximately 5,000-square-foot dedicated to centralized dispatching and supervisors offices, and approximately 5,000 square-foot for the training facility for technician training in advanced transit vehicle technology (electric and solar). The proposed project would also include an approximate 3,100 square foot bus wash capable of washing up to 40-foot transit buses that would apply conservation and operations best practices such as on-site recycled water, a reverse osmosis final rinse water system, and bus air dryers. A wash pad with canopy for hand-washing cars and vans will be required. A new 2,000 square foot Tire Storage and Canopy and a new 900 square foot covered Hazardous Material Storage with concrete curb containment.

The project will require the installation of ten (10) Level 3 electric vehicle (EV) chargers to serve electric transit buses (2 chargers will be inductive and 8 will be standard charging units), and ten (10) Level 2 EV chargers to serve electric transit vans and cars located under solar car ports. The project will require construction of two (2) inductive Wave charging unit and the installation of approximately 50-80 bus ports with solar roofs ranging in size for cars to 40ft transit buses. The project will also require installation of approximately 1.3 to 2.0 megawatts (MW) of on-site solar power and a minimum of 500 kilowatt-hour (kWh) of battery storage to support the electric vehicle charging. FCRTA intends for the on-site solar, battery storage, and electric vehicle chargers to be connected into a single integrated system comprehensively managed by an onsite energy management control system and/or microgrid system to minimize impact to the

electric utility grid for bus charging and reduce electric utility demand charge costs for FCRTA. The chargers, solar, and battery storage will be separate from the building power supplies. FCRTA will provide DBE with vendor and product information as applicable to project description and scope of services.

The Scope of Services for the Project includes all disciplines necessary to completely design and construct the Project, including, without limitation, all on-site and off-site work including PG&E requirements. The services sought for this Project include all customary services normally provided under the umbrella of the design-build method of project delivery. This includes, but is not limited to, full design services, local agency approvals, site survey for design and construction including any additional information required beyond the topographic survey provided by FCRTA, electric load analysis for off-site needs, construction, procurement, scheduling, estimating, value engineering, general contracting, building commissioning, project closeout, and warranty services. The completed Project is to be a fully functioning facility as described in the contract between FCRTA and DBE.

### **1.3 PROJECT CRITERIA**

It is the intent of FCRTA that the Work to be performed by DBE as part of the Project shall be designed and constructed in accordance with the Project Criteria included in Exhibit H.

### **1.4 PROJECT BUDGET AND FUNDING Budget**

DBE's Contract Price shall be a Stipulated Sum of \$10,290,561 for the full design and construction of the Project. The Stipulated Sum reflects FCRTA's **maximum budget**. FCRTA's goal is to establish a fair risk balance in the contract between FCRTA and DBE so that DBE will receive appropriate compensation for its work, and FCRTA will achieve its goals for the Project within the Stipulated Sum.

The Stipulated Sum includes all costs of the complete design, engineering, construction, subcontract work, supervision, management, general conditions, overhead, bonds, insurance, taxes, compliance with all applicable codes and agency requirements, procurement of permits, profit, allowances, contingencies, and any and all items required for the completion of the Project per the contract documents, excepting therefrom, only the costs for items specifically identified in Owner Provided Items and Other Costs Borne by FCRTA as noted below. The Stipulated Sum includes up to \$300,000 Design-Builder's Contingency (for items that are the responsibility of DBE).

#### Owner Provided Items

FCRTA will provide most furniture, fixtures and equipment (FFE) at the building interiors and patio area required for the operation of the facility. FFE is described as any item not attached to the structures or grounds as would normally be interpreted in the industry. Some FFE will be provided by DBE, such as the kitchen appliances and the smart televisions, which shall be furnished and installed by DBE.

#### Other Costs

Costs that are part of DBE's Stipulated Sum include plan check, permit, and inspection fees (DBE shall be responsible for all fees for temporary utilities, permanent utility connections, and permits required for the Work of Subcontractors or self-performed work by DBE); and construction special inspections and materials testing and geotechnical field observation and testing.

### **Funding**

FCRTA will receive a grant from the Federal Transit Administration (FTA) 5339(b) Bus and Bus Facilities Program in the amount of \$5,145,281 for pre-construction and construction activities. The table below summarizes the funding breakdown.

|                     |               |
|---------------------|---------------|
| FTA Grant:          | \$ 5,145,281  |
| Measure C:          | \$ 5,145,281  |
| Total Project Cost: | \$ 10,290,562 |

### 1.5 DESIGN AND PRECONSTRUCTION SERVICES FEES

Proposers are requested to propose a Design Fee and Preconstruction Services Fee as separate line items with the RFP response. Under the terms of the Design-Build Agreement for Selma Maintenance Facility Project, FCRTA reserves the right at any time prior to commencement of construction to terminate the Design-Build Agreement for Selma Maintenance Facility Project and to pay DBE an agreed compensation for its design, engineering, and preconstruction services (including, without limitation, all costs and expenses associated with such services) that is based upon a Design Fee and Preconstruction Services Fee that is proposed by the proposer. The amount payable to DBE in the event that the Design-Build Agreement for Selma Maintenance Facility Project is terminated prior to commencement of construction shall be limited to a prorated amount of the agreed Design Fee and Preconstruction Services Fee, based on the percentage of completion of the construction documents and preconstruction services that has been accomplished by DBE at the time of such termination.

### 1.6 CONTRACT TIME

All design and construction Work must be substantially completed within **Five Hundred Twenty-five (525) calendar days** after the Date of Commencement established in FCRTA's initial Notice to Proceed. Final Completion shall be within 30 days of Substantial Completion.

- The schedule for Substantial Completion of the design and construction of the Work for the project will be proposed by DBE with FCRTA input and approval.
- Within ten (10) days after notification of award, DBE shall prepare and submit a Design-Build Schedule for the design phase of the Work, both in hard copy and electronically, for FCRTA's approval and Project Manager (PM) approval. The contract time for completion of the design shall include adequate time for FCRTA review and final approval. DBE shall incorporate options to phase the design and construction permits as needed or desired by DBE. The design schedule shall include a site evaluation, schematic design phase, design development phase, construction document phase, FF&E planning phase, and FCRTA review, back-check and final approval phase. The schedule shall allow two (2) weeks for FCRTA review for each phase of design documents. FCRTA review of the design shall include, but not be limited to, review by the Design Review Committee, FCRTA staff who are part of this Project team, and FCRTA's PM. The project design may also be presented at a FCRTA Board of Directors Meeting.
- Within ten (10) days of starting the Schematic Design Phase, DBE shall prepare and submit a Preliminary Design-Build Construction Schedule, both in hard copy and electronically, for FCRTA's review and approval. After completion of the Design



Development drawings, DBE shall prepare and submit a detailed Design-Build Construction Schedule, both in hard copy and electronically, for FCRTA's approval and PM's approval. The Design-Build Construction Schedule shall establish the baseline construction schedule and shall include a Submittal Schedule with material procurement information. Upon approval of the construction schedule and Notice to Proceed with Construction, DBE shall proceed with the construction of the project according to the approved schedule. The construction schedule shall include a construction phase, commissioning phase, Substantial Completion Milestone, close out phase and Final Completion Milestone.

- After Schematic Design, the DBE shall prepare documents required by the City of Selma and will prepare the application to the City of Selma for review and final approval to pull building permits.

### **1.7 CHANGES BY FCRTA**

FCRTA reserves the right to modify this RFP, to change, by additions, deletions or modifications, the Project Criteria, Project Budget, Contract Time, Design-Build Agreement for Selma Maintenance Facility Project, General Conditions or any other portion of the RFQ and RFP documents prior to submittal date.

## **2. SELECTION PROCESS**

### **2.1 INFORMATIONAL SUMMARY**

The provisions of this Section are intended to summarize for the proposers the methodology and process that FCRTA intends to follow with respect to the RFP. This summary is provided for the convenience of the proposers and should not be interpreted as a complete or definitive statement of all procedures, conditions, requirements or standards that may apply to any of the aforementioned processes.

To be considered, the potential DBE must have the appropriate licenses required under provisions of the California Business and Professions Code. The design consultant(s) and contractor(s) shall hold an appropriate license for their design discipline and/or trade. Failure of a single-entity DBE to possess the required licenses by the Proposal Deadline shall be deemed as non-responsive. Failure of a joint venture DBE to be properly licensed by the date of contract award will result in loss of the contract. Failure of the design consultant(s) and subcontractor(s) to possess the required license on the Proposal Deadline shall require DBE to substitute licensed design professionals and specialty trade contractors, as applicable, prior to award of the contract without additional cost.

This project is subject to prevailing wage requirements. This is a Federally-assisted construction contract. Federal Labor Standards Provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts will be enforced. In the event of a conflict between Federal and State wages rates, the higher of the two will prevail. DBE's duty to pay State prevailing wages include requirements per Labor Code Section 1770 et seq.; Labor Code Sections 1775 and 1777.7 outline the penalties for failure to pay prevailing wages and employ apprentices, including forfeitures and debarment. DBE's duty to pay Federal prevailing wages include requirements per Department of Labor under Labor Laws 29 USC part 50 and DOL Regulations, 29 CFR part 29.

In accordance with Labor Code Section 1720 *et seq.*, the Project is a “public work”. The successful proposer (Contractor) and any Subcontractors shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (DIR) regarding the prevailing rate of per diem wages. The Contractor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at each job site. This Project is subject to compliance monitoring and enforcement by the DIR in accordance with Labor Code Section 1771/1725.5 registration requirement.

FCRTA is requesting Proposals for Design-Build services for the Project through an RFP process. Each response to the RFP must propose a business offer that will result in the delivery of a Project of a high level of design, innovation and technical quality in accordance with FCRTA’s Project Criteria and additional documentation issued with the RFP.

FCRTA will award the Design-Build Agreement for the Selma Maintenance Facility on the basis of a best value selection as provided for in Public Contract Code section 22160, *et. seq.*, per Federal public law, and as specifically described in this solicitation.

The process to select DBE to implement this Project involves a two-part process including the Part A - RFQ Process and Part B - RFP Process.

- Part A – RFQ Process: required all interested proposers to complete a Pre-Qualification Questionnaire which was used to establish whether a proposer meets the prequalifying criteria and to create a short-list of the highest ranked proposers based on the Part A Pre-Qualification Questionnaire submittals. The Part A Prequalification Questionnaire was open to all interested parties.
- Part B – RFP Process: FCRTA will invite the short-listed proposers to submit Proposals. The Part B Proposal is limited to those proposers short-listed under Part A.
- FCRTA will assemble a Review Committee that will evaluate the Proposals received from among the short-list of eligible proposers. The Proposals submitted in response to the RFP will be evaluated per criteria as defined in this RFP. Those submittals that do not meet the requirements may be deemed nonresponsive and disqualified from further consideration. FCRTA may utilize the services of appropriate experts to assist in the evaluation process.
- The Proposal evaluation process may include oral presentations/interviews with the RFP Review Committee based on review and ranking of the Proposals. One (1) firm will be selected for the Award of the Design-Build Agreement for Selma Maintenance Facility Project. Selection of the successful proposer in Part B shall be based upon pre-established criteria set forth in the Request for Proposal, which include cost and technical factors, as well as results from the RFP Interview process. Award of the Design-Build Agreement for Selma Maintenance Facility Project shall be made to the responsible DBE whose Proposal is determined by FCRTA to have offered the best value to the public.

## 2.2 OWNER’S TEAM

Owner: Fresno County Rural Transit Agency  
Moses Stites, General Manager  
Phone: (559) 233-6789  
Email: [mstites@fresnocog.org](mailto:mstites@fresnocog.org)

Fresno County Rural Transit Agency

Janelle Del Campo, Operations Manager  
Phone: (559) 233-6789  
Email: [delcampo@fresnocog.org](mailto:delcampo@fresnocog.org)

### **2.3 RFP PROCEDURES RFP COPIES**

The complete set of the RFP documents (including all attachments thereto) are available for download from FCRTA's website at: <https://www.ruraltransit.org/documents/>

Proposers are solely responsible for any reproduction costs. FCRTA assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of RFP documents.

FCRTA will notify short-listed proposers when addenda are released. The addenda, when released, will also be available for download from FCRTA's website at: <https://www.ruraltransit.org/documents/>

#### **Duty of Review**

Each proposer, in submitting its Proposal, acknowledges and understands its obligation to carefully and thoroughly examine all RFP documents and other information available to the proposer relating to the Project and the conditions under which the Work will be performed. Each proposer shall seek clarification prior to such submission of any and all items of information contained in the RFP documents or in any other documents upon which the proposer has relied in preparing its Proposal that it observes, or should have observed in the exercise of reasonable care in its capacity as a DBE responsible for both design and construction of the Project, constitute or indicate: (1) errors, omissions, conflicts, ambiguities, lack of coordination or noncompliance with Applicable Laws; (2) problems associated with design feasibility, constructability, availability of labor, materials, products or equipment; or (3) difficulties or obstructions affecting proposer's ability to perform the Work within the constraints of the Stipulated Sum or Contract Time. Failure by a proposer to fully inform itself of the matters described herein and to seek clarification in the manner required herein shall not relieve the proposer from its responsibilities under the Design-Build Agreement for Selma Maintenance Facility Project and other contract documents should it receive the Award thereof nor serve as the basis for any claim by the proposer that it was mistaken or misled in connection with the preparation of its Proposal or its planning for design or construction of the Work.

#### **Issuance and Acknowledgement of Receipt of Addendum**

FCRTA will notify all short-listed proposers of any addenda. It is solely the responsibility of each of these proposers to ensure that they receive any and all addenda. Proposers shall also send email acknowledgement of receipt of addenda to Janelle Del Campo, [delcampo@fresnocog.org](mailto:delcampo@fresnocog.org), within 24-hours of issuance of each addendum.

#### **Requests for Clarification**

Proposers should submit Requests for Clarification in written form via email to Janelle Del Campo as set forth below. Requests for Clarification must be submitted prior to the deadline set forth in Section 2.4 below. All questions received by this time and date will be responded to, in writing, by issuance of an addenda. Requests for clarification received after this time and date will not receive a response, except in the sole discretion of FCRTA. Anonymity of the source of specific questions will be maintained in the written responses. Responses to all questions will be emailed to all registered RFP recipients.

All requests for clarification must be sent via email to the following:  
Owner: Fresno County Rural Transit Agency

Janelle Del Campo, Operations Manager  
Email: [delcampo@fresnocog.org](mailto:delcampo@fresnocog.org)

### **RFP Optional Pre-Proposal Meeting**

For all proposers who have been shortlisted and invited to submit the Proposal, FCRTA will conduct an optional pre-proposal meeting with each proposer. The intent of the meeting will be to brainstorm and communicate Project information or answer questions to clarify Project requirements, in an open collaborative environment. Meetings will be held individually and confidentially with each proposer. Requests for such meetings must be received in writing at least one (1) week prior to the requested meeting date. Available dates for the meeting are indicated in Section 2.4.

### **Review Committee**

FCRTA will establish a Review Committee with responsibility for conducting the: (1) evaluation, scoring and ranking of the Proposals, (2) interviews, (3) negotiations if applicable; and (4) providing recommendation of the successful proposer for award of the Design-Build Agreement for Selma Maintenance Facility Project based on best value.

### **Evaluation of the Proposal**

The Review Committee will evaluate each Proposal for completeness and content and will utilize the Proposal evaluation factors, scoring and ranking methodology as indicated in Exhibit B.

Each Proposal will be evaluated based upon the relevant factors of the proposer. License status and references will also be verified.

The Proposal review will focus on the following factors:

- Technical Design and Construction Expertise
- Design-Build Team Organization and Personnel
- Work Plan Approach
- Life Cycle Costs
- Skilled and Trained Workforce Commitment
- Safety Record
- Cost Proposal

### **Selection**

Upon review of the submitted Proposals, FCRTA will rank the Proposals based on a point system established to determine the best value. Staff may choose to interview the two firms, but will not expect or schedule elaborate presentations. After the interviews (if interviews are conducted) and the determination by the Review Committee of the apparent best value proposer, the highest-ranking DBE and FCRTA will enter into negotiations. Upon successful completion of negotiations, the highest-ranking best value proposer will be recommended for contract award to the FCRTA Board of Directors. Following FCRTA Board of Directors authorization and execution of the contract, the selected DBE will commence design and construction of the Project for FCRTA.

### **Interviews**

At FCRTA's discretion, interviews may be conducted after scoring of the Proposals and consistent with the schedule and dates set forth in Section 2.4. Each proposer invited to participate in an Interview will be notified in writing by FCRTA. During the interview, each DBE

will present their team and project approach to FCRTA's Review Committee. The interviews will entail a confidential exchange between a proposer and the RFP Review Committee. After scoring of the Proposals and the interviews, if applicable, the Review Committee will determine the apparent best value proposer and may enter into negotiations if applicable with that proposer.

### **Negotiations**

FCRTA reserves the right, but shall not have the obligation, as part of the RFP process to hold discussions or negotiations. If negotiations are conducted, they may be conducted with one or both of the short-listed DBEs. Negotiations shall be confidential exchanges between the potential DBE and the RFP Review Committee conducted for the purpose of "bargaining", alteration of assumptions and positions, and may apply to price, schedule and technical requirements. These discussions or negotiations will be conducted honestly, fairly, and in good faith to respect the right of both parties. Procedures for discussions or negotiations shall be in accordance with the RFP.

FCRTA will identify the proposer that offers the best value to the public and enter contract negotiations with that highest ranked proposer. Should FCRTA fail to reach an agreement with the top ranked proposer, FCRTA may enter negotiations with the next highest rated proposer and so on. FCRTA Staff will make a recommendation to FCRTA Board for the award of the Design-Build Agreement for Selma Maintenance Facility Project to the proposer that best furthers FCRTA's objectives, if any.

The successful proposer will be expected to execute the Design-Build Agreement for the Selma Maintenance Facility Project at a minimum of five (5) calendar days prior to the date of FCRTA Board consideration of the contract award. Additionally, the successful proposer shall also secure all insurance required under the Design-Build Agreement for Selma Maintenance Facility Project within a minimum of ten (10) calendar days.

Any proposer with objections to terms contained in FCRTA's Design-Build Agreement for Selma Maintenance Facility Project must advise FCRTA of such objections and request modifications, with its Proposal. Failure of a proposer to accept the terms of FCRTA's Design-Build Agreement for Selma Maintenance Facility Project may result in the rejection of the Proposal. It shall be the responsibility of the prospective proposer to review all sections and exhibits of the Design-Build Agreement for Selma Maintenance Facility Project, including insurance requirements. If no objections are received, FCRTA will assume the proposer is able to and will enter into the Design-Build Agreement for Selma Maintenance Facility Project and fulfill the terms and requirements set therein. FCRTA may recover any damages accruing to FCRTA as a result of the successful proposer's failure or refusal to execute FCRTA's Design-Build Agreement for Selma Maintenance Facility Project.

### **Award**

FCRTA will issue a written decision supporting its Award of the Design-Build Agreement for Selma Maintenance Facility Project to the successful proposer, stating the basis of the Award. The identity of the successful proposer will be publicly announced, along with the shortlist of proposers. The shortlist was announced at the September 30, 2021 FCRTA Board Meeting.

The resulting Design-Build Agreement for Selma Maintenance Facility Project will include a complete Scope of Services for all elements of the design-build process necessary for the

Project which include site and off-site work, buildings, landscaping, and all services necessary to complete the Project in a condition ready for occupancy. FCRTA will review DBE's management of design and construction of the Project to ensure compliance with the contract documents.

## 2.4 RFP SCHEDULE

The following is the anticipated schedule for the RFP process and Award of the Design-Build Agreement for Selma Maintenance Facility Project:

| <u>Milestone</u>   | <u>Date/Time</u>         |
|--|--------------------------|
| 1. Invitation to shortlisted proposers to submit Proposals | Week of November 1, 2021 |
| 2. Optional Pre-Proposal Meetings (tentative)              | Week of November 8, 2021 |
| 3. Requests for Clarification Deadline                     | November 12, 2021        |
| 4. Final Addenda Issued (if required)                      | November 19, 2021        |
| 5. Proposal Deadline                                       | December 1, 2021         |
| 6. Interview (if required)                                 | Week of December 6, 2021 |
| 7. Notification of Best Value Proposer (tentative)         | Week of January 17, 2022 |
| 8. FCRTA Board award of contract (tentative)               | January 27, 2022         |

FCRTA reserves the right, at any time, to make additions, modifications or deletions to any of the events or dates that comprise the RFP Schedule. Such changes shall be made by RFP Addendum. References in the RFP documents to the RFP Schedule or to dates in the RFP Schedule shall mean the RFP Schedule and dates set forth above, as adjusted by any changes thereto made pursuant to this Paragraph.

## 2.5 RFP SUBMISSION REQUIREMENTS

The responses to the RFP must be made according to the requirements set forth in this Section and in Exhibit F. Noncompliance with these requirements or the inclusion of conditions, limitations, or misrepresentations may be cause for rejection of the Proposal. Responses shall be addressed and delivered to:

Janelle Del Campo, Operations Manager  
 Fresno County Rural Transit Agency  
 2035 Tulare Street, Suite 201  
 Fresno, CA 93721

- Submissions must be received by the specified submittal date and time.
- Submissions received after the deadline will not be accepted.
- Faxed and emailed Proposals will not be accepted.
- Number of Copies: Submit a sealed package containing six (6) bound copies of completed **Proposal** plus one complete electronic copy in PDF format on CD, flash drive, or external hard drive. The package shall include six (6) copies of the **Part One - Technical Proposal** and six (6) copies of the **Part Two - Cost Proposal** as outlined in Exhibit F.

### 3. INSURANCE, BONDING AND INDEMNITY

#### 3.1 MINIMUM BONDING REQUIREMENTS

If DBE is awarded a contract for this Project, DBE shall obtain a Payment Bond in an amount equal to one hundred percent (100%) of the contract amount, excluding design services and errors and omission insurance for all design/architectural services, and a Performance Bond in an amount equal to one hundred percent (100%) of the contract amount, excluding design services and errors and omission insurance for all design/architectural services. These bonds shall utilize a form that complies with the forms provided in Exhibit F and shall be secured from a surety company or companies satisfactory to FCRTA within five (5) calendar days of the contract award. The Payment Bond shall remain in full force and effect for the period specified in the attached form of bond. The Performance Bond shall remain in full force and effect for as long as DBE has obligations under the contract documents. The Bonds must comply with all conditions regarding bonds detailed in the Design-Build Agreement for Selma Maintenance Facility Project and the Design-Build General Conditions. The cost of the bonds shall be deemed included in the proposer's costs.

It is the General Contractor Member's prerogative to purchase bonds for subcontracted work, and this cost must be provided for within DBE's Overhead and Profit percentage. Fees for subcontractor bonds will not be allowed to be included with the Direct Cost of the Work.

#### 3.2 INSURANCE

If DBE is awarded a contract for this Project, DBE shall procure and maintain for the duration of this contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by DBE, his agents, representatives, employees or subcontractors. DBE shall not commence work until all insurance has been obtained that is required under this section and such insurance has been verified by FCRTA, nor shall DBE allow any Subcontractor to commence work on its contract until all similar insurance required of the Subcontractor has been so obtained and approved.

##### **Minimum Scope and Limits of Insurance**

DBE shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

- Commercial General Liability Insurance with a minimum limit of Three Million Dollars (\$3,000,000) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Three Million Dollars (\$3,000,000) per project or location. If DBE is a limited liability company, the commercial general liability coverage shall be amended so that DBE and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds. The indemnified parties referenced under "Additional Insured" in Section 3.2 must also be named as additional insured.
- Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of Two Million Dollars (\$2,000,000) per accident for bodily injury and property damage. If DBE does not use any owned, non-owned or hired vehicles in the performance of services under this Agreement, DBE shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under Subparagraph A. 1) of this Section 3.2.

- Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If DBE has no employees while performing services under this Agreement, workers' compensation policy is not required, but DBE shall provide an executed declaration that it has no employees.
- Professional Liability Insurance [or Errors and Omissions Insurance] with minimum limits of Two Million Dollars (\$2,000,000) per claim and in aggregate

### **Acceptability of Insurers**

The insurance policies required under this Section 3 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section 3.

### **Additional Insured**

The commercial general, automobile liability, and professional liability insurance policies shall contain an endorsement naming the Fresno County Rural Transit Agency, and the cities of Coalinga, Firebaugh, Fowler, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, Sanger, San Joaquin, Selma and Fresno County.

### **Primary and Non-Contributing**

The insurance policies required under this Section 3.2 shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to FCRTA. Any insurance or self-insurance maintained by FCRTA, its officers, employees, agents or volunteers, shall be in excess of DBE's insurance and shall not contribute with it.

### **DBE's Waiver of Subrogation**

The insurance policies required under this Section 3 shall not prohibit DBE and DBE's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. DBE hereby waives all rights of subrogation against FCRTA.

### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be approved by FCRTA. At FCRTA's option, DBE shall either reduce or eliminate the deductibles or self-insured retentions with respect to FCRTA, or DBE shall procure a bond guaranteeing payment of losses and expenses.

### **Cancellations or Modifications to Coverage**

DBE shall not cancel, reduce or otherwise modify the insurance policies required by this Section 3 during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail thirty (30) calendar days' prior written notice to FCRTA. If any insurance policy required under this Section 3 is canceled or reduced in coverage or limits, DBE shall, within two (2) business days of notice from the insurer, phone, fax or notify FCRTA via certified mail, return receipt requested, of the cancellation of or changes to the policy.

### **FCRTA Remedy for Noncompliance**

If DBE does not maintain the policies of insurance required under this Section 3 in full force and effect during the term of this Agreement, or in the event any of DBE's policies do not comply with the requirements under this Section 3, FCRTA may either immediately terminate this



Agreement or, if insurance is available at a reasonable cost, FCRTA may, but has no duty to, take out the necessary insurance and pay, at DBE's expense, the premium thereon. DBE shall promptly reimburse FCRTA for any premium paid by FCRTA or FCRTA may withhold amounts sufficient to pay the premiums from payments due to DBE.

### **Evidence of Insurance**

A minimum of ten (10) calendar days prior to FCRTA Board consideration of award of the contract, DBE shall furnish a certificate of insurance and all original endorsements evidencing and effecting the coverages required under this Section 3 for review by FCRTA's Risk Manager. The certificate of insurance and all original endorsements evidencing and effecting the coverages required under this Section 3 must receive approval from FCRTA's Risk Manager a minimum of five (5) calendar days prior to FCRTA Board consideration of award of the contract. The endorsements are subject to FCRTA's approval. DBE may provide complete, certified copies of all required insurance policies to FCRTA. DBE shall maintain current endorsements on file with FCRTA's Risk Manager. DBE shall provide proof to FCRTA's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. DBE shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

### **Indemnity Requirements not Limiting**

Procurement of insurance by DBE shall not be construed as a limitation of DBE's liability or as full performance of DBE's duty to indemnify FCRTA under Section 3 of this Agreement.

### **Subcontractor Insurance Requirements**

DBE shall require each of its subcontractors that perform services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section 3.

### **3.3 BUILDER'S RISK INSURANCE**

Within ten (10) calendar days following FCRTA Board award of the Design-Build Agreement for Selma Maintenance Facility Project, DBE must provide adequate/sufficient Builder's Risk Insurance to protect the indemnified parties referenced under "Additional Insured" in Section 3.2 from a catastrophic event should one occur. DBE's policy must be submitted to FCRTA for review and must be deemed acceptable by FCRTA. FCRTA reserves the right to require modifications should they be necessary to provide the protection being requested by FCRTA.

### **3.4 INDEMNIFICATION**

#### **Indemnity for Design Professional Services**

To the fullest extent permitted by law, DBE shall, at its sole cost and expense, protect, indemnify and hold harmless the indemnified parties referenced under "Additional Insured" in Section 3.2 and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those FCRTA agents serving as independent contractors in the role of FCRTA officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens and losses of any nature whatsoever, including fees of accountants, attorneys or other professionals, and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of DBE, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that DBE shall bear the legal liability thereof) in the

performance of design professional services under this Agreement by a “design professional,” as the term is defined under California Civil Code Section 2782.8(c)(2).

### Other Indemnities

- Other than in the performance of design professional services, and to the fullest extent permitted by law, DBE shall, at its sole cost and expense, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens and losses of any nature whatsoever, including fees of accountants, attorneys or other professionals, and all costs associated therewith, and the payment of all consequential damages (collectively “Claims”), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of DBE, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that DBE shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees’ active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the parties. DBE shall defend the Indemnitees in any action or actions filed in connection with any Claim with counsel of the Indemnitees’ choice, and shall pay all costs and expenses, including all attorneys’ fees and experts’ costs actually incurred in connection with such defense. DBE shall reimburse the Indemnitees for any and all legal expenses and costs incurred by the Indemnitees in connection therewith.
- DBE shall pay all required taxes on amounts paid to DBE under this Agreement, and indemnify and hold the indemnified parties referenced under “Additional Insured” in Section 3.2 harmless from any and all taxes, assessments, penalties, and interest asserted against the indemnified parties referenced under “Additional Insured” in Section 3.2 by reason of the independent contractor relationship created by this Agreement. DBE shall fully comply with the workers’ compensation law regarding DBE and DBE’s employees. DBE shall indemnify and hold the indemnified parties referenced under “Additional Insured” in Section 3.2 harmless from any failure of DBE to comply with applicable workers’ compensation laws. FCRTA may offset against the amount of any fees due to DBE under this Agreement any amount due to FCRTA from DBE as a result of DBE’s failure to promptly pay to FCRTA any reimbursement or indemnification arising under this Subparagraph B. 2).
- DBE shall obtain executed indemnity agreements with provisions identical to those in this Section 3.4 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of DBE in the performance of this Agreement. If DBE fails to obtain such indemnities, DBE shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Claims in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of DBE’s subcontractor, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that DBE’s subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees’ active or passive negligence, except for Claims arising from the sole

negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the parties.

#### **Workers' Compensation Acts not Limiting**

DBE's obligations under this Section 3.4, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. DBE expressly waives its statutory immunity under such statutes or laws as to the indemnified parties referenced under "Additional Insured" in Section 3.2 its officers, agents, employees and volunteers.

#### **Insurance Requirements not Limiting**

FCRTA does not, and shall not, waive any rights that it may possess against DBE because of the acceptance by FCRTA, or the deposit with FCRTA, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provisions in this Section 3.4 shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liability, Claim, tax, assessment, penalty or interest asserted against FCRTA.

#### **Survival of Terms**

The indemnification in this Section 3.4 shall survive the expiration or termination of this Agreement.

### **4. REQUEST FOR PROPOSAL (RFP) TERMS AND CONDITIONS**

#### **4.1 PREVAILING WAGES AND FEDERAL LABOR STANDARDS**

The successful proposer who is awarded the Design-Build Agreement for Selma Maintenance Facility Project will be required to comply with all applicable provisions of the Federal public law and State labor codes, including all prevailing wage requirements of US Department of Labor and State of California Department of Industrial Relations. This is a Federally-assisted construction contract. Federal Labor Standard Provisions, including prevailing wage requirements of the David- Bacon and related Acts will be enforced. DBE is required to pay the prevailing wage rate as determined by the Labor Statistics and Research Division of the California State Department of Industrial Relations. In the event of a conflict between Federal and State wage rates, the higher of the two will prevail. The Contractor's duty to pay State prevailing wages can be found under Labor Code Section 1770 *et seq.* and Labor Code Sections 1775 and 1777.7 outline the penalties for failure to pay prevailing wages and employ apprentices including forfeitures and debarment.

In accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work". The successful DBE (Contractor) and any Subcontractors shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Director of Public Works, and are available to any interested party upon request. The Contractor shall post a copy of the DIR's determination of the prevailing rate of per diem wages at each job site. This Project is subject to compliance monitoring and enforcement by the DIR. The Awarded DBE shall maintain all records in accordance with Federal and State requirements and shall cooperate with FCRTA's labor compliance monitoring consultant to the fullest extent possible.

A Contractor working on a Federally assisted project must be eligible to participate in the award of the contract.

#### **4.2 APPRENTICESHIP PROGRAM**

Attention is directed to Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code and Title 8, California Administrative Code, Section 200 *et seq.* to ensure compliance and complete understanding of the law regarding apprentices.

#### **4.3 WORKER'S COMPENSATION**

Section 1861 of the California Labor Code requires each contractor that is awarded a public works contract to sign and file with the awarding body the following certification prior to performing the work of the contract: "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, and I will comply with such provisions before commencing the performance of the work of this contract."

#### **4.4 CONFLICT OF INTEREST**

In the procurement of supplies, equipment, construction, and services by sub-recipients, the conflict of interest provisions in 24 CFR 85.36, OMB Circular A- 110, and 24 CFR 570.611, respectively, shall apply. No employee, officer, or agent of the sub-recipient shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

#### **4.5 CEQA AND NEPA SUMMARY**

FCRTA will be responsible for the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) process, study, and determination. DBE shall coordinate with FCRTA staff to ensure consistency between project plans and the CEQA and NEPA project description, and also to ensure any project design features or mitigation measures (if needed) are feasible and incorporated into the design plans. At this time, FCRTA believes the project may be partially or wholly categorically exempt from CEQA under SB 288, but will make the final determination at the time design plans are prepared. FCRTA has completed the NEPA document which is also categorically exempt from NEPA and is available upon request or at [www.ruraltransit.org](http://www.ruraltransit.org).

#### **4.6 PROPOSER ACKNOWLEDGEMENTS**

Each proposer makes the following representations relative to its submission of its Proposal:

- Compliance with RFP Documents. Proposer represents that its Proposal is made in compliance with the RFP Documents.
- Due Authorization. Proposer represents that the signer(s) of the proposer's Proposal and any other documents submitted on behalf of the proposer to FCRTA that are signed by proposer is/are authorized to do so on behalf of the proposer and that any proposer, and any Design-Build Entity Member, authorized to sign and signing on behalf of the proposer, that is a corporation, partnership, or limited liability company, is duly incorporated under applicable laws and is authorized to do business in, and is in good standing under, the laws of the State of California.
- Review of Site and Site Information. Proposer represents that it and each proposed member of its Design-Build Team have carefully and thoroughly inspected: (1) the Site and its surroundings, existing improvements and their existing uses by FCRTA, routes of ingress and egress, and local conditions in the vicinity of the site (including, without limitation, sources and availability of labor, materials and equipment); (2) all Documents listed in the Appendix; and (3) all other reports, surveys, test data, as-built drawings and other information concerning visible and concealed conditions (including, without

limitation, locations and capacities of utility sources and locations of utility lines) above and below the surface of the ground or in Existing Improvements that (a) proposer is informed are available to the proposer for review or (b) are disclosed by public records, in order to fully acquaint itself with all of the conditions, restrictions, obstructions, difficulties and other matters which might affect the proposer's ability to complete the design and construction of the Work in accordance with the requirements of the RFP Documents and its Proposal.

- Design-Build Agreement for Selma Maintenance Facility Project. Proposer represents that it has carefully reviewed the terms and conditions of the Design-Build Agreement for Selma Maintenance Facility Project and General Conditions attached hereto as Exhibit G, and that the terms and conditions thereof are satisfactory to proposer and represent in the opinion of the proposer a fair and reasonable allocation and sharing of risks and responsibilities as between FCRTA and DBE.

DBE shall be responsible for providing a complete and operating Selma Maintenance facility in accordance with the requirements of this RFP. It is DBE's responsibility to ensure FCRTA receives all of the necessary components of the Project, although some components are not specifically referenced in the provided documents. The provided non-referenced items shall be of equal quality to all specified items in the RFP documents.

DBE shall visit the site and familiarize itself with existing site conditions which was conducted on Monday, 8/13/21 and Tuesday, 8/14/21. FCRTA has provided a boundary and topographic survey (Exhibit A). DBE may rely upon the technical data contained, but not upon non-technical data, interpretations, opinions or provisional statements contained therein. FCRTA does not warrant the completeness or accuracy of the data so provided and FCRTA assumes no liability for such data. Any additional testing, investigation or reports shall be performed by DBE, and may be performed by FCRTA's geotechnical engineer under separate contract with DBE. DBE shall obtain advanced approval from FCRTA when accessing the site for testing and investigation.

DBE, if required by site conditions or design requirements, shall be responsible for importing engineered soil or preparing a design adequate for non-engineered fill, at DBE's option. DBE will be responsible for bringing the site to finish grade as required for its design. If import material is required, any imported soil shall meet environmental standards in alignment with Department of Toxic Substances Control (DTSC's) October 2001 Information Advisory for Clean Imported Fill Material.

After award, DBE will be expected to meet with FCRTA on Tuesday mornings at a minimum of once every two weeks, throughout the design process until the completion of the Design Phase for each permit package.

DBE is responsible for obtaining all required agency approvals including FCRTA, County, State, Federal, and all other Utilities and Agencies having jurisdiction over the Project. The Design-Build Contractor shall be responsible for the construction of the Project in accordance with the approved construction documents and applicable codes. Deviation from the level of quality and intent of the RFP and criteria documents will only be allowed if approved by FCRTA in writing.

#### **4.7 NO WARRANTY BY FCRTA**

Proposers are solely responsible to satisfy themselves as to the suitability of any estimates, projections, budgets, design concepts, technical criteria, reports, surveys, test data and other information provided to, or reviewed by, them relating to the Project, Site or Existing Improvements and nothing stated therein, in the RFP Documents or in any other information provided by FCRTA shall be construed as implying the creation or existence of any warranty, express or implied, on the part of FCRTA with respect to the completeness, accuracy or sufficiency thereof.

#### **4.8 CONFIDENTIALITY OF DESIGN AND PRICING INFORMATION PRIOR TO AWARD**

It is understood that all responses sent to FCRTA are sent as confidential documents. FCRTA shall make reasonable efforts, consistent with applicable laws, to refrain from disclosing to competing proposers prior to Award, the content of any information on design, prices or pricing that is contained in another proposer's Proposal. No part of the responses will be made public or shown to any persons outside of FCRTA and its Review Committee until after a decision has been made by FCRTA staff on who to recommend for award to FCRTA Board of Directors and a contract has been executed by the proposer, at which time all documents will be public record, per applicable law.

#### **4.9 PROPOSAL VALIDITY**

The offer represented by each proposer's Proposal will remain in full force and effect for ninety (90) days after the Proposal Due Date. If award has not been made within ninety (90) days after the Proposal Due Date, each proposer that has not previously agreed to an extension of such deadline shall have the right to withdraw its Proposal.

#### **4.10 OWNERSHIP, COPYRIGHT**

Drawings, renderings, models, building designs, design approaches, design details, construction techniques, procedures, means and methods and other technical design and construction information contained within a Design-Build Proposal, or any other documents submitted by proposer to FCRTA, shall be deemed the sole and exclusive property of FCRTA, all copyrights thereto shall be deemed assigned to and held by FCRTA, and the proposer shall retain no property, copyright or other proprietary rights with respect thereto; provided, however, that: (1) nothing herein shall be interpreted as prohibiting or limiting the right of any proposer that does not receive Award of the Design-Build Agreement for Selma Maintenance Facility Project to copy, use or incorporate such technical design information contained within its own Design-Build Proposal for its own use in the conduct of its business trade or profession; and (2) with respect to the proposer who receives Award of the Design-Build Agreement for Selma Maintenance Facility Project, such proposer's rights and obligations with respect to copying, use or incorporation of such technical design information in any projects or work other than the Project shall be governed by the terms of the Design-Build Agreement and Design-Build General Conditions.

#### **4.11 FCRTA RIGHTS**

FCRTA reserves the right to waive minor irregularities and omissions in the information contained in the Proposal submitted, and to make all final determinations. FCRTA reserves the right to decide not to award an agreement as a result of the RFP or cancel the RFP process. FCRTA shall not be obligated to respond to any Proposal submitted, nor be legally bound in any manner by the submission of the Proposal. FCRTA reserves the right to negotiate Project deliverables and associated costs.

FCRTA reserves the right to request Proposal revisions.

The issuance of an RFP constitutes only an invitation for DBE's to present their competitive Proposals. FCRTA reserves the right to determine, in its sole discretion, whether any aspect of the Proposal satisfactorily meets the criteria established in the RFP and the right to seek clarification from any proposer submitting Proposals. FCRTA also reserves the right to reject any or all Proposals received as a result of this solicitation; to extend the Proposal due date for RFP's; to modify, amend, reissue or rewrite this RFP document; and to procure Design-Build services by other means. In the event the RFP is withdrawn by FCRTA prior to the receipt of RFP Proposals, or if FCRTA does not proceed for any reason, FCRTA shall have no liability to any proposer for any costs or expenses incurred, in connection with the preparation and submittal of a response to this RFP.

#### **4.12 REGULATORY COMPLIANCE**

The design and construction must comply with the requirements of all applicable local, State and Federal agencies. Each portion of the work shall be performed by a person licensed, equipped and experienced to do work in the particular field. Please review Public Contract Code and Public Law, which include requirements for performance of the work by Contractors and Subcontractors. Both shall furnish certified payroll records and participate in an approved apprenticeship program as required by Federal and State requirements. The labor compliance and apprenticeship requirements will be monitored throughout the construction process. Any DBE found not in compliance shall be in default of its contract.

All subcontracts that are not listed by DBE in the Proposal shall be awarded by DBE in accordance with state and federal code. Specifically, DBE shall procure all subcontracts in accordance with California Public Contract Code 22166.

#### **4.13 CONTRACTING WITH SMALL AND MINORITY OWNED FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**

It is policy to award a fair share of contracts to Small Business and Minority Firms. Accordingly, affirmative steps must be taken to assure that Small Business and Minority Owned Firms are utilized, when possible, as sources of supplies, equipment, construction and services.

#### **4.14 CLEAN AIR AND WATER ACTS**

Contractors with Federally-assisted construction contracts of \$100,000 or more must comply, and ensure all sub-contractors comply, with the requirements regulated by the Environmental Protection Agency.

#### **4.15 INACCURACIES OR MISREPRESENTATIONS**

If in the course of the RFP process or in the administration of a resulting Contract, FCRTA determines that DBE has made a material misstatement or misrepresentation or that materially inaccurate or misleading information has been provided to FCRTA, DBE may be terminated from the RFP process or in the event a Contract has been awarded, the Contract may be immediately terminated.

In the event of a termination under this provision, FCRTA is entitled to pursue any available legal remedies.

#### **4.16 CHANGING TEAM MEMBER**

No changes to the members of DBE, including the firms and listed personnel, shall be permitted after the deadline for submission of the RFPs, except with the prior written authorization of

FCRTA, which authorization may be granted or withheld in FCRTA's sole discretion. This requirement shall be in effect through completion of the Project.

#### **4.17 PROPOSAL EXPENSES**

Each proposer shall bear, at its own expense, without reimbursement by FCRTA, all costs and expenses associated with the preparation of its Design-Build Proposal and its participation in the Request for Proposal process.

#### **4.18 FCRTA SUPPLIED INSPECTIONS**

The following inspections will be performed and paid by FCRTA:

- FCRTA department inspections
- Special inspections and material testing
- Geotechnical testing and inspection

Repeat inspections, due to failure of the original inspection, shall be at the expense of DBE and back charged by FCRTA. Late cancellations of inspections, due to schedule changes or DBE's failure to be prepared for inspection(s), shall be at the expense of DBE and back charged by FCRTA. FCRTA shall maintain hourly logs relating to any such repeat inspections or late cancellations.

#### **4.19 DBE SUPPLIED INSPECTIONS**

The remaining inspections, including but not limited to the following, will be performed and paid by DBE:

- Window and curtain wall flood testing
- Waterproofing flood testing
- Roofing
- Sealant compatibility and adhesion testing
- HVAC testing, adjustment, and balancing
- Duct pressure testing
- Duct detector differential testing and verification
- Security system performance testing
- Equipment performance testing
- Mock-ups (exterior materials, flashing assemblies, MEP systems, and others as noted or appropriate)
- Electrical testing
- Fire alarm and sprinkler testing
- Life safety testing (smoke doors, closers, exit signs, etc.)
- Telecom, wireless, and data systems
- Site utility flushing, disinfection, testing, and reporting
- Sampling, testing, and certification of imported fill material or exported material
- Any costs associated with set up and performance of FCRTA observed testing

#### **4.20 LIQUIDATED DAMAGES**

- The Design-Build Agreement for Selma Maintenance Facility Project includes provisions for payment of liquidated damages by DBE to FCRTA of \$1,500.00 per day if DBE fails to Substantially Complete the Work within the Contract Time for Substantial Completion as adjusted for Contract Adjustments permitted under the terms of the Design-Build Agreement for Selma Maintenance Facility Project and General Conditions.



- The Design-Build Agreement for Selma Maintenance Facility Project includes provisions for payment of liquidated damages by DBE to FCRTA of \$1,500.00 per day if DBE fails to obtain Final Completion of the Work within the Contract Time for Final Completion as adjusted for Contract Adjustments permitted under the terms of the Design-Build Agreement for Selma Maintenance Facility Project and General Conditions.
- Proposers shall include in their Proposal a proposed daily amount for damages payable by FCRTA to DBE for Compensable Delay. FCRTA reserves the right to negotiate this amount with DBE. In accordance with the terms of the Design-Build Agreement for Selma Maintenance Facility Project and General Conditions, such damages shall constitute the Design Builder's exclusive compensation covering actual costs due to Compensable Delay that are incurred by DBE and its Subcontractors and Sub-consultants of every tier. No other compensation to DBE for Loss associated with Delay is permitted.