1. **Invoicing** 
   1. Contractor shall submit progress billings to the State monthly in arrears.
      1. Each invoice shall provide sufficient scope and detail to define the actual work performed and specific milestones completed, including a description of the activities of the Contractor and subcontractors; a description of the problems encountered; the status of various tasks underway, and up-to-date planning and milestone schedule; a statement of tasks and milestones completed; and a statement of funds budgeted and expended to date for each task including identification of personnel used with time, compensation, and expenses paid or payable to each worker by the Contractor including expenses paid to subcontractors if any, material purchased, and any other costs incurred during the payment period.
2. **Payment** 
   1. In consideration for the satisfactory completion of the services described herein, the State agrees to pay the Contractor, no more than monthly, in arrears for deliverables and services upon completion of services, issuance of Commission acceptance, and monthly Contractor invoice issuance, at the following rates in Tables B-1, B-2, and B-3 or as approved by Project Coordinator email.
      1. No warranty is made, written, or implied as to the actual amount of work that will be requested pursuant to this Agreement.
      2. The rate for services rendered shall not exceed those as set forth in Cost Worksheet Table B-1 or as approved by the Project Coordinator.
      3. Invoices shall include:
         1. The Agreement Number **TBD**
         2. Project Coordinator approval emails if applicable.
   2. Electronic delivery of invoices or supporting documentation is accepted. Invoices and supporting documents can be submitted via email or physical mail:
      1. Email: [CSLC.AccountsPayable@slc.ca.gov](mailto:CSLC.AccountsPayable@slc.ca.gov)
      2. State Lands Commission

100 Howe Avenue, Suite-100 South

Sacramento, CA 95825-8202

**Attn: Accounting**

* 1. Direct all inquiries regarding invoice submittal and payments to: [CSLC.AccountsPayable@slc.ca.gov](mailto:CSLC.AccountsPayable@slc.ca.gov).

1. **Cost Worksheet Table B-1 - Tasks:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Task #** | **Task Description:** | **Hours Budget – Not to exceed:** | **Hours Budget – Not to exceed:** |
| **1** | Draft and finalize an alternative port location scenario assessment | **To be determined** | **To be determined** |
| **2** | Draft and final feasibility assessment report | **To be determined** | **To be determined** |

1. **Cost Worksheet Table B-2 – Bill Rates:**

|  |  |  |
| --- | --- | --- |
| **Bill Rate #** | **Resource Description:** | **Rate per Hour:** |
| **1** | Prime Contractor – Project Manager | **To be determined** |
| **2** | Prime Contractor – Deputy Project Manager | **To be determined** |
| **3** | Prime Contractor - | **To be determined** |
| **4** | Prime Contractor - Technical Editor | **To be determined** |
| **5** | Prime Contractor – GIS Specialist | **To be determined** |
| **6** | Prime Contractor – Admin | **To be determined** |
| **7** | Subcontractor – Principal | **To be determined** |
| **8** | Subcontractor – Admin | **To be determined** |

1. **Cost Worksheet Table B-3 – Optional Tasks:**

|  |  |  |  |
| --- | --- | --- | --- |
| **OpTask #** | **Task Description:** | **Hours Budget – Not to exceed** | **Task Budget – Not to exceed:** |
| **1** | *Task Description* | **To be determined** | **To be determined** |
| **2** | *Task Description* | **To be determined** | **To be determined** |
| **3** | *Task Description* | **To be determined** | **To be determined** |
| **4** | *Task Description* | **To be determined** | **To be determined** |
| **5** | *Task Description* | **To be determined** | **To be determined** |
| **6** | *Task Description* | **To be determined** | **To be determined** |
| **7** | *Task Description* | **To be determined** | **To be determined** |
| **8** | *Task Description* | **To be determined** | **To be determined** |

1. **Task Approval Process**
   1. The designated Commission representative shall maintain control and direction at all times over the scope of work being performed by the Contractor under this Agreement.
   2. The Commission representative reserves the right to change the tasks as defined within the general scope of work to be performed by the Contractor.
   3. The State reserves the right to modify, reject, cancel, or stop any and all plans, schedules, or work in progress. In such event, the Contractor agrees to use all reasonable efforts to mitigate expenses and obligations under this Agreement. The State shall reimburse the Contractor for all satisfactory services rendered and expenses, if any, incurred prior to such notice of termination.
2. **Deliverable Acceptance Criteria**
   1. All concluded work must be submitted to the Commission for review and approval or rejection. Payment for all tasks performed under this Agreement will be based on deliverables. It will be the Commission’s sole determination as to whether any tasks have been successfully completed and are acceptable.
   2. Throughout the contract, the Commission will review and validate services performed. In addition, the Commission representative per the final executed Exhibit A will verify and approve the Contractor’s invoices. Signed acceptance is required from the Commission representative to approve an invoice for payment.
   3. Deliverable acceptance criteria consist of the following:
      1. Deliverable-specific work was completed as specified and the final deliverable product or service was rendered.
         1. Plans, schedules, designs, documentation, digital files, photographs, and reports (deliverables) were completed as specified and approved.
         2. All deliverable documentation and artifact gathering have been completed.
         3. All deliverables are in a format useful to the Commission.
         4. If a deliverable is not accepted, the Commission will provide the reason, in writing, within ten (10) business days of receipt of the deliverable.
3. **Progress Payments -** Progress payments are permitted for work performed under this Agreement. Payments of any sums under this section shall not constitute acceptance by the State of any work performed and shall not be a waiver of any claim against the Contractor.
   1. Contractor invoicing shall track the following but are not limited to:
      1. Billing and hours by Task – per invoice and cumulative
      2. Retention by invoice and cumulative
      3. Progress towards three (3%) DVBE mandatory participation goal
4. **Withhold 1 – Per Invoice - Retention -** In accordance with the requirements set forth in the State Contracting Manual, Section 7.33.B, the State may withhold, from each invoiced payment, an amount equal to ten percent (10%) of that payment. Such retained amount shall be held by the State and only released to the Contractor upon the State’s staff determination that the Contractor has satisfactorily completed all of the required services under this Agreement.
5. **Withhold 2 – Close-out Reporting -** If awarded, Contractor shall submit a complete and accurate Prime Contractor’s Certification – DVBE Subcontracting Report ([Std. 817](http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std817.pdf)) upon Agreement completion.
   1. The Commission shall withhold $10,000, or full payment if less than $10,000, from a prime contractor’s final payment pending receipt of a complete and accurate Prime Contractor’s Certification. If the Contractor does not fully comply with this provision within sixty (60) calendar days of receiving a notice to cure by the Commission, the withheld amount will be permanently deducted. The Contractor must maintain records supporting the information submitted on the Prime Contractor’s Certification and supporting that all payments to the DVBE subcontractor(s) were made. For more information see [Department of General Services Broadcast Bulletin P-05-21](https://www.dgs.ca.gov/-/media/Divisions/PD/PTCS/Broadcast-Bulletins/2021/P-05-21---DVBE-Contracting-and-Reporting-Requirements.pdf?la=en&hash=CF9502BEF7987B5F908058EA1B4666E0A699CC9D).
   2. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Military & Veterans Code (M&VC) section 999.5(d)).
6. **Consultant** - Staff Expenses
   1. The Contractor shall secure at its own expense, all staff including subcontractors and legal staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any personal contractual relationship with the Commission or any other governmental entity.
   2. The State reserves the right to approve in advance Contractor’s personnel to be assigned to this project and to disapprove the continuing assignment of Contractor’s personnel provided under this Agreement. If a Contractor’s employee is unable to perform due to illness, resignation, or other factors beyond the Contractor's control, the Contractor shall make every reasonable effort to immediately provide suitable substitute personnel.
7. **Subcontractors** 
   1. If Contractor’s proposal and cost proposal list specific subcontractors to be used in the performance of this Agreement the Commission has entered into the contract with reliance on those identified subcontractors.
      1. Contractor shall not replace Subcontractors listed in its proposal or in its cost proposal without the prior written approval of the Commission.
      2. Such approval shall not be unreasonably withheld. The provisions and obligations of this Agreement shall apply to any new subcontract and subcontractor and Contractor shall be responsible to the Commission for any damages arising out of subcontracts not in accordance with this Contract. Nothing in this Agreement shall create any contractual relations between a subcontractor and the Commission.
8. **Replacement of Personnel**
   1. BY CONTRACTOR
      1. This Agreement is for services to be provided by specific persons listed and described in the Contractor’s Proposal and the Agreement Estimate is based on salaries for these same persons as identified in Contractor’s Cost Proposal. State enters into this Agreement relying on the skills and qualifications of those persons and the costs identified for them by the Contractor. Contractor acknowledges that in the event any or all of these individuals are removed, replaced, or reassigned by the Contractor, such removal, replacement, or reassignment may result in serious harm to the State.
      2. Contractor agrees not to remove, replace, or reassign such individuals without the written approval of the State Project Manager. Such approval shall not be unreasonably withheld or delayed provided that any replacement or additional personnel proposed during the life of this Agreement meet or exceed the skill level and experience that the Contractor proposed. The State Project Manager will have the final decision and has the authority as to whether substitute personnel meets the qualifications and whether to approve the substitution of the Contractor team members. Contractor shall provide to the State’s Project Manager the name and resume of such person and the work to be performed, along with a justification of the necessity for the substitution or addition and the rate to be charged.
      3. Contractor agrees not to charge the State for the time spent in selecting and familiarizing new personnel with the work.
   2. BY STATE
      1. If State finds the performance of any of Contractor’s employees or subcontractors to be unsatisfactory and so notifies the Contractor in writing, Contractor shall have a reasonable time, not to exceed 30 days, to remedy that person’s unsatisfactory performance or to replace said employee or subcontractor.
      2. This provision does not in any way require, endorse, or approve (expressed or implied) the termination of employment by the Contractor of any employee removed, replaced, or reassigned under the terms of this paragraph.
9. **Disabled Veterans’ Business Enterprise (DVBE) Participation and Certification**
   1. Contractor understands and agrees that the award of this Agreement was based in part on their commitment to using the Disabled Veterans’ Business Enterprise (DVBE) subcontractor(s) identified in their proposal or offer, per Military and Veterans Code 999.5 (e). Each state department has a participation goal of not less than 3% for disabled veteran business enterprises. These goals apply to the overall dollar amount expended each year by the awarding department.
   2. The Commission recognizes disabled veterans for their service and has a DVBE Participation Program. The program is intended to further veterans’ participation in the Commission contracting, promote competition, and encourage greater economic opportunity.
   3. Agreement Goal - This Agreement has a mandatory participation goal of at least three (3) percent of the total contract price for subcontracting to qualified DVBEs. This 3% goal may be achieved by a combined effort of the Contractor and subcontractors. Any business used to meet the DVBE requirement must be certified by or have certification pending with the DGS Office of Small Business Certification and Resources.
      1. The Contractor will work proactively with the Commission, [CalVet](https://www.calvet.ca.gov/), and the Department of General Services to resolve participation issues.
   4. Verification - Contractor agrees to provide verification, in a form agreed to by the Commission, that DVBE subcontractor participation under this Agreement is in compliance with the goals specified at the time of award of contract, or with any subsequent amendment.
      1. The Contractor will identify those subcontractors as DVBEs on invoicing, supporting documentation, and routinely report the contract price amounts allocated to those subcontractors.
   5. Replacements - A DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the Department of General Services (DGS). Replacements must be reviewed, approved, and processed in accordance with the California Code of Regulations, title 2, section 1896.73 et seq.
   6. Amendments - In the event the Agreement is amended to increase the amount, Contractor will be required to comply with the DVBE participation requirement for the amended amount.
   7. Penalties - Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the proposal or offer may be cause for contract termination, recovery of damages under rights and remedies due to the Commission, and penalties as outlined in M&VC section 999.9; Public Contract Code (PCC) section 10115.10, or PCC section 4110 (applies to public works only).
   8. For general information regarding DVBE contracting, email the [Office of Small Business and Disabled Veteran Business Enterprise Services](https://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/OSDS/OSDS) (OSDS) [osdshelp@dgs.ca.gov](mailto:osdshelp@dgs.ca.gov) or call (916) 375-4940.
10. **Reimbursement rates for travel -** shall be according to [the California Department of Human Resources (CalHR) current state rates.](http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx) No travel outside the State of California by Contractor shall be reimbursed unless there is prior written authorization obtained from the Commission.
11. **No Additional Work -** All work is subject to amendment requirements as specified in Exhibit A. No additional work shall be performed by the Contractor unless authorized by the State Project coordinator and all requirements are met including the review by the DGS Legal, if necessary. All work outside the work plans shall be performed in accordance with all applicable requirements of this Agreement.
12. **Settlement of Disputes -** In the event of a dispute, Contractor shall file a “Notice of Dispute” with the California State Lands Commission, Executive Officer, or her designee within ten (10) days of discovery of the problem. Within ten (10) days, the Executive Officer or her designee shall meet with the Contractor and project coordinator for the purposes of resolving the dispute. The decision of the Executive Officer or her designee shall be final. Notwithstanding the foregoing, the failure by Contractor to notify the Executive Officer or her designee within ten (10) days of discovery of the problem shall be deemed a waiver by Contractor of the dispute unless such delay is materially detrimental to the State.
13. **Budget Contingency Clause**
    1. It is mutually agreed that, if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for this Contract, the State may cancel this Agreement and it shall be of no further force and effect provided, however, that the State’s payment obligation to the extent of work already performed by the Contractor shall survive any such cancellation. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement for work not yet performed by Contractor and Contractor shall not be obligated to perform any provisions of this Agreement.
    2. In the alternative, the State shall have the right to amend this Agreement to reflect the reduced funds available for it. In such an event, State shall meet with Contractor to negotiate a reduced scope of work. If a mutually agreed upon amendment cannot be reached by the parties, either party may cancel this Agreement and it shall be of no further force and effect; provided, however, that the State’s payment obligation to the extent of work already performed by the Contractor shall survive any such cancellation.
14. **Payment -** Payments for undisputed invoices shall be made according to the provisions of Government Code Section 927 (California Prompt Payment Act).