



Request for Proposals

Alameda Corridor Accounting Software System Purchase and Implementation

To be submitted to:

**Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, CA 90806**

August 3, 2020

August 3, 2020

Prospective Vendors:

SUBJECT: REQUEST FOR PROPOSALS FOR ACCOUNTING SOFTWARE SYSTEM PURCHASE AND IMPLEMENTATION

The Alameda Corridor Transportation Authority (ACTA) invites the submittal of proposals to provide an Enterprise Resource Planning (ERP) based accounting software system and related implementation services. The installation and implementation of the software shall commence after a contract is approved by the ACTA Governing Board.

Instructions and forms to be used in preparing proposals can be found in the information included with this Request for Proposals (RFP).

The schedule for this RFP will be as follows:

Request for Proposals Published	Monday, August 3, 2020
Questions Due	Friday, August 14, 2020 by 3:00 p.m. PDT
Responses Posted	Tuesday, August 25, 2020 by 3:00 p.m. PDT
Proposals Due	Wednesday, September 9, 2020 by 3:00 p.m. PDT

If your company cannot agree to the requirements exactly as set forth in this RFP, please do not submit a proposal.

For questions regarding this RFP, please email ACCTSOFTWARE_RFP@acta.org by Friday, August 14, 2020 by 3:00 p.m. PDT. Responses to questions will be posted on ACTA's website at <http://www.acta.org> on Tuesday, August 25, 2020 by 3:00 p.m. PDT. It is the responsibility of proposers to review ACTA's website for any RFP revisions or answers to questions prior to submitting a proposal in order to ensure their proposal is complete and responsive.

In addition to providing information requested in this RFP, note there are administrative documents that must be submitted with the proposal. Please refer to the Contract Administration Requirements (Section 3.3.8) of this RFP. **In order for your proposal to be deemed responsive, the required documents MUST be included with your proposal.**

Sincerely,



Kevin Scott
Chief Financial Officer

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ATTACHMENTS / EXHIBITS

- Exhibit A – System Requirements Form
- Exhibit B – Vendor Information Form
- Exhibit C – RFP Selection Evaluation Forms

APPENDIX

Appendix A – Sample Agreement

1. INTRODUCTION

1.1 Brief Overview of the Project

The Alameda Corridor Transportation Authority (ACTA) is soliciting proposals from qualified vendors to provide an Enterprise Resource Planning (ERP) accounting system and related implementation to replace its current legacy financial accounting system, Integrated Financial Accounting System (IFAS) 7.6.

ACTA is seeking a comprehensive solution through a fully integrated system. It is preferred that the selected software be able to meet the ACTA requirements without supplemental systems or customization. The selected system must be user friendly and provide strong workflow features to automate current manual processes.

The new enterprise system is anticipated to operate over web-based technologies. The application modules ACTA is seeking to acquire and implement include:

- Purchasing (including contracts and encumbrance management)
- Accounts Payable
- Accounts Receivable
- Fixed Asset Management
- Cash Management
- Project Accounting/Job Costing
- Budgeting and Forecasting
- General Ledger Accounting and Close Management
- Financial and Management Reporting

ACTA wishes to procure and deploy a replacement system with a vendor that has a proven track record and a strong reputation for customer satisfaction and service. Specific procurement goals include the following:

- Integrate business processes and systems, and eliminate manual and redundant functions.
- Streamline business processes.
- Replace aging software system capabilities.
- Equip the entire organization with information to improve operational productivity.
- Enhance the ability to process business transactions and reporting.
- Enhance functionality to provide more efficient and effective reporting in all areas of the business.
- Provide comprehensive and easy-to-use query and outcome analysis.
- Implement a flexible, stable, and reliable system capable of accommodating future changes in the organization.
- Acquire and implement a software solution that meets ACTA's needs through "off-the-shelf" capabilities.

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- Acquire a well-supported system from a financially stable vendor with adequate resources to upgrade and maintain the new system over the long-term.

The contract will include the initial purchase, implementation, and training of a new accounting software system, as well the on-going support and maintenance of said system. The duration of the contract awarded as a result of this Request for Proposals (RFP) is expected to be five years from the date of execution of the Agreement with one optional five-year renewal period, which is subject to final negotiation. (Appendix A).

1.2 The Alameda Corridor Transportation Authority

The Alameda Corridor Transportation Authority (“ACTA”) was established on August 31, 1989 through a Joint Exercise of Powers Agreement (JPA) between the City of Long Beach and the City of Los Angeles. ACTA was created primarily for the purpose of developing, financing, constructing, and operating the Alameda Corridor.

In November 1995, the Alameda Corridor was designated by Congress as a Project of National Significance. This allowed ACTA to seek a federal loan as part of the funding package to build the \$2.4 billion project.

The Alameda Corridor is a 20-mile long, multiple-track rail system designed to link the rail facilities of the Port of Los Angeles and the Port of Long Beach with the transcontinental rail network of the Union Pacific Railroad Company (UP) and the BNSF Railway (BNSF), near downtown Los Angeles. The Corridor consolidated the freight rail traffic from four lines, 90 miles in length, onto a single fully grade-separated route. The Corridor operates 24-hours a day, 7-days a week.

The original Alameda Corridor Project was substantially complete in April 2002 when revenue operations on the Corridor began. ACTA is now focused on revenue collections from its two primary users, UP and BNSF, and repayment of the bonds which were issued in order to pay for the construction of the project. ACTA is also responsible for the maintenance-of-way activities on the Corridor.

ACTA has a seven-members Governing Board, comprised of two members each from the Port of Los Angeles and Port of Long Beach, one member each from the City of Los Angeles and City of Long Beach and one member representing the Los Angeles County Metropolitan Transportation Authority (LACMTA). The members of ACTA’s Governing Board as of July 1, 2020 are:

- Chairperson – Honorable Joe Buscaino, City of Los Angeles Councilman
- Vice Chairperson – Honorable Suzie Price, City of Long Beach Councilwoman
- Member – Honorable Janice Hahn, Supervisor, County of Los Angeles
- Member – Mr. Ed Renwick, Commissioner, Port of Los Angeles
- Member – Mr. Frank Colonna, Commissioner, Port of Long Beach
- Member – Mr. Gene Seroka, Executive Director, Port of Los Angeles
- Member – Mr. Mario Cordero, Executive Director, Port of Long Beach

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More detailed information about ACTA can be found on ACTA's website www.acta.org.

2. PROJECT DESCRIPTION

2.1 Scope of Work

The Scope of Work involves the following:

- Providing an ERP based accounting system that is fully integrated and web-based.
- Providing all necessary training and assistance to ACTA to implement the new system.
- Providing on-going support and maintenance of the system for the duration specified in the contract.

Please refer to the specific System Requirements Form included in Exhibit A. Exhibit A details each functional section, with information as to what ACTA requires in a new system. Proposers are asked to respond to the requirement statements. This form must be completed by all proposers and submitted with their proposal.

ACTA has ten employees and utilizes six full-time consultants for certain tasks. Based on current estimates, a total of 15 people are expected to use the new financial system. The distribution of user counts by overlapping functional needs are as stated below:

- Core Accounting and Finance: 5
 - Purchasing, Contracts Management and Encumbrance
 - Accounts Payable
 - Accounts Receivable
 - Fixed Assets
 - Cash Management
 - Project Accounting/Job Costing
 - Budgeting and Forecasting
 - GL and Period Close
- Document review and approval users (including 2 Finance users above): 12
- Inquiry and reports-only users (including 5 Finance users above): 15
- Expense re-imburement (including 5 Finance users above): 10
- System Administrator: 2

ACTA plans to go-live in the new system by January 2021.

2.2 ACTA's Current Accounting Process

ACTA's accounting process needs have become simplified as its responsibility has evolved from the design and construction of the Alameda Corridor to the maintenance of the corridor and collection of fees to pay debt service on the outstanding revenue bonds. The following information represents how ACTA currently processes much of its paperwork, which relies heavily on the use of Excel spreadsheets and manual processes.

A purchase request is originated in PDF form and sent to the accounts payable where it is entered as an Excel based purchase order (P.O.) form. The form is routed for coding, budget checking before approval by the appropriate ACTA officer. The approved Excel P.O. form is then sent to the vendor and also entered in the accounting system, IFAS.

Most contracts are for professional and legal services and are tracked by scanning hard copies of the files into a file directory structure organized by vendor ID for payments and by contract number for other contract related documents. The encumbrance process is connected to purchasing in IFAS; when a P.O. is entered, the system prompts whether it should be encumbered.

ACTA also relies on Excel spreadsheet and manual processes for logging, coding and approving accounts payable (AP) invoices before being batched and processed in IFAS. Approved invoices are paid by check and printed onto blank paper using a special printer. By the same token, employee expenses are reviewed and approved for reimbursement outside of the system before being processed as vendor payments in IFAS. Fixed assets are tracked using Excel based asset schedules and consists mostly of railroad assets depreciated monthly in the system as journal entries.

Similarly, the accounts receivable (AR) process is very simplified. The two main railroad customers self-report for Use Fees and deposit payments due to ACTA directly into the bank accounts without initial invoices being issued. After a monthly reconciliation process, invoices and/or credit memos are issued to each railroad for Use Fees. ACTA issues recurring invoices to railroad customers for maintenance costs and then reconciles against actual amounts due at the end of the year for credit or debit offset. These invoices are originated in Excel and entered in the system via journal entries. Cash receipts are initially logged into an Excel spreadsheet prior to bank deposits and are also entered in IFAS as journal entries.

Costs associated with the maintenance of the corridor are tracked separately, utilizing special codes. A portion of these maintenance costs are subsequently passed on to the railroad customers, as mentioned above.

ACTA maintains multiple bank accounts but the bank reconciliation process is manual. There is no visibility to real time cash balance in IFAS because reconciliation is done at the end of the month.

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The month-end close process is a soft-close until the financial statements are posted to ACTA's website after which no more transactions can be entered into the closed period. For financial reporting, large amounts of data are extracted to Excel for presentation of financial reports in the format required.

3. PROPOSAL REQUIREMENTS

3.1 Proposal Submission

Proposals are to be an electronic format and must not exceed 10 double-sided pages, or 20 single-sided pages, in no less than 11 point Times New Roman font. The supporting documentation in the Appendix does not count towards this limit. Resumes, rates and fees, and the contract administrative documents may be submitted in the Appendix. Exhibit A and Exhibit B are separate files that must be completed and submitted with the proposal. All proposals must be formatted to print in color on 8.5" X 11" paper and be in a portable document format (PDF) file. One printed copy of the proposal must be submitted by mail and be an exact match to the electronic submission. ACTA will not confirm that the two documents are an exact match and may rely solely on the emailed proposal for review and scoring purposes.

An electronically submitted proposal and one (1) mailed copy of proposal must be submitted on or before 3:00 p.m. PDT on Wednesday, September 9, 2020 to:

By Email Delivery: **ACCTSOFTWARE_RFP@acta.org**

By Mail Delivery: **Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806
Reference: Accounting Software System Purchase
and Implementation**

Due to issues related to the COVID-19 pandemic, no in-person drop-offs of proposals will be accepted. Mailed copies may be sent by the USPS or a courier delivery service. It is recommended that a courier delivery service be utilized in order to guarantee delivery of the proposal and confirmation of its receipt.

All electronic submissions will be sent a confirmation of receipt from ACTA. It is the responsibility of the proposer to confirm receipt if one is not received following submission. Mailed proposals will be date stamped when received. The proposal opening, through email and mail submissions, will not be a public event.

Proposers are solely responsible for the timeliness of their submittals. As such, Proposers are cautioned to budget adequate time to ensure that their proposals are delivered at the email and physical location designated at or before the deadline set forth above. Proposers are cautioned that matters including, but not limited to, traffic congestion, security measures and/or events in or around the ACTA building, may lengthen the amount of time necessary to deliver the proposal by mail or courier.

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By submitting a proposal, Proposers certify that such proposal constitutes their full and complete written response to the RFP and evidences their acknowledgement that additional written material outside of such proposal shall not be considered by the ACTA in connection with this RFP, unless ACTA provides a written request that they submit additional written materials. Absent such written request, proposers are instructed to not submit to ACTA written or other materials outside of the proposal, either in a subsequent demonstration or otherwise.

3.2 Evaluation Process and Selection Criteria

All proposals meeting the requirements of this RFP shall be reviewed and rated by an evaluation committee according to the following criteria: 1) company qualifications, experience, and references; 2) project organization, personnel, and staffing; 3) meeting system requirements; 4) project management; 5) costs; and 6) clarity and comprehensiveness of the proposal. See Exhibit C – Evaluation Form #1 for scoring guidelines.

Proposers may be contacted to schedule individual demonstrations for the evaluation committee and other ACTA personnel. Demonstrations are expected to be conducted remotely via web-based sessions. An agenda for the demonstration will be developed and distributed to the finalist vendors approximately two weeks prior to the scheduled demonstration. Individuals possessing intimate knowledge of their company, product functionality, technical platform issues, and implementation services are expected to conduct the demonstration.

Proposers selected for a demonstration will be reviewed and rated by the evaluation committee according to the following criteria: 1) company qualifications, experience, and references; 2) project organization, personnel, and staffing; 3) meeting system requirements; 4) project management; 5) costs; 6) clarity and comprehensiveness of the proposal; and 7) demonstration of software. See Exhibit C – Evaluation Form #2 for scoring guidelines. The scores from the Evaluation Form #1 will be carried over to the new form, but evaluators may change those scores based upon information learned during the demonstration. The evaluation committee will make the final recommendation for selection of the vendor, following completion of all demonstrations, based upon the final scores from Evaluation Form #2. All recommendations are subject to the approval of ACTA's Governing Board.

Proposers are advised that all documentation submitted in response to this RFP will be considered property of ACTA and also will become available to the public as a public record and may be released without further notification. Any information that the proposer considers confidential should not be submitted with the proposal.

The right to reject any and all proposals shall, in every case, be reserved, as shall the right to waive any informality in the proposal when to do so would be to the advantage of ACTA.

3.3 Proposal Content

The following items shall be included in your proposal:

1. Cover Transmittal Letter

Provide a narrative which introduces the company and team highlighting the special strengths of the company to perform the work requested in this RFP. Include a statement in the cover transmittal letter indicating that the company is able to comply with the terms of the

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agreement attached in Appendix A. The letter should be signed by an authorized principal of the proposing vendor.

2. Company Qualifications, Experience and References

Provide a narrative describing the company's qualifications to perform the project work, including past (relevant) experience and at least three client references, with current contact names and information. Include information regarding your company's experience involving the size and level of complexity of the proposed project. For any project referenced to demonstrate your company's qualifications, provide the year or years in which the work was performed, and, if applicable, note which member or members of the proposed project team were involved.

The Vendor Information Form, see Exhibit B, is designed to collect specific vendor data and system information. The form is required to be completed and submitted as part of the proposal. Any changes made to the questions may result in disqualification.

3. Project Organization, Personnel and Staffing

Provide a brief description of all key personnel and technical staff (including vendors, partners or subconsultants) to be involved and their relationship to the services to be provided.

- Include names, titles, licenses, certificates, fields of expertise, and relevant experience for all proposed personnel and staff.
- Identify the Project Manager for the proposed services.
- Complete resumes should be provided as part of an appendix to the proposal.
- Provide a project organization chart which depicts the organization of the project team, including reporting relationships to ACTA and supervision of project team staff.
- Indicate the structure and management of on-going maintenance services during the lifetime of the contract.

4. System Requirements

For the software applications, please provide information detailing how the software product meets specifications, integration, flexibility, ease of use, and requirements included in this RFP in the System Requirements Form - Exhibit A. This form must be completed and is required to be submitted with the proposal. The responses must be clear, unambiguous, and capable of being understood without reference to other documentation. Failure to address a particular requirement shall be presumed to indicate that the function or requirement is unavailable.

For the system's technology platform, please provide, in the Vendor Information Form – Exhibit B, information detailing the use of industry standards and specific information related to the operating platforms, servers, workstations, database architecture, communication protocols, management requirements, growth, and expandability.

5. Project Management

Provide information that identifies how the project will be managed with a detailed timeline

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for the transition and implementation to the new software, including training of new users.

6. Cost

Provide pricing and cost information for the following:

- Software License Cost – License Type and User Count
- Implementation Cost
- Annual Maintenance
- Optional Additional Application Software Components (if applicable)
- Other Costs

Provide pricing for Software as a Service (SaaS) and/or hosted options.

7. Small Business Enterprise Participation Requirements

The ACTA Governing Board has established the following Small Business Enterprise (SBE) participation goals for all ACTA contracts awarded after January 1, 2017: (1) an aggregate average of 25% by contract value, and/or 25% of all contracts awarded by ACTA to certified SBE firms/companies. The minimum required SBE participation level by contract value for the purchase and implementation of new accounting software is 0%. However, if a Proposer is a certified SBE company, please so state in your transmittal letter.

8. Contract Administration Requirements

In order for a proposal to be deemed responsive, the following document **MUST** be included with the proposal:

- EXHIBIT A – SYSTEM REQUIREMENTS FORM
- EXHIBIT B – VENDOR INFORMATION FORM
- INSURANCE VERIFICATION LETTER

Provide a letter from your insurance carrier indicating that the insurance requirements for this project as described in the sample agreement (Appendix A) are presently part of the proposer's coverage, or that the insurance company is able to provide such coverage should the proposer be selected. The insurance carrier must be aware of the indemnification requirements also set forth in the sample agreement. Proposers are not required to purchase the required insurance in order to respond; however, all required insurance will need to be submitted at the time of contract award.

EXHIBIT A

SYSTEM REQUIREMENTS FORM

(Note: this form is located in a separate file.)

EXHIBIT B

VENDOR INFORMATION FORM

(Note: this form is located in a separate file.)

EXHIBIT C

RFP SELECTION EVALUATION FORMS

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RFP SELECTION EVALUATION FORM #1

PROPOSAL REVIEW

PROJECT: Accounting Software System Purchase and Implementation

SCORING GUIDELINES:

Rater's Score: (Range 0-5) - 0=not included/non responsive; 1= Marginal Abilities, Serious Deficiencies; 2=Adequate with Minor Deficiencies; 3=Adequate, Standard-Acceptable, 4=Well Qualified; 5=Exceptionally Qualified.

Weighted Score= Rater's Score multiplied by (x) Weighing Factor. Totals should be calculated for each criterion.

Total score = Sum of all weighted scores.

Company Name	Evaluated by	Date

CRITERIA TO BE RATED		RATER'S SCORE	WEIGHING FACTOR	WEIGHTED SCORE
A. Company Qualifications, Experience and References	How long has the company been in business? Has the company been producing the proposed software for a period of time? Level of expertise in accounting-based software?		3	
B. Project Organization, Personnel and Staffing	Qualification and experience of proposed personnel for requested services? Locally based company or team?		4	
C. System Requirements	Ability to provide software and technology platform to meet ACTA's needs?		5	
D. Project Management	Implementation procedures for undertaking and completing tasks?		4	
E. Costs	Competitive rates and fees proposed and clearly defined?		3	
F. Clarity and Comprehensiveness of the Proposal	Is the proposal clear, comprehensive, and understandable?		1	
	Maximum points possible=100		A+B+C+D+E=20	Total Points=

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RFP SELECTION EVALUATION FORM #2 PROPOSAL & SOFTWARE DEMONSTRATION REVIEW

PROJECT: Accounting Software System Purchase and Implementation

SCORING GUIDELINES:

Rater's Score: (Range 0-5) - 0=not included/non responsive; 1= Marginal Abilities, Serious Deficiencies; 2=Adequate with Minor Deficiencies; 3=Adequate, Standard-Acceptable, 4=Well Qualified; 5=Exceptionally Qualified.

Weighted Score= Rater's Score multiplied by (x) Weighing Factor. Totals should be calculated for each criterion.

Total score = Sum of all weighted scores.

Company Name	Evaluated by	Date

CRITERIA TO BE RATED		RATER'S SCORE	WEIGHING FACTOR	WEIGHTED SCORE
A. Company Qualifications, Experience and References	How long has the company been in business? Has the company been producing the proposed software for a period of time? Level of expertise in accounting-based software?		3	
B. Project Organization, Personnel and Staffing	Qualification and experience of proposed personnel for requested services? Locally based company or team?		4	
C. System Requirements	Ability to provide software and technology platform to meet ACTA's needs?		5	
D. Project Management	Implementation procedures for undertaking and completing tasks?		4	
E. Costs	Competitive rates and fees proposed and clearly defined?		3	
F. Clarity and Comprehensiveness of the Proposal	Is the proposal clear, comprehensive, and understandable?		1	
G. Demonstration of Software	Does the system function as proposed? Is it user friendly?		5	
	Maximum points possible=125		A+B+C+D+E+F =25	Total Points=

APPENDIX A

SAMPLE AGREEMENT

AGREEMENT NO. _____

BETWEEN THE ALAMEDA
CORRIDOR TRANSPORTATION
AUTHORITY
AND

THIS AGREEMENT ("Agreement") is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY ("ACTA"), a California Joint Powers Authority acting by and through its Governing Board ("Board"), and _____, a _____, whose address is _____ ("Vendor").

WHEREAS, ACTA requires the purchase of an Enterprise Resource Planning (ERP) System; and

WHEREAS, ACTA requires technical and functional services to set-up and maintain the new ERP System and transition and train ACTA staff on that System; and

WHEREAS, ACTA requires the professional, expert and technical services of Vendor to assist ACTA in providing these services; and

WHEREAS, Vendor possesses extensive experience with the ERP System and providing technical and functional support; and

WHEREAS, Vendor, by virtue of training and experience, is well qualified to provide such a System and services to ACTA;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Incorporation of Recitals

1.1 The recitals to this Agreement above are incorporated herein and made a part hereof.

2. Services To Be Performed By Vendor

2.1 All of the potential services Vendor shall perform for ACTA are set forth in Exhibit A hereto and hereinafter shall be referred to as "Scope of Work."

2.2 Vendor acknowledges and agrees that it lacks authority to perform and that ACTA's CEO lacks authority to request the performance of any services outside the Scope of Work. Vendor further acknowledges and agrees that any services it performs outside the Scope of Work are performed as a volunteer and shall not be compensable under this Agreement.

2.3 The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of ACTA's CEO, whether performance is undertaken by Vendor or third-parties with whom Vendor has contracted on the effective date of this Agreement, whom ACTA's CEO may subsequently approve in writing ("Subcontractors"). Obligations of this Agreement, whether undertaken by Vendor or Subcontractors, are and shall be the responsibility of Vendor. Vendor acknowledges and agrees that this Agreement creates no rights in Subcontractors with respect to ACTA and that obligations that may be owed to Subcontractors, including, but not limited to, the obligation to pay Subcontractors for services performed, are those of Vendor alone. Upon ACTA's CEO's written request, Vendor shall supply ACTA with all agreements between it and its Subcontractors.

2.4 Vendor, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Vendor, Vendor is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, City, or any other governmental entity.

2.5 ACTA's CEO shall resolve in his sole reasonable discretion any issues or questions which may arise during the term of this Agreement as to the quality or acceptability of Vendor's performance of the Scope of Work, the manner of performance, the interpretation of direction given to Vendor, the acceptable completion of work, and the amount of compensation due. Upon written notice from ACTA's CEO, Vendor shall assign replacement personnel and/or shall remedy any deficient services or work product to his reasonable satisfaction and at Vendor's sole cost and expense. Compliance with the requirements of this Section 2.5 is a condition to payment by ACTA of compensation to Vendor pursuant to this Agreement.

2.6 Vendor's representative responsible for administering this Agreement, _____ ("Project Manager"), shall not be changed without ACTA's CEO's written approval. ACTA's CEO may, for any reason in his sole reasonable discretion, require Vendor to substitute a new Project Manager. If ACTA requests such a substitution, the substitute Project Manager shall expend whatever time and costs necessary to become familiar with the Project and any portions of the Scope of Work already performed at Vendor's sole cost and expense.

2.7 If the law requires Vendor, in performing the Scope of Work, to follow a different standard of care than the ordinary standard of care applied to a reasonable person, Vendor shall perform such services with the degree of diligence, skill, judgment, and care applicable to Vendor's profession ("professional standard"). Vendors not required to follow a professional standard shall exercise the degree of care required of ordinary persons.

2.8 For portions of the Scope of Work to be performed on a time and material basis, Vendor shall assign personnel, whether employees or Subcontractors, with the lowest applicable hourly rate who are fully competent to provide the services required. If Vendor finds it necessary to have any portion of the Scope of Work, which this Section 2.8 would require to be performed by personnel at a lower rate, to be performed by

personnel at a higher rate, Vendor shall, nevertheless, invoice ACTA at the lower rate.

3. Services To Be Performed By ACTA

3.1 ACTA shall furnish Vendor, upon its request, with available and/or necessary information in possession of ACTA which may lawfully be supplied to Vendor and which are necessary for Vendor to perform its obligations.

3.2 ACTA's CEO or his or her designee is designated as the contract administrator for ACTA and shall also decide any all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to Vendor and the acceptable completion of this Agreement and the amount of compensation due. Notwithstanding the preceding, the termination of this agreement shall be governed by the provisions of Section 6 (Termination) thereof.

3.3 Vendor shall provide ACTA's CEO with reasonable advance written notice if it requires access to the premises of ACTA or of the Alameda Corridor. Access rights, if any, shall be granted to Vendor at the sole reasonable discretion of ACTA's CEO, specifying conditions Vendor must satisfy in connection with such access. Vendor acknowledges that such areas may be occupied or used by tenants or contractors of ACTA and that access right granted by ACTA to Consultant shall be consistent with any such occupancy or use.

4. Effective Date and Term

4.1 The effective date of this Agreement shall be the date of its execution by ACTA's CEO or his designee upon authorization of the Board.

4.2 This Agreement shall be in full force and effect commencing from the date of execution and shall continue until the earlier of the following occurs:

- a. Five (5) years has lapsed from the effective date of this Agreement;
or
- b. Ten (10) years has lapsed from the effective date of this Agreement in the event that ACTA's Board exercises its option under Section 4.3 of this Agreement to extend the term an additional five (5) years; or
- c. ACTA's Board, in its sole discretion, terminates this Agreement pursuant to Section 6.

4.3 The ACTA Board has the option to renew the term of the Agreement for one (1) renewal period of five (5) years and is subject to final negotiation. Exercise of the option to renew shall be by approval of the ACTA Board prior to the expiration of the Agreement. Upon approval of the five (5) year renewal period by the ACTA Board, ACTA's CEO shall provide written notice of said approval to Vendor.

5. Compensation.

5.1 For the full and satisfactory performance of the Scope of Work, ACTA shall pay Vendor and Vendor shall accept a sum not to exceed _____ Dollars (\$ _____). Vendor acknowledges that final compensation may not reach the maximum sum allowed for herein.

5.2 Compensation payable under this Agreement for payment of software, labor, travel, per diem, materials, supplies, transportation, and all other direct and indirect costs and expenses incurred by Vendor ("Expenses") are listed in Exhibit B. No markups or premiums shall be applied to services performed by Subcontractors unless Exhibit B expressly so allows.

5.3 Each month during the term of this Agreement, as a prerequisite to payment for services, Vendor shall submit a written invoice to ACTA for services performed during the prior month, accompanied by such records and receipts as may be required by Section 5.5. If payments are to be based on the performance of established milestones, Vendor shall bill as each milestone is completed, but not more often than once a month.

Vendor shall submit one (1) original and one (1) copy of each such invoice for payment that includes the following certification:

"I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. _____, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.

"(signed)

5.4 Where Vendor employs Subcontractors under this Agreement, Vendor shall submit to ACTA, with each monthly invoice, a Monthly Subcontractor Monitoring Report Form (Exhibit C) listing SBE/VSBE/MBE/WBE/DVBE/OBE amounts. Vendor shall provide an explanation for any item that does not meet or exceed the anticipated participation levels for this Agreement, with specific plans and recommendations for improved Subcontractor utilization. Invoices will not be paid without a completed Monthly Subcontractor Monitoring Report Form.

5.5 Invoices shall include the Agreement number. Vendor shall submit supporting documents with each invoice, which may include, but not be limited to, provider invoices, receipts, payrolls, and time sheets. ACTA may require, and Vendor shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement. Vendor is not required to submit support for direct costs items of \$25 or less. All invoices are subject to audit.

5.6 All sums due and payable to Vendor shall be paid as soon as, in the ordinary course of ACTA business, the same may be reviewed and approved.

For payment and processing, all invoices shall be mailed to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

6. Termination

6.1 The Board, in its sole discretion, shall have the right to terminate and cancel all or any part of this Agreement for any reason upon ACTA's CEO giving the Vendor ten (10) days' advance, written notice of the Board's election to cancel and terminate this Agreement. It is agreed that any Agreement entered into shall not limit the right of ACTA to hire additional vendors or perform the services described in this Agreement either during or after the term of this Agreement.

6.2 Upon receipt of such written notice, Vendor shall cease the performance of the Scope of Work. Vendor shall be entitled to compensation only for services actually performed prior to such termination. ACTA's CEO, in his sole reasonable discretion, shall determine the amount of services actually performed and shall allocate a portion of the total compensation due Vendor accordingly.

6.3 Pursuant to Section 5 of ACTA's Amended and Restated Joint Exercise of Powers Agreement, ACTA shall be restricted in its powers in the same manner as the City of Los Angeles is restricted in its exercise of similar powers. Therefore, this Agreement is subject to the provisions of the Los Angeles City Charter Section 320 which precludes ACTA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

ACTA, its Board, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Vendor is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Vendor is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Vendor agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60-day period. The Vendor

is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

7. Recordkeeping and Audit Rights

7.1 Vendor shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied. Vendor's books and records shall be readily accessible to and open for inspection and copying at the premises by ACTA, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Vendor for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

7.2 During the term of this Agreement, ACTA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Vendor and Subcontractors arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Vendor, Subcontractors or any individual or entity acting for or on behalf of Vendor or a Subcontractor, and (c) without regard to whether such writings have previously been provided to ACTA. Vendor shall be responsible for obtaining access to and providing writings of Subcontractors. Vendor shall provide ACTA at Vendor's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by ACTA. ACTA's right shall also include inspection at reasonable times of the Vendor's office or facilities which are engaged in the performance of the Scope of Work. Vendor shall, at no cost to ACTA, furnish reasonable facilities and assistance for such review and audit. Vendor's failure to comply with this Section 7.2 shall constitute a material breach of this Agreement and shall entitle ACTA to withhold any payment due under this Agreement until such breach is cured.

8. Vendor Is An Independent Contractor

Vendor, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of ACTA. Vendor shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

9. Indemnification

9.1 Indemnification. Except for the sole negligence or willful misconduct of ACTA, its Board or any of its Officers, Agents, Employees, Assigns and Successors in Interest, Vendor undertakes and agrees to defend, indemnify and hold harmless ACTA and its Board, the City of Los Angeles and the City of Long Beach and their respective Boards of Harbor Commissioners, and any of their respective Officers, Agents, Employees, Assigns, and Successors in Interest ("Indemnified Parties") from and

against all suits and causes of action, arbitration proceedings, administrative proceedings, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the Indemnified Parties, including but not limited to, costs of experts and vendors), damages or liability of any nature whatsoever, for death or injury to any person, including Vendor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Vendor or its subcontractors of any tier. Rights and remedies available to the Indemnified Parties under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

9.2 Indemnification for Design Professional Services. To the fullest extent permitted by law (including without limitation, Section 2782.8 of the California Civil Code), when the services to be provided under this Agreement are design professional services to be performed by a design professional, as that term is defined under said Section 2782.8, Vendor shall indemnify, protect, defend and hold harmless ACTA and its Board, the City of Los Angeles and the City of Long Beach and their respective Boards of Harbor Commissioners, and any of their respective Officers, Agents, Employees, Assigns, and Successors in Interest ("Indemnified Parties") from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against any of the Indemnified Parties that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Vendor, or the acts or omissions of an officer, employee, agent or Subcontractor, excepting only liability resulting from the negligence or willful misconduct of ACTA.

10. Insurance

10.1 Insurance procured by Vendor on Behalf of Vendor

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and as a condition precedent to the effectiveness of this Agreement, Vendor shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(a) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Vendor's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his judgment, such retention or self-insurance is justified by the net worth of Vendor. The retention or self-insurance

provided shall provide that any other insurance maintained by ACTA shall be excess of Vendor's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision, a severability of interest clause and have the railroad exclusion deleted. Each policy shall name ACTA and its Board, the City of Los Angeles and the City of Long Beach and their respective Boards of Harbor Commissioners, and any of their respective Officers, Agents, Employees, Assigns, and Successors in Interest as additional insureds.

(b) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Vendor's normal limits of liability but not less than One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA and its Board, the City of Los Angeles and the City of Long Beach and their respective Boards of Harbor Commissioners, and any of their respective Officers, Agents, Employees, Assigns, and Successors in Interest as additional insureds.

(c) Workers' Compensation and Employer's Liability

Vendor shall certify that it is aware of the provisions of Section 3700 of the California 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 that Vendor shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers' Compensation Act, if required under applicable law, shall be included. Vendor shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Vendor, and for all employees of any subcontractor or other vendor retained by Vendor.

(d) Professional Liability Insurance

Vendor is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Vendor certifies that it now has professional liability insurance in the amount of

One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following expiration or termination of the Agreement.

(e) Technology Errors and Omissions Liability Insurance

Vendor is required to provide Technology Errors and Omissions Liability Insurance with respect to negligent or wrongful acts, errors or omissions, in rendering or failing to render computer or information technology services or technology products in connection with the professional services to be provided under this Agreement. This insurance policy shall include coverage for Privacy and Network Security and protect against claims arising from all products and services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability. The limits disclosed herein shall neither increase nor decrease Vendor's liability as defined elsewhere in this Agreement.

Vendor certifies that it now has Technology Errors and Omissions Liability Insurance in the amount of One Million Dollars (\$1,000,000) per claim/aggregate including Notification Costs, which shall cover the work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following expiration or termination of the Agreement.

10.2 Insurance Procured by Vendor on Behalf of ACTA

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and where Vendor is required to name ACTA and its Board, the City of Los Angeles and the City of Long Beach and their respective Boards of Harbor Commissioners and any of their respective Officers, Agents, Employees, Assigns, and Successors in Interest ("Additional Insureds") as additional insureds on any insurance policy required by this Agreement, Vendor shall cause the Additional Insureds to be named as additional insureds on all policies it procures in connection with this Section 10. Vendor shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that the Alameda Corridor Transportation Authority and its Board, the City of Los Angeles and the City of Long Beach and their respective Boards of Harbor Commissioners, and each of their respective officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. _____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to the ACTA's Risk Manager with copies to ACTA's Co-General Counsel."

10.3 Required Features of Coverages

Insurance procured by Vendor in connection with this Section 10 shall include the following features:

(a) Acceptable Evidence and Approval of Insurance

Vendor's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Vendor's behalf.

Upon request by ACTA, Vendor shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(b) Carrier Requirements

All insurance which Vendor is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(c) Notice of Cancellation

For each insurance policy described above, Vendor shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to ACTA as set forth herein.

(d) Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance vendors to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Vendor.

(e) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Vendor shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to the ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Vendor neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Vendor.

(f) Limits of Coverage

If Vendor maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits maintained by Vendor. Any available insurance proceeds in excess of the specified limits of insurance and coverage shall be available to ACTA.

10.4 Accident Reports

Vendor shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon any Alameda Corridor property if Vendor's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Vendor, its officers or managing agents.

11. Personal Services Agreement

Vendor acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Vendor may permit Subcontractor(s) to perform portions of the Scope of Work in accordance with Section 2.3. All Subcontractors whom Vendor utilizes, however, shall be deemed to be its agents. Subcontractors' performance of the Scope of Work shall not be deemed to release Vendor from its obligations under this Agreement or to impose any obligation on ACTA to such Subcontractor(s) or give the Subcontractor(s) any rights against ACTA.

12. Confidentiality

Vendor shall not disclose any proprietary or confidential information of ACTA to any third party or parties during or after the term of this Agreement without the prior written consent of ACTA. The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the

Scope of Work and any recommendations made by Vendor relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Vendor or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Vendor is required to safeguard such information from access by unauthorized personnel.

13. Affirmative Action

Vendor shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

14. Small/Very Small Business Enterprise Program

It is the policy of ACTA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Vendor shall assist ACTA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunities which might be presented under this Agreement. See Exhibit D.

15. Conflict of Interest

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

16. Compliance with Applicable Laws

Vendor's activities under this Agreement, including its performance of the Scope of Work, shall comply with all federal, state, municipal, and local laws, ordinances, rules, regulations, and orders.

17. Trademarks, Copyrights and Patents

Vendor shall promptly and fully inform ACTA's CEO in writing of any patents,

trademarks or copyrights related to services provided under this Agreement or patent trademark or copyright disputes, existing or potential, which Vendor has knowledge of, relating to any idea, design, method, material, equipment or other matter connected to this Agreement. Vendor agrees to save, keep, hold harmless, protect and indemnify ACTA and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Vendor in the performance of this Agreement.

18. Proprietary Information

Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by ACTA as soon as they are developed, whether in draft or final form. ACTA has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Vendor hereby warrants and represents that ACTA at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Vendor need not obtain for ACTA the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Vendor or one of its employees, or its Subcontractor or the Subcontractor's employees, in which case such right shall be obtained without additional compensation. Whether or not Vendor's initial proposal or proposals made during this Agreement are accepted by ACTA, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Vendor, its Subcontractors or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to the ACTA, its board, officers, agents or employees, is not given in confidence. Accordingly, ACTA or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

19. Royalty-Free License

If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Vendor, its officers, agents, employees, or Subcontractors, ACTA shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by ACTA. Upon ACTA's request, Vendor, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to ACTA. It is expressly understood and agreed that, as between ACTA and Vendor, the referenced license shall arise for ACTA's benefit immediately upon the production of the work product, and is not dependent on the

written license specified above. ACTA may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by ACTA.

20. ACTA's Disclosure Obligations

Vendor acknowledges that ACTA is subject to laws, rules and/or regulations generally requiring it to disclose records upon request, which laws, rules and/or regulations include, but are not limited to, the California Public Records Act (California Government Code Sections 6250 et seq.) ("Disclosure Laws").

21. Notices

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, registered or certified mail, return receipt requested, and postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purpose hereof, unless otherwise provided by notice in writing from the respective parties, notice to ACTA shall be addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Vendor shall be addressed to it at the address set forth above. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

22. Construction of Agreement

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

23. Titles and Captions

The parties have inserted the section titles in this Agreement only as a matter of convenience and for reference, and the section titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

24. Modification in Writing

This Agreement shall not be amended, nor any provision or breach hereof waived, except in writing signed by the parties which expressly refers to this Agreement. Any such modifications are subject to all applicable approval processes required by, without limitation, ACTA's Joint Powers Authority Agreement.

25. Waiver

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

26. Governing Law/Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

27. Severability

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

28. Integrated Agreement

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

29. Exhibits; Sections

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to sections are to sections of this Agreement unless stated otherwise.

30. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date next to their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael Leue, P.E. Chief
Executive Officer

Attest: _____
Secretary

VENDOR NAME

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2020
_____, _____ City Attorney

By _____
_____, ACTA Co-General Counsel

**Exhibit C
MONTHLY SUBCONTRACTOR MONITORING REPORT**

Instructions: Please indicate the participation levels achieved for the month of _____ for the referenced contract number.

Contract No. _____ Start Date _____ End Date _____

Committed SBE Participation Percentage _____

				PROPOSED	ACTUALS		
	Name of Subcontractor	Work Performed	Certifications:* SBE/VSBE/MBE/WBE/OBE/DVBE	Original Proposed SBE Percentage	Amount Paid This Month	Amount Paid to Date	Overall Contract Amount Percentage (Paid to Date)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

* Indicate all certifications held by each subcontractor

EXHIBIT D

SMALL BUSINESS ENTERPRISE PROGRAM

The Alameda Corridor Transportation Authority ("ACTA") is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at ACTA. ACTA's Small Business Enterprise (SBE) Program was created to provide opportunities for small businesses to participate in professional service and construction contracts. It is the policy of ACTA to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows ACTA to target small business participation, including MBEs, WBEs, and DVBES, more effectively.

An overall ACTA goal of 25% SBE participation by total contract value and/or by total number of contracts awarded to SBE prime consultants or contractors has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work, and will be stated in the specific request for proposals or bids. **Based on the work to be performed under this Federal Advocacy Services Agreement, it has been determined that the percentage of small business participation will be 0% participation.**

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement, where required, and for reporting to ACTA. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs.

Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: _____ Award Date: _____ Contract Term: _____

Contract Title: _____

Business Name: _____ Award Total: \$ _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____