

RFP EXHIBIT D

PROPOSER RESPONSIBILITY AND COMPLIANCE FORMS

**MUNICIPAL STORMWATER PROGRAM IMPLEMENTATION
SUPPORT SERVICES**

DS RPF 26-04

This book contains notices, questionnaires, forms and certifications that must be submitted as part of the Proposal. Non-submittal of this book will be considered non-responsive and shall be rejected. Incompleteness of this book may be considered non-responsive in accordance with Section XIV. Evaluation Criteria of the RFP.

TABLE OF CONTENTS

A. Instructions to complete Proposal Forms

B. Proposal Documents and Forms

1. PROPOSERS QUESTIONNAIRE 4

2. PROPOSER’S LIST OF SUBCONTRACTORS (DBE AND NON-DBE) 11

3. ADDITIONAL FORMS AND CERTIFICATIONS 13

NONCOLLUSION DECLARATION 13

IRAN CONTRACTING ACT CERTIFICATION 13

HAZARDOUS MATERIAL STATEMENT..... 14

DEBARMENT AND SUSPENSION CERTIFICATION 14

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION Er

ror! Bookmark not defined.

PUBLIC CONTRACT CODE STATEMENTS 17

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE 16

DISCLOSURE AND CERTIFICATION REGARDING CONFLICT OF INTEREST 19

4. COMPLIANCE WITH ECONOMIC SANCTIONS IMPOSED IN RESPONSE TO RUSSIA’S ACTIONS IN UKRAINE

5. COMPLIANCE WITH CALIFORNIA AIR RESOURCES BOARD REGULATIONS

A. Instructions to complete Proposal Forms

Proposal Forms must be submitted on the forms provided. Proposals submitted in any other form will be considered non-responsive and shall be rejected. Proposals shall include the information requested and blank spaces on the appropriate proposal forms must be properly filled in, and the specified required content must not be changed. Additions or changes shall not be made to the items mentioned therein. All requested information provided shall be typewritten or printed legibly in spaces provided.

Note: The completed Proposal Book of the successful Proposer shall be incorporated into and made part of the Agreement excluding the questionnaire.

1. Complete all applicable forms and submit electronically with the proposal as PDF attachment(s). All requested information provided shall be typewritten or printed legibly in spaces provided.

2. Signatures Required

The person(s) signing the bid documents on behalf of a bidder represents that he or she has full power to execute bid documents on behalf of the bidder.

The Bidder shall provide evidence that the individual(s) signing the bid documents is authorized to bind the legal entity of the Bidder as follows:

- Sole Proprietorship: A Fictitious Business Name Statement or a City of San Marcos business license is sufficient to establish the authority of an individual to bind the sole proprietorship.
- Corporation: A copy of certified Board minutes, resolution, or articles of incorporation establishing to the satisfaction of the City Attorney that the individual has the authority to bind the corporation to the terms of the bid documents.
- Partnership: A Certificate of Partnership (State form LP-1 for Limited Partnerships), or a copy of the partnership agreement is sufficient to establish the authority of a single general partner to bind the partnership. For multi-party partnerships, a copy of the partnership agreement, minutes, resolution or bylaws, establishing to the satisfaction of the City Attorney that the person signing has the authority to bind the partnership to the terms of the bid documents.
- Multiple Entities: If the individual or individuals signing the documents are signing on behalf of an entity other than the Bidder, and that other entity is authorized to bind the legal entity of the Bidder, then documentation must be submitted which establishes to the satisfaction of the City Attorney that the individuals have the authority to bind the other entity, and that the other entity has the authority to bind the legal entity of the Bidder.

3. Notice of Instructions to Principal and Surety regarding completion of Bonds:

- a) Principal's signature with title must be properly notarized (i.e., proprietorship, partnership, corporation, joint venture). If corporation, affix seal;
- b) Signature of Attorney-in-Fact for Surety must be properly notarized;
- c) Certified copy of Power of Attorney for Surety's Attorney-in-Fact attached; and
- d) If bond is executed in excess of Surety company's treasury limit, evidence of how bond was reinsured must be attached over signature of Attorney-in-Fact.

B. Proposal Documents and Forms

1. PROPOSERS QUESTIONNAIRE

a. PRIMARY CONTACT INFORMATION

Name:	
Title:	
Phone:	
Email:	

b. BUSINESS ORGANIZATION AND PERSONNEL

Provide a brief description of type of business (i.e., corporation, partnership, etc.), including the classification of businesses in which it is engaged (ie: Financial services, Manufacturer, Dealer, etc.) and the location of offices.

Business Type:	
Business Classification:	
Location of Offices:	

c. CONTRACTOR’S DIR REGISTRATION ☐ Yes, see below ☒ N/A

Proposer certifies, under penalty of perjury, that Proposer is currently registered with the California Department of Industrial Relations public works contractor registration program in compliance with Labor Code Section 1725.5. Proposer further certifies that Proposer is in compliance with the minimum contractor registration program qualifications necessary under Labor Code Section 1725.5(a) to be eligible to work on public works projects in the City of San Marcos. Provide Subcontractor DIR Registration Numbers in Subcontractor List form.

DIR REGISTRATION NUMBER:	N/A
--------------------------	-----

d. LICENSES, CERTIFICATIONS AND REGISTRATIONS

List any professional licenses, Certifications and Registrations as may be applicable to perform the services in this RFP.

Description	Number	Date

City of San Marcos Business License No:	<input type="checkbox"/> New; Will provide if contract Awarded <input type="checkbox"/> Existing; COSM Business License No. _____
---	--

e. OTHER PRINCIPALS WITH PROPOSER ☐ Yes, see below ☐ N/A

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest in this proposal.

Name	Title	Address	Phone Number

All current and prior DBA's, aliases, and/or fictitious business names for any principal having an interest in this proposal are as follows:

Name(s)

f. FINANCIAL CONDITION AND BANKRUPTCY JUDGMENTS ☐ Yes, see below ☐ N/A

If requested by Agency, the Proposer shall furnish (within 10 working days of the request) a notarized financial statement, further references, and other sufficiently comprehensive information to permit an appraisal of the Proposer's current financial condition.

The date of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

Date	Judgment (voluntary or involuntary)

g. CLAIMS HISTORY

- A. Has any claim (whether mediated, arbitrated or litigated) been made against your company in the past five years? Yes ☐ No ☐
- B. Has your company made any claim (whether mediated, arbitrated or litigated) against any City or client in the past five years? Yes ☐ No ☐
- C. If you checked "yes" to Sections (A) and/or (B) above, describe the claims using the format below: (use additional sheets if necessary)

Project Name:	
Claim Amount:	
Other Party Contact Name:	
Other Party Contact Phone No.:	

h. COMPLETION OF WORK BY SURETY

Has a surety ever completed any portion of a construction contract of your company with the last five years?
 Yes ☐ No ☐ N/A ☐. If yes, provide an explanation below:

Project Name:	
Surety Contact Name and Phone No.:	
Date Surety Took Over:	
Explanation:	

i. CONTRACT TERMINATION

Has your company ever been terminated by a City or client, or rejected from proposing/bidding on a public work project in the last five years? Yes ☐ No ☐. If yes, provide an explanation below:

Project Name	City/Client Contact	Contact Phone #	Date of Termination/Rejection
Explanation:			

Project Name	City/Client Contact	Contact Phone #	Date of Termination/Rejection
Explanation:			

j. EXCEPTIONS AND/OR CLARIFICATIONS

City has outlined the requirements herein in as much detail as is currently known. State and List exceptions, and/or clarifications (if any) to Scope of Work for this project. Notwithstanding the submission of such exceptions or clarifications, acceptance thereof shall be neither implied nor assured and shall be subject solely to the discretion of the City of San Marcos.

k. INSURANCE REQUIREMENTS

Proposer certifies (1) that it has read the insurance requirements of the RFP, (2) that it can meet the limits (including but not limited to endorsements) set forth in the RFP documents, and (3) that the designated insurance carrier(s) listed below meet the requirements of the RFP and Contract Documents and are authorized to transact insurance business in the State of California.

The following are the names, addresses, and phone numbers of all the insurance companies, and sureties from whom Proposer intends to procure insurance:

Broker and/or Insurance Carrier	Address	Phone Number

For reference only, below is an example Certificate of Insurance (COI) on following page (endorsements are separate).

EXAMPLE CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	POLICY NAME:	
	PHONE (A/C, N/C, EXT):	FAX (A/C, N/C):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A:	
INSURED	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	
	INSURER G:	

COVERAGE: CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

FORM LTH	TYPE OF INSURANCE	INDUSTRY IND. WVD	NAIC #	POLICY EFF. (MM/DD/YYYY)	POLICY EXPI. (MM/DD/YYYY)	LIMITS
1	COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE
	CLAIMS-MADE <input type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (EA OCCURRENCE)
						MED. EXP. (Per person)
						PERSONAL & ADV. INJURY
						GENERAL AGGREGATE
						PROD. CTRL. CHANGES AGG.
						COMBINED SINGLE LIMIT (EA OCCURRENCE)
						BODILY INJURY (Per person)
						BODILY INJURY (Per accident)
						PROPERTY DAMAGE (Per accident)
2	UMBRELLA/LIAB					EACH OCCURRENCE
	EXCESS / MB					AGGREGATE
	DED. RETENTION \$					
3	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					PER STATUTE
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					E.L. EACH ACCIDENT
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE
						E.L. DISEASE - POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101 Additional Remarks Schedule may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p>	<p>AUTHORIZED REPRESENTATIVE</p>
	<p></p>

© 1988-2014 ACORD CORPORATION All rights reserved

ACORD 25 (2014/01)

The ACORD name and logo are registered marks of ACORD

q. ADDITIONAL PAGES

If additional room is needed in response to any of the questions above, please describe below. The Proposer declares that the ADDITIONAL PAGES are included with these Proposal Documents in order to accurately respond to the Proposal Requirements. The following constitutes the additional information:

r. ACKNOWLEDGEMENT

I acknowledge that I have read and understand the contents of the RFP and agree to comply with the requirements and conditions contained in the RFP and all of the applicable Exhibits/Attachments hereto.

I further acknowledge that the proposal is **valid for 120 days** from the submission date.

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

Legal Name of Proposer (Type or Print):	
Name of Person authorized to sign (Type or Print):	
Title:	
Signature:	

2. PROPOSER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

Complete the following.

Partial submittal or failure to include all required information may preclude the full analysis and review of your Proposal within the specified time frame and may be cause to disqualification of your proposal as non-responsive.

In order to comply with the Subletting and Subcontracting Fair Practices Act as set forth in Public Contract Code Section 4100 et seq. ("Subcontracting Act"), the Proposer is required to submit information regarding subcontractors under the Proposal Documents.

Any officer, department, board, or commission taking bids for the construction of any public work or improvement shall provide in the specifications prepared for the work or improvement or in the general conditions under which bids will be received for the doing of the work incident to the public work or improvement that any person making a bid or offer to perform the work, shall, in his or her bid or offer, set forth:

- (1) The name, the location of the place of business, the California contractor license number, and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid **or, in the case of bids or offers for the construction of streets or highways, including bridges,** in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater."

An inadvertent error in listing the California contractor license number or public works contractor registration number provided pursuant to paragraph (1) shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the public entity by the prime contractor within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

Any information requested by the officer, department, board, or commission concerning any subcontractor who the prime contractor is required to list under this subdivision, other than the subcontractor's name, location of business, the California contractor license number, and the public works contractor registration number, may be submitted by the prime contractor up to 24 hours after the deadline established by the officer, department, board, or commission for receipt of bids by prime contractors.

Proposer further states that all listed subcontractors have been made aware of the Contract requirements relating to nondiscrimination and insurance. If the Proposer fails to specify a subcontractor or if the Proposer specifies more than one subcontractor for the same portion of the work listed, the Proposer agrees that it is fully qualified to perform that portion itself, and that the Proposer shall perform that portion itself.

The Proposer shall be subject to the penalties set forth in the Subcontracting Act if the Proposer lists in his proposal another contractor who will in turn sublet portions constituting the majority of work covered by the prime contract.

If, after award of Contract, the successful proposer ("Contractor") subcontracts, except as provided in the Subcontracting Act, the Contractor shall be subject to the penalties set forth in the Subcontracting Act. If the Contractor violates any provisions of the Subcontracting Act or the Contract, the Agency may either cancel this Contract or assess a penalty to the Contractor in accordance with the terms of the Subcontracting Act.

Exhibit 12-B: Bidder’s List of Subcontractor (DBE and Non-DBE) - Part 1

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts must be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>. The local agency will verify registration of all contractors and subcontractors on public works projects at bid and thereafter annually to assure that yearly registration is maintained throughout the life of the project.

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater).

Photocopy this form for additional firms.

FEDERAL PROJECT NUMBER:

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
				DIR Reg Number				
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	

Exhibit 12-B: Bidder’s List of Subcontractor (DBE and Non-DBE) - Part 2

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but **were not selected** to participate as a subcontractor on this project.

Photocopy this form for additional firms.

FEDERAL PROJECT NUMBER:

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
				DIR Reg Number				
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	
NAME							< \$1 million	
							< \$5 million	
							< \$10 million	
City, State							< \$15 million	
							Age of Firm in years	

3. ADDITIONAL FORMS AND CERTIFICATIONS

NONCOLLUSION DECLARATION

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

To the City of San Marcos

NONCOLLUSION DECLARATION TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH PROPOSAL

The undersigned declares:

I am the _____ [Title] of _____ [Company Name], the party making the foregoing bid.

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

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

IRAN CONTRACTING ACT CERTIFICATION

(Public Contract Code Section 2200 *et seq.*)

As required by California Public Contract Code section 2204, the Contractor certifies under penalty of perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code sections 2200, *et seq.*) is true and correct:

☐ The Contractor is not:

(i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code section 2203; or

(ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision

(b) of Public Contract Code section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran prepared by the Department of General Services.

- ☐ The Contractor has been exempted from the requirements of the Iran Contracting Act of 2010 after a public finding with respect to the contract in question that, absent the exemption, the City of San Marcos will be unable to obtain the goods and/or services to be provided pursuant to the Contract. If the Contractor has obtained an exemption from the certification requirement under the Iran Contracting Act, ***attach documentation demonstrating the exemption approval.***
- ☐ The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

HAZARDOUS MATERIAL STATEMENT

Contractor shall notify the City and post proper warning signs if any materials or substances are used that are affected by the Proposition 65 Regulations. Contractor shall provide the City a copy of the Material Safety Data Sheet (MSDS) for all materials listed on the Federal/OSHA Director's List of Hazardous Materials. Contractor will be responsible for the safe storage, use, and application of the material(s)/product(s). Contractor shall have in place a written hazard communication program and injury and illness prevention program. Upon request, Proposer/Contractor shall provide City a copy of the communication and prevention programs.

The Contractor certifies that it will comply with all applicable local, state, and federal laws and regulations regarding the transportation, storage, use, and application of hazardous and/or contaminated materials.

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The Proposer, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

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

If there are any exceptions to this certification, insert the exceptions in the following space, attaching pages if needed.

Exceptions will not necessarily result in denial of award, but will be considered in determining proposer responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The Contractor/Proposer _____ hereby certifies that it ☐ has ☐ has not (**check one**) participated in a previous contract or subcontract subject to the Equal Opportunity Clause as required by **Executive Order 11246, as amended**, and that, where required, it has filed all compliance reports with the **U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP)**, or other appropriate federal contracting or administering agency, in accordance with applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)) and must be submitted by proposers and proposed subcontractors only in connection with contracts and subcontracts that are subject to the Equal Opportunity Clause. Contracts and subcontracts that are exempt from the Equal Opportunity Clause are set forth in 41 CFR 60-1.5 (generally, contracts or subcontracts of \$10,000 or less are exempt).

The EEO-1 Component 1 Report is required by the applicable regulations implementing Executive Order 11246.

Proposed prime contractors and subcontractors that have participated in a previous contract or subcontract subject to Executive Order 11246 and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prohibits the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the applicable federal funding agency or by the Director of OFCCP, U.S. Department of Labor.

The language of this certification shall be included in all subawards (including subcontracts) at all tiers.

PUBLIC CONTRACT CODE STATEMENTS

PUBLIC CONTRACT CODE SECTION 10232 STATEMENT

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the proposer hereby declares under penalty of perjury under the laws of the State of California that the proposer ☐ has ☐ has not **(MUST CHECK ONE)** been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the proposing upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "proposer" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In conformance with Public Contract Code Section 10162, the Proposer shall complete, under penalty of perjury, the following questionnaire:

Has the Proposer, any officer of the Proposer, or any employee of the Proposer who has a proprietary interest in the proposal, ever been disqualified, removed, or otherwise prevented from proposing or bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation? ☐ Yes ☐ No (Must Check One)

If the answer is yes, explain the circumstances in the following space.

DISCLOSURE AND CERTIFICATION REGARDING CONFLICT OF INTEREST

The Proposer hereby acknowledges that it has read the Conflict of Interest Requirements included in the RFP/Contract and has, to the best of its knowledge and belief:

(Choose One)

☐ Determined that there are no relevant facts or circumstances which could give rise to conflicts of interest.
(Proposer may provide an explanation or any supporting documentation).

☐ Determined that one or more conflicts of interest or potential conflict of interest exists.

(Proposer **must** provide a detailed description of the conflict or potential conflict and a proposed plan for avoiding, neutralizing or mitigating the negative effects of the conflict and ***attach documentation***).

Proposer agrees to:

- 1) implement and maintain an internal compliance program to ensure compliance with contract requirements and to monitor potential conflicts of interest; and
- 2) disclose conflicts of interest to the Agency during the duration of the contract, if awarded a contract; and
- 3) include this Disclosure in all contracts with Subcontractors and payees receiving more than ten thousand dollars (\$10,000) in funds in connection with the work of the City.
- 4) Include a disclosure of San Marcos Municipal Code Chapter 2.16 in all contracts with subcontractors and payees in connection with the work of the City.

By signing below, the Proposer certifies that the information contained in this form is accurate to the best of its knowledge, and that the Proposer agrees to comply with the requirements herein. The Proposer has a continuing obligation to the City to disclose conflicts of interest to the City during the solicitation phase or, if awarded a contract, throughout the duration of the contract.

WITH REGARD TO ALL STATEMENTS ABOVE, ADDITIONAL FORMS AND CERTIFICATIONS:

I declare and certify, under penalty of perjury under the laws of the State of California, that I have read and shall comply with all the provisions contained herein and as may be amended and that the foregoing is true and correct. This declaration is executed on _____ [date], at _____ [city], ____ [state].

Legal Name of Proposer (Type or Print):	
Name of Person authorized to sign (Type or Print):	
Title:	
Signature:	

Note: In accordance with Public Contract Code section 2205, false certifications shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to propose on contracts for three years. The City of San Marcos also reserves remedies available to it with respect to any such false certification.

4. COMPLIANCE WITH ECONOMIC SANCTIONS IMPOSED IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (EO) regarding sanctions in response to Russian aggression in Ukraine. The EO is located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf>.

The EO directs all agencies and departments that are subject to the Governor's authority to take certain immediate steps, including notifying all contractors and grantees of their obligations to comply with existing economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law.

This correspondence serves as a notice under the EO that as a contractor or grantee, compliance with the economic sanctions imposed in response to Russia's actions in Ukraine is required, including with respect to, but not limited to, the federal executive orders identified in the EO and the sanctions identified on the U.S. Department of the Treasury website:

(<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). Failure to comply may result in the termination of contracts or grants, as applicable.

☐ The amount of the contract payable to the Contractor for the work does not exceed \$5,000,000.

NOTE: Any agreements or grants valued at \$5 million or more are subject to additional reporting requirements pursuant to the EO. See additional form on following page.

The Proposer certifies that it has received and read this notice and shall comply with all applicable local, state, and federal laws and regulations regarding, including but not limited to, the economic sanctions imposed by Executive Order N-6-22 (EO) and the sanctions identified on the U.S. Department of the Treasury website above.

Legal Name of Proposer (Type or Print):	
Name of Person authorized to sign (Type or Print):	
Title:	
Signature:	
Date:	

5. COMPLIANCE WITH CALIFORNIA AIR RESOURCES BOARD REGULATIONS

The California Air Resources Board (CARB) implemented amendments to the In-Use Off-Road **Diesel-Fueled** fleets Regulations (“Regulation”) which are effective January 1, 2024, and broadly apply to all self-propelled off-road **diesel** vehicles 25 horsepower or greater used in California and most two-engine vehicles (except on-road two-engine sweepers). This includes vehicles that are rented or leased (rental or leased fleets). A copy of the Regulation is available at: <https://ww2.arb.ca.gov/our-work/programs/use-road-diesel-fueled-fleets-regulation/about>.

Bidders are required to comply with all CARB and Regulation requirements, including, without limitation, all applicable sections of the Regulation, as codified in Title 13 of the California Code of Regulations section 2449 et seq. throughout the term of the Project. If applicable, **Bidders must provide, with their Bid, copies of the Bidder’s valid Certificate of Reported compliance (CRC) issued by CARB. Bidder shall supply valid CRC’s for its listed subcontractor’s prior to award of contract, if any.**

Contractor shall comply, and shall ensure all subcontractors comply, with all applicable requirements of the most current version of the CARB regulations including, without limitation, all applicable terms of Title 13, California Code of Regulations Division 3, Chapter 9 and all pending amendments.

Throughout the Project, and for three (3) years thereafter, Contractor shall make available for inspections and copying any and all documents or information associated with Contractor’s and subcontractors’ fleet including, without limitation, CRC’s, fuel/refueling records, maintenance records, emissions records, and any other information the Contractor is required to produce, keep or maintain pursuant to the Regulation upon two (2) calendar days’ notice from the City.

Contractor shall be solely liable for complying with the Regulation and any and all costs associated with complying with the Regulation as well as for any and all penalties, fines, damages, or costs associated with any and all violations, or failures to comply with the Regulation.

FLEET COMPLIANCE CERTIFICATION

The Bidder hereby certifies, under penalty of perjury, that it has received and read this notice and shall comply with any and all CARB rules and regulations and by checking the option below relating to the Bidder’s fleet, and/or that of their subcontractors’ (collectively, Fleet) are true and correct:

☐ The Fleet is subject to the requirements of the Regulation, and **the appropriate Certificate(s) of Reported Compliance (CRC) have been provided and attached hereto.**

☐ The Fleet is exempt from the Regulation under Section 2449.1(f)(2), and a signed description of the subject vehicles, and reasoning for exemption have been provided and are attached hereto.

☐ Bidder and/or their subcontractor is unable to procure R99 or R100 renewable diesel fuel as defined in the Regulation. Bidder shall keep detailed records describing the normal refueling methods, their attempts to procure renewable diesel fuel and proof that shows they were not able to procure renewable diesel (i.e., Third party correspondence or vendor bids).

☐ The Fleet is exempt from the requirements of the Regulation because this Project has been deemed an “emergency”, as in the Regulation. Bidder shall only operate the exempted vehicles in the emergency situation and records of the exempted vehicles must be maintain pursuant to the Regulation.

☐ The Fleet does not fall under the Regulation or are otherwise exempt with reasoning as follows (complete below, note that N/A is not acceptable):

Legal Name of Proposer (Type or Print):	
Name of Person authorized to sign (Type or Print):	
Title:	
Signature:	