

**INVITATION FOR BIDS (IFB) 0-2074
BOOK 1 OF 2**

**REPLACEMENT OF POWER
GENERATORS AT ANAHEIM AND
IRVINE CONSTRUCTION CIRCLE
BUS BASES**



**ORANGE COUNTY TRANSPORTATION AUTHORITY
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
(714) 560-6282**

Key IFB Dates

| | |
|--|--------------------------|
| Issue Date: | February 24, 2020 |
| Pre-Bid Conference/Site Visit: | March 4, 2020 |
| Questions/Approved Equal Submittal: | March 6, 2020 |
| Bid Submittal Date: | March 24, 2020 |

FEDERAL TRANSIT ADMINISTRATION FUNDED PROJECT

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February 24, 2020

**SUBJECT: NOTICE INVITING SEALED BIDS
IFB 0-2074, "REPLACEMENT OF POWER GENERATORS AT
ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS
BASES"**

TO: ALL BIDDERS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites sealed bids for replacement of power generators at Anaheim and Irvine Construction Circle Bus Bases.

The description of this project is replacement of power generators at Anaheim and Irvine Construction Circle Bus Bases. The project consists of concrete construction, removal and installation of power generators, electrical wiring, and installation of electrical components.

The estimated cost for this project is \$1,410,000.00. Bidders will be required to hold a valid State of California C-10 specialty contractor license or Class A, general engineering contracting license.

The Authority has set a 0% Disadvantaged Business Enterprise (DBE) participation goal for this project.

Bids must be submitted at or before 11:00 a.m., March 24, 2020.

Bids delivered in person or by a means other than the U.S. Postal Service shall be submitted to the following:

**Orange County Transportation Authority
Contracts Administration and Materials Management
600 South Main Street, (Lobby Receptionist)
Orange, California 92868
Attention: Michael Le, Contract Administrator**

Or bids delivered using the U.S. Postal Service shall be addressed as follows:

**Orange County Transportation Authority
Contracts Administration and Materials Management
550 South Main Street
P.O. Box 14184
Orange, California 92863-1584
Attention: Michael Le, Contract Administrator**

Bids and amendments to bids received after the date and time specified above will be returned to the bidders unopened.

Bidders interested in obtaining a copy of this Invitation for Bids (IFB) may do so by downloading the IFB from CAMM NET the Authority's on-line website at <https://cammnet.octa.net>.

All bidders and sub contractors interested in doing business with the Authority are required to register their business on-line at CAMM NET. The website can be found at <https://cammnet.octa.net>. From the site menu, click on CAMM NET to register.

To receive all further information regarding this IFB, bidders and sub-contractors must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Category:

Facility; Equipment, Supplies

Rental & Lease
Construction

Commodity:

Construction Materials
Electrical Supplies
Electronic Supplies
Equipment Rental or Lease
Construction - Electrical
Installation
Construction (General)
Electrical Contractor
Equipment - Rental / Supplies
General Contractor
Inspection Services
Metals - Fabricated / Structural
Welding

A pre-bid conference will be held on March 4, 2020, at 9:00 a.m., at the Authority's Irvine Construction Circle Bus Base located at 16281 Construction Circle West, Irvine, CA 92606 in the driver training room. Immediately following

the pre-bid conference, a job walk will be conducted. All prospective bidders are strongly encouraged to attend.

The contract to be awarded is subject to a financial assistance contract between the Orange County Transportation Authority, and the U.S. Department of Transportation. All Bidders will be required to certify that they are not on the Comptroller General's List of Ineligible Contractors.

All bidders are encouraged to subcontract with small businesses to the maximum extent possible.

Bidders will be required to submit the name, business address, and California contractor license number of each subcontractor who will perform work or labor or render service to the bidder in or about the work in an amount in excess of one-half of one percent ($\frac{1}{2}$ of 1 %) of the bidder's total bid. If a subcontractor's California contractor license number is submitted incorrectly, it will not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected subcontractor's California contractor license number is submitted to the Authority within 24 hours after the bid opening.

The successful bidder will be required to comply with all applicable equal opportunity laws and regulations.

Award of this contract is subject to receipt of federal, state and/or local funds adequate to carry out the provisions of the agreement including the project specification.

All bidders must register with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. A bidder is exempt from this requirement pursuant to Labor Code Section 1771.1(a) if the bidder submits a bid authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the bidder is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

A bid submitted by a contractor or subcontractor will not be accepted or entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Labor Code Section 1725.5.

The bid requires an on-site Health Safety and Environmental (HSE) representative to be present at all times during construction. The representative must have a current Board of Certified Safety Professionals (BCSP) certification and a minimum of five years of experience enforcing HSE compliance. The complete requirements are found in the Level 3 HSE Specifications. BCSP certification requirements may be found at: <https://www.bcsp.org/Safety-Certifications>.

SECTION I: INSTRUCTIONS TO BIDDERS

SECTION I. INSTRUCTIONS TO BIDDERS**A. PRE-BID CONFERENCE/SITE VISIT**

A pre-bid conference will be held on March 4, 2020 at 9:00 a.m. at the Authority's Irvine Construction Circle Bus Base located at 16281 Construction Circle West, Irvine, CA 92606 in the driver training room. Immediately following the pre-bid conference, a job walk will be conducted at the Authority's Irvine Construction Circle Bus Base located at 16281 Construction Circle West, Irvine, CA 92606 and the Authority's Anaheim Bus Base, 1717 East Via Burton Street, Anaheim, CA 92806. All prospective bidders are strongly encouraged to attend the pre-bid conference and the site visit.

By investigation of the work site, bidder shall be satisfied as to the nature and location of the work and shall be fully informed as to all conditions and matters, which can in any way affect the work or the cost thereof. Prospective bidders should familiarize themselves with Authority safety rules that require that pedestrians must wear approved safety vests. **Please bring a safety vest for the job walk.**

B. EXAMINATION OF DOCUMENTS

By submitting a bid, the bidder represents that it has thoroughly examined and become familiar with the work required under this IFB and that it is capable of performing quality work to achieve the authority's objective.

A Bid Booklet has been furnished as Book 2 of this IFB.

C. ADDENDA

The Authority reserves the right to revise the IFB documents. Such, if any, will be made by written addendum to this IFB. Any written addenda issued pertaining to this IFB shall be incorporated into the terms and conditions of any resulting Agreement. The Authority will not be bound to any modifications to or deviations from the requirements set forth in this IFB as the result of oral instructions. Bidders shall acknowledge receipt of Addenda in their bids. Failure to acknowledge receipt of Addenda may cause the bid to be deemed non-responsive to this IFB and be rejected.

D. AUTHORITY CONTACT

All communication and/or contacts with Authority staff regarding this IFB are to be directed to the following Contract Administrator:

Michael Le, Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560. 5314, Fax: 714.560.5792
Email: mle1@octa.net

Commencing on the date of the issuance of this IFB and continuing until award of the contract or cancellation of this IFB, no bidder, subcontractor, lobbyist or agent hired by the proposer shall have any contact or communications regarding this IFB with any Authority's staff; member of the evaluation committee for this IFB; or any contractor or consultant involved with the procurement, other than the Contract Administrator named above or unless expressly permitted by this IFB. Contact includes face-to-face, telephone, electronic mail (e-mail) or formal written communication. Any bidder, subcontractor, lobbyist or agent hired by the bidder that engages in such prohibited communications may result in disqualification of the bidder at the sole discretion of the Authority.

E. CLARIFICATIONS OF SPECIFICATIONS AND APPROVED EQUALS

1. Specifications Review

Should a bidder find discrepancies in, or omissions from, the drawings or specifications, or be in doubt as to their meaning, the bidder shall notify the Authority in writing in accordance with item 3 ("Submitting Requests"), below. Should it be found that the point in question is not clearly and fully set forth; a written addendum clarifying the matter will be sent to all firms registered on CAMM NET under the commodity codes specified in the IFB.

2. Preference for Materials

In accordance with the California Public Contract Code Section 3400, reference to any equipment, material, article or patented process, by trade name, make, or catalog number, shall not be construed as limiting competition. In those cases where the specifications call for a designated material, product, or service by specific brand or trade name and there is only one brand or trade name listed, the item involves a unique or novel product application required to be used in the public interest or is the only brand or trade name known to the Authority.

Where the specifications or drawings identify any material, product or service by one or more brand names, whether or not "or equal" is added, and the bidder wishes to propose the use of another item as being equal, approval shall be requested as set forth in below.

3. Submitting Requests

- a. All requests for approved equals, clarification of specifications, or questions must be put in writing and must be received by the Authority no later than 5:00 p.m., on March 6, 2020.
- b. Requests for approved equals, clarifications, questions must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
 - 1. U.S. Mail: Orange County Transportation Authority, P.O. Box 14184, Orange, California 92863-1584.
 - 2. Courier/Overnight: Orange County Transportation Authority, 600 South Main Street, 4th floor, Orange, California 92868
 - 3. Facsimile: (714) 560-5792.
 - 4. E-Mail: mle1@octa.net
- d. Any request for an approved equal or clarification of the specifications must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal to or better than the specification requirements. The burden of proof as to the equality, substitutability, and the compatibility of proposed alternates or equals shall be upon the bidder, who shall furnish all necessary information at no cost to the Authority. The Authority shall be the sole judge as to the equality, substitutability and compatibility of the proposed alternatives or equals.

4. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than five (5) calendar days before the scheduled date of bid opening. Bidders may download responses from CAMM NET at <https://cammmnet.octa.net>, or request responses may be sent via U.S. Mail by e-mailing or faxing the request to Michael Le, Contract Administrator.

To receive e-mail notification of Authority responses when they are posted on CAMM NET, bidders and their subcontractors must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

| | |
|-------------------------------|----------------------------------|
| <u>Category:</u> | <u>Commodity:</u> |
| Facility; Equipment, Supplies | Construction Materials |
| | Electrical Supplies |
| | Electronic Supplies |
| Rental & Lease | Equipment Rental or Lease |
| Construction | Construction - Electrical |
| | Installation |
| | Construction (General) |
| | Electrical Contractor |
| | Equipment - Rental / Supplies |
| | General Contractor |
| | Inspection Services |
| | Metals - Fabricated / Structural |
| | Welding |

Inquiries received after 5:00 p.m. on March 6, 2020, will not be responded to.

F. SUBMISSION OF BIDS

1. Date and Time

Bids must be submitted at or before 11:00 a.m., March 24, 2020.

Bids received after the time due will be rejected without consideration or evaluation.

Bids will be publicly opened in the Authority's Administration Office, 600 South Main Street, Orange, California 92863 at the submission time indicated above.

2. Address

Bids delivered in person or by a means other than the U.S. Postal Service shall be submitted to the following:

**Orange County Transportation Authority
Contracts Administration and Materials Management (Camm)
600 South Main Street, (Lobby Receptionist)
Orange, California 92868
Attention: Michael Le, Contract Administrator**

Or bids delivered using the U.S. Postal Services shall be addressed as follows:

**Orange County Transportation Authority
Contracts Administration and Materials Management (Camm)
P.O. Box 14184
Orange, California 92863-1584
Attention: Michael Le, Contract Administrator**

3. Bid Booklet and Identification of Bids

Bids must be submitted on the forms provided in the Bid Booklet (Book 2 of 2) that accompanies this IFB. Bids shall include properly completed bidding forms. The bid forms must be enclosed in a sealed package clearly marked as follows:

IFB 0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES"

Bidder shall be entirely responsible for any consequences, including disqualification of the bid, resulting from any inadvertent opening of unsealed or improperly identified packages. It is the bidder's sole responsibility to see that its bid is received as required.

G. PRE-CONTRACTUAL EXPENSES

The Authority shall not, in any event, be liable for any pre-contractual expenses incurred by bidder in the preparation of its bid. Bidder shall not include any such expenses as part of its bid.

Pre-contractual expenses are defined as expenses incurred by bidder in:

1. Preparing a bid in response to this IFB;
2. Submitting that bid to the Authority;
3. Negotiating with the Authority any matter related to this bid; and
4. Any other expenses incurred by bidder prior to date of award, if any, of the Agreement.

H. JOINT BIDS

Where two or more firms desire to submit a single bid in response to this IFB, they should do so on a prime-subcontractor basis rather than as a joint venture. The Authority intends to contract with a single firm and not with multiple firms doing business as a joint venture.

I. TAXES

Bids are subject to State and Local sales taxes. However, the Authority is exempt from the payment of Federal Excise and Transportation Taxes. Contractor is responsible for payment of all taxes for any goods, services, processes, and operations incidental to or involved in the contract.

J. BID SECURITY FORMS

Bids shall be accompanied by a certified or cashier's check, or an acceptable bid bond for an amount not less than ten percent (10%) of the bid, made payable to the order of the Orange County Transportation Authority. A corporate surety (not an individual surety), registered in the state of California and registered to do business in the county of Orange must issue bid bonds. Said check or bond shall be given as a guarantee that the bidder will enter into a contract if awarded the work and in case of refusal or failure to enter into said contract, the check or bond, as the case may be, shall be forfeited to the Authority.

K. WITHDRAWAL OF BIDS

Bidders may withdraw its bid at any time prior to the time set for opening of bids by means of written request signed by the bidder or its proper authorized representative. Such written request shall be delivered to the Contracts Administrator at the address noted in the cover notice of this IFB.

L. PREVAILING WAGES

This project is funded under a financial assistance contract by the U.S. Department of Transportation and is subject to all conditions of the Davis-Bacon Act (40 U.S.C. 3141–48), as supplemented by the Department of Labor regulations 29 CFR part 5, and the Labor Code of the State of California commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the current basic hourly rates of pay and fringe benefits. Wage schedules are available at the Authority's Offices, which shall be made available to any interested party upon request, or on the internet at:

http://www.dir.ca.gov/OPRL/statistics_research.html and
<http://www.access.gpo.gov/davisbacon/>.

A copy of said rates shall be posted at each job site during the course of construction.

Bidders shall utilize the relevant prevailing wage determinations in effect on the first advertisement date of the Notice Inviting Sealed Bids. In the event there are any differences between the minimum wage rates as determined by the United States Secretary of Labor and those determined by the State of California, the highest rate must be paid.

This Agreement is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for this Agreement. The reporting requirements may be found at <https://www.dir.ca.gov/Public-Works/Contractors.html>. Bidder is responsible for complying with all requirements of the Department of Industrial Relations, including filing electronic payroll reports.

A contractor or subcontractor will not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

A contractor or subcontractor will not be qualified to bid on, be listed in a bid proposal, subject to Section 6190 of the public Contract Code, or engage in the performance of any contract for public work on a public works project if the contractor or subcontractor is ineligible to perform work pursuant to Section 1777.1 or 1777.7 of the Labor Code.

A bid submitted by a contractor or subcontractor will not be accepted or entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Labor Code Section 1725.5.

M. SUBCONTRACTORS AND ASSIGNMENTS

The successful bidder shall perform work equivalent to **at least ten percent (10%) of the total amount of the construction work** at the site; and, perform the work on the site with its own staff.

Pursuant to the provisions of the California Public Contract Code Section 4104, every bidder shall in the bid set forth:

1. The name, business address, 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 bidder in or about the work in an amount in excess of one-half of one percent (1/2 of 1 %) of the bidder's total bid; and
2. The portion of the work that will be done by each subcontractor. The bidder shall list only one subcontractor for each portion of work as defined by the bidder in its bid.

3. The dollar amount of the work, which will be done by each such subcontractor.

Bidder shall complete Exhibit D "List of Subcontractors" with the above requested information.

If a subcontractor's California contractor license number or public works contractor registration number are submitted incorrectly in the bid, it will not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected subcontractor's California contractor license number is submitted to the Authority within 24 hours after the bid opening.

If the bidder fails to specify a subcontractor for any portion of the work to be performed under the contract in excess of one-half of one percent (1/2 of 1 %) of the bidder's total bid, or if the bidder specifies more than one (1) subcontractor for the same portion of the work to be performed under the contract in excess of one-half of one percent (1/2 of 1 %) of the bidder's total bid, the bidder agrees to perform that portion. **The successful bidder shall not, without the express written consent of the Authority, either:**

1. Substitute any person, firm, or corporation as subcontractor in place of the subcontractor designed in the original bid; or
2. Permit any subcontract to be assigned or transferred; or
3. Allow it to be performed by anyone other than the original subcontractor listed in the bid.

Each bidder shall set forth in its bid the name and location of the place of business address of each subcontractor certified as a Disadvantaged Business Enterprise who will perform work or labor or render service to the prime contractor in connection with the performance of the contract.

Bidder shall not assign any interest it may have in any Agreement with the Authority, nor shall bidder assign any portion of the work under any such Agreement with a value in excess of one-half of one percent (1/2 of 1%) of Agreement price to be sub-contracted to anyone other than these subcontractors listed in Exhibit D in the "List of Subcontractors," except by prior written consent of Authority. Authority's consent to any assignment shall not be deemed to relieve bidder of its obligations to fully comply with its obligations under its Agreement with the Authority. Bidder with its own forces shall perform minimum of ten percent (10%) (calculated as a percentage of the total cost of the project) under this Agreement. Bidder shall also include in its subcontract agreements the provisions of its Agreement with Authority including the stipulation that each subcontractor shall maintain adequate insurance coverage compatible to the insurance coverage required of the bidder.

N. BIDDER'S LICENSING REQUIREMENTS

In conformance with the current statutory requirements of Section 7028.15 of the Business and Professions Code of the State of California, regarding submission of a bid without a license, the bidder shall provide as part of the bid a valid State of California license number, class or type and date of expiration.

Furthermore, the bidder shall ensure that all subcontractors fully comply with the appropriate licensing requirements. The bidder shall also certify that all information provided and representations made in the bid are true and correct, and made under penalty of perjury. Bidders shall provide this information on Exhibit D, "List of Subcontractors" presented in the IFB. Failure to provide the information on the certification form or elsewhere as part of the bid shall render the bidder nonresponsive to this solicitation and will result in the rejection of the bid.

O. PERMITS AND INSPECTION COSTS

Successful bidder shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

P. LIQUIDATED DAMAGES

In the event bidder, after entering into an Agreement with the Authority, fails to complete the work within the time specified in the Agreement, the bidder will be required to pay the Authority the amount of **\$300.00 per calendar day** of delay as agreed to liquidated damages.

Q. PROTEST PROCEDURES

The Authority has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting the Contract Administrator responsible for this procurement. Any protest filed by a bidder in connection with this IFB must be submitted in accordance with the Authority's written procedures.

R. CONTRACT AWARD

Any contract awarded as a result of this IFB, will be awarded to the lowest responsive and responsible bidder and shall be on a lump sum basis, in accordance with the requirements of this IFB. The contract to be awarded is the Agreement presented in Section VI of this IFB.

S. EXECUTION OF CONTRACT

The successful bidder shall submit to the Authority the required contract bonds, "Guaranty" and acceptable insurance certificates within ten (10) calendar days after notification of contract award from the Authority. Failure to sign the contract and submit applicable bonds, "Guaranty", and acceptable insurance certificates within the specified time shall be cause to cancel the award and the forfeiture of the Bid Bond. Transfers of contract, or of interest in contracts, are prohibited.

T. AUTHORITY'S RIGHTS

1. The Authority reserves the right to accept or reject any and all bids, or any item or part thereof, or to waive any informalities or irregularities in bids.
2. The Authority reserves the right to withdraw or cancel this IFB at any time without prior notice. The Authority makes no representations that any contract will be awarded to any bidder responding to this IFB.
3. The Authority reserves the right to issue a new IFB for the project.
4. The Authority reserves the right to postpone the bid opening for its own convenience.
5. Each bid will be received with the understanding that acceptance by the Authority of the bid to provide the goods and services described herein shall constitute a contract between the bidder and Authority which shall bind the bidder on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted bid and specifications.
6. The Authority reserves the right to investigate the qualifications of any bidder, and/or require additional evidence of qualifications to perform the work.
7. Submitted IFBs are not to be copyrighted.

U. PUBLIC RECORDS AND INFORMATION

Bids received by Authority are considered public information and will be made available to the public if requested to do so.

V. CONFLICT OF INTEREST

All bidders responding to this IFB must avoid organizational conflicts of interest, which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships or contracts, a bidder is unable, or potentially unable to render impartial assistance or advice to the Authority; a bidder's objectivity in performing the work identified in the Project Specifications is or might be otherwise impaired; or a bidder has an

unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the bidder's bid.

W. CODE OF CONDUCT

Bidders agree to comply with the Authority's Code of Conduct as it relates to Third-Party contracts, which is hereby referenced and by this reference is incorporated herein. Bidders agree to include these requirements in all of its subcontracts.

X. SAFETY REQUIREMENTS

The complete safety requirements for this IFB are included in Section X: Level 3 Safety Specifications Exhibit I. The Contractor will be required to demonstrate compliance with all requirements of the Safety Specifications after Notice to Proceed but prior to mobilization. These requirements include, but are not limited to, an onsite Health Safety and Environmental (HSE) representative to be present at all times during construction. The representative must have a current Board of Certified Safety Professionals (BCSP) certification and a minimum of five years of experience enforcing HSE compliance. BCSP certification requirements may be found at: <https://www.bcsp.org/Safety-Certifications>.

SECTION II: INSTRUCTIONS TO BIDDING FORMS

SECTION II. INSTRUCTIONS TO BIDDING FORMS

The Bidder shall complete all the forms identified below, and contained in the Bid Booklet Book 2 of this IFB. The bid may not contain exceptions to or deviations from the requirements of this IFB.

A. BID FORM

The bidder must complete and execute the Bid Form, which must be submitted in its entirety. Failure to submit the executed Bid Form in its entirety will result in the bid being non-responsive. In addition to providing the lump sum bid, the bidder affirms the Bid Form statements.

B. BID SECURITY FORM - BID BOND

The bidder shall include the Bid Security Form and include the appropriate bid bond or cashier check with the bid.

C. INFORMATION REQUIRED OF BIDDER

Bidder must provide all the information requested in this form.

D. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246) (NO FORM REQUIRED)

The bidder shall include the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity provides notice to Bidder regarding the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications".

E. BIDDER'S CERTIFICATE OF COMPLIANCE - WORKERS' COMPENSATION INSURANCE

In conformance with current statutory requirements of Section 1860, et. seq., of the Labor Code of the State of California, bidder shall execute the bidder's Certificate of Compliance Regarding Workers' Compensation Insurance.

F. BIDDER'S CERTIFICATE OF COMPLIANCE - BUSINESS AND PROFESSIONS CODE SECTION 7028

Bidder shall execute the Bidder's Certificate of Compliance Regarding State of California Business and Professions Code Section 7028.15.

G. LIST OF SUBCONTRACTORS FORM

Bidder shall complete Exhibit D, which lists all subcontractors performing work in excess of one-half of one percent ($\frac{1}{2}$ of 1%) of the bid amount per the instructions set forth in Section I "Instructions to Bidders".

H. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - PRIMARY PARTICIPANT AND LOWER-TIER PARTICIPANTS (NO FORM REQUIRED)

Unless otherwise permitted by law, any person or firm that is debarred, suspended, or voluntarily excluded may not take part in any federally funded transaction, as either a participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, the Authority may not enter into any transaction with such debarred, suspended, or voluntarily excluded persons or firms during such period, in accordance with 2 CFR part 180, as adopted and supplemented by 2 CFR part 1200. Debarment is defined in 2 CFR Section 180.925, suspension is defined in 2 CFR Section 180.1015, and voluntary exclusion or voluntarily excluded is defined in 2 CFR Section 180.1020. (These provisions apply to each contract and any tier, equal or greater than \$25,000).

I. STATUS OF PAST AND PRESENT CONTRACTS FORM

Bidder is required to complete and sign the form entitled "Status of Past and Present Contracts" provided in this IFB and submit as part of the bid. Bidder shall identify the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the past five (5) years in which the contract has been the subject of or may be involved in litigation with the contracting authority. This includes, but is not limited to, claims, settlement agreements, arbitrations, administrative proceedings, and investigations arising out of the contract. Bidder shall have an ongoing obligation to update the Authority with any changes to the identified contracts and any new litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations that arise subsequent to the submission of the bid.

A separate form must be completed for each identified contract. Each form must be signed by the Bidder confirming that the information provided is true and accurate. Bidder is required to submit one copy of the completed form(s) as part of its bid.

J. CERTIFICATION OF NON-COLLUSION

This form requires the Bidder to certify that the bid is not collusive or a sham. This form is to be signed, dated and is part of the bid package in Book 2 of 2.

K. DISADVANTAGED BUSINESS ENTERPRISE

In conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," bidders must complete the following forms:

- DBE Participation Commitment Form
 - Written Confirmation (required from each proposed DBE firm listed on the DBE Participation Commitment Form)
- DBE Information – Good Faith Efforts (if sufficient participation to meet the DBE goal has not been proposed on the "DBE Participation Commitment Form")
- Bidders List

L. IRAN CONTRACTING ACT CERTIFICATION

This form requires the Bidder to certify that the Bidder is not engaged in specified investment activities in the energy sector of Iran. (Required if the bid is equal to or greater than \$1,000,000).

M. "BUY AMERICA" REQUIREMENTS

If the bid is valued for greater than one hundred and fifty thousand dollars (\$150,000), Bidder is required to complete the form titled "Bidder's Certificate Regarding 'Buy America' Requirements for Steel, Iron, or Manufactured Products." This form requires Bidder to certify that it will meet the requirements of 49 U.S.C. 5323(j) and the applicable regulations in 49 C.F.R. Part 661.

N. DISCLOSURE OF LOBBYING ACTIVITIES

This form requires the bidder to certify compliance with the lobbying requirements of 31 U.S.C. Section 1352 and the applicable regulations under 49 CFR part 19 and 20. (Required if the bid is equal or greater than \$100,000).



BID FORM

The undersigned hereby proposes to perform all work for which a contract may be awarded and to furnish any and all plant, labor, services, material, tools, equipment, supplies, transportation, utilities, and all other items and facilities necessary therefore as required in the **IFB 0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES"**, and to do everything required therein; and further proposes that, if this bid is accepted, will contract in the form and manner stipulated to perform all the work in strict conformity therewith within the time limits set forth therein, and will accept as full payment therefore, the following price:

| <u>Description</u> | <u>Total Lump Sum Bid Amount</u> |
|---------------------------|---|
|---------------------------|---|

| | | |
|--|----|--|
| | \$ | |
|--|----|--|

A cashier's check/certified check/bid bond (circle applicable term) properly made payable to Orange County Transportation Authority, hereinafter designated as the Owner, for the sum of

Dollars

(\$ _____)

which amount is not less than ten percent (10%) of the total amount of this bid, is attached hereto and is given as a guarantee that the undersigned will execute the Agreement and furnish the required bonds, "Guaranty" and "Certificate of Insurance", if awarded the contract, and in case of failure to do so within the time provided, (a) the proceeds of said check shall be forfeited to the Authority; or (b) surety's liability to the Authority for forfeiture of the face amount of the bond shall be considered as established [circle (a) or (b)].

The undersigned hereby represents that:

BID FORM, PAGE 2

1. Bidder has thoroughly examined and become familiar with the work required and documents included under this IFB. The bidder understands that the award of the contract, if it is awarded, will be based on the lowest total bid submitted by a responsive and responsible bidder, and further, that the amounts and the total on the Bid Form will be subject to verification by the Authority.
2. By investigation at the site of the work and otherwise, it is satisfied as to the nature and location of the work and is fully informed as to all conditions and matters, which can in any way affect the work or the cost thereof.
3. Bidder fully understands the scope of the work/specifications and has checked carefully all words and figures inserted in said Invitation For Bids (IFB) and further understands that the Authority will in no way be responsible for any errors or omissions in the preparation of this bid. Bidder further asserts that it is capable of performing quality work to meet Authority's requirements.
4. Bidder will execute the Agreement and furnish the required Performance and Payment Bonds, Guaranty and proof of insurance coverage within ten (10) calendar days after notice of acceptance of bid by the Authority; and further, that this bid may not be withdrawn for a period of one hundred twenty (120) calendar days after the date set for the opening thereof, unless otherwise required by law. If any bidder shall withdraw its bid within said period, the bidder shall be liable under the provisions of the Bid Security, or the bidder and the surety shall be liable under the Bid Bond, as the case may be.
5. Bidder hereby certifies that this bid is genuine and not a sham or collusive or made in the interest or on behalf of any person not herein named, and the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm, or corporation to refrain from bidding; the undersigned has not in any manner sought by collusion to secure for himself an advantage over any other bidder.
6. In conformance with current statutory requirements of Section 1860, et. seq., of the Labor Code of the State of California, the Bidder shall execute the document included in this IFB entitled "Bidder's Certificate of Compliance Regarding Workers' Compensation Insurance."
7. Bidder hereby further certifies that each, and every representation made in this bid are true and correct and made under penalty of perjury.

BID FORM, PAGE 3

8. Bidder shall permit the authorized representative of the Authority to inspect and audit all data and records of bidder relating to this bid, and if awarded a contract resulting from this bid, shall permit such inspection and audit of all data and records of bidder related to bidder's performance of such contract.
9. Bidder does not employ anyone who is now, or for one (1) year immediately prior to the date of this offer was, a director, officer, member, or employee of the Orange County Transportation Authority. The undersigned has not agreed to pay a fee contingent upon the award of a contract resulting from this bid to anyone who is now, or for one (1) year immediately prior to the date of this bid was, a director, officer, member, or employee of the Orange County Transportation Authority. No member of or delegate to the Congress of the United States shall be admitted to any share of the contract or to any benefit arising therefrom.
10. If awarded a contract resulting from this bid, bidder shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. The bidder shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, age or national origin. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
11. If awarded a contract resulting from this bid, Bidder will cooperate with the Authority in meeting commitments and goals with regard to the maximum utilization of DBE firms and will use its best efforts to ensure that the DBE firm shall have the maximum practicable opportunity to compete for subcontract work under such contract.
12. Bid will be in effect for 120 calendar days after the bid closing date.

BID FORM, PAGE 4

Now: In compliance with the **Invitation For Bids 0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES"**, the undersigned, with full cognizance thereof, hereby proposes to perform the entire work in strict compliance with all of the said requirements and provisions for the prices set forth herein upon which award of contract is made. The undersigned affirms that the information provided herein is true and accurate and that any misrepresentations are made under penalty of perjury.

Dated _____, 2020 Bidder _____

The above bid includes Signature _____

Addenda Nos. _____ Name _____

Title _____

Bidder's Authorized Representative _____

Title _____

Telephone # _____

Fax # _____

Email Address _____

Bidders post office address _____

Corporation organized under the laws of the State of _____

Contractor's License No. _____

Expiration Date of License _____

Surety or sureties _____

(CORPORATE SEAL)

BID SECURITY FORM
BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That, _____ as principal and Bidder and _____ as Surety, are held and firmly bound unto the Orange County Transportation Authority, of State of California, hereinafter referred to as "Authority," in the sum of _____ Dollars (\$ _____), to be paid to the Authority, its successors, and assigns; for which payment, well and truly to be made, bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents, this amount being ten percent (10%) of the total amount of the Bid.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the certain bid of the above named bounden principal _____

for _____ at the Orange County _____ Transportation Authority's _____ as specifically set forth in documents entitled **IFB 0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES"**, shall not be withdrawn within a period of 120 calendar days after the date set for the opening of bids, (unless otherwise required by law, and notwithstanding the award of the contract to another Bidder), and that if said bid is accepted by the Authority through action of its legally constituted contracting authorities and if the above bounden _____ its heirs, executors, administrators, successors and assigns, shall execute a contract for such construction and deliver the required Performance and Payment Bonds, "Guaranty," and proof of insurance coverage within ten (10) calendar days after notification of contract award from the Authority, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

IN WITNESS WHEREOF, we hereunto set our hands and seals this _____ day of _____, 2020.

NOTE: The standard printed bond form of any bonding company acceptable to the Authority may be used in lieu of the foregoing approved sample bond form provided the security stipulations protecting the Authority are not in any way reduced by use of the security company's printed standard form.

BID SECURITY FORM
CHECK TO ACCOMPANY BID

(NOTE: The following form shall be used in case check accompanies bid)

Accompanying this bid is a Certified or Cashiers check (circle the appropriate one) payable to the order of Orange County Transportation Authority, hereinafter referred to As "Authority" for _____ dollars (\$_____), this amount being ten percent (10%) of the total amount of the Bid submitted in response to **IFB 0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES"**. The proceeds of this check shall become the property of Authority provided this bid shall be accepted by Authority through action of its legally constituted contracting authorities and the undersigned shall fail to execute a contract and furnish the required Guaranty Form, Performance and Payment Bonds and proof of insurance coverage within ten (10) calendar days after date of notification of contract award from the Authority. The proceeds of this check shall also become the property of the Authority if the undersigned bidder withdraws the bid within the period of 120 days after the date set for the opening thereof, unless otherwise required by law, and notwithstanding the award of the contract to another bidder. Otherwise, the check shall be returned to the undersigned.

Bidder: _____

Signature: _____

Date: _____

NOTE: If the bidder desires to use a bond instead of check, the Bid Bond form shall be executed and the sum of this bond shall be ten percent [10%] of the total amount of the bid.

INFORMATION REQUIRED OF BIDDER

The bidder is required to supply the following information. Additional sheets may be attached if necessary.

1. Name of Bidder: _____
2. Business Address: _____
3. Telephone () _____ Fax () _____ E-Mail _____
4. Type of Firm - Individual, Partnership or Corporation: _____
5. Corporation organized under the laws of state of: _____
6. Contractor's License No.: _____ Class: _____ Years of Experience: _____
7. Expiration Date of License: _____
8. Is your firm a certified small business in California? Yes____ No____
9. List the names and addresses of all owners of the firm or names and titles of all officers of the corporation:

INFORMATION REQUIRED OF BIDDER, PAGE 2

10. Please list the following: a) All prior and current license numbers that the current owner(s) or officers possess or have possessed in the last five years and the current status of those license; b) any prior company names that the owner(s) had in operation during the previous five years.

| Current Officers or Owners Name | Prior Company Names (During the last 5 years) | Prior and Current License Numbers | Status of License |
|---------------------------------|---|-----------------------------------|-------------------|
| | | | |
| | | | |
| | | | |

Note: If additional space is required to detail the information requested, please attach another page. All information requested must be included. Failure to identify all of the information may result in your bid being found non-responsive and your bid being rejected.

11. List all construction projects (public and private) for which Bidder has provided general contractor services for the past three years:

| Contract Type (Public or Private) | Project Description | Dates of Service | Total Cost | Name and Address of Owner | Contact Name and Phone Number |
|-----------------------------------|---------------------|------------------|------------|---------------------------|-------------------------------|
| | | | | | |
| | | | | | |
| | | | | | |

Note: If additional space is required to detail the information requested, please attach another page. All information requested must be included. Failure to identify all of the information, may result in your bid being found non-responsive and your bid being rejected.

12. List the name, address and phone number of Superintendent for this project:

13. List all construction projects (public and private) for which Superintendent has provided services as a Superintendent for the past three years.

| Contract Type (Public or Private) | Project Description | Dates of Service | Total Cost | Name and Address of Owner | Contact Name and Phone Number |
|--------------------------------------|---------------------|------------------|------------|---------------------------|-------------------------------|
| | | | | | |
| | | | | | |

Bidder hereby certifies that it:

_____ is a certified Disadvantaged Business Enterprise as defined herein.

_____ is not a Disadvantaged Business Enterprise as defined herein.

NOTE: If requested by the Authority, bidder shall furnish a certified financial statement, financial data, or other information and references sufficiently comprehensive to permit an appraisal of its current financial condition.

I hereby certify the above is true and correct to the best of my belief.

Signature

Name

Title

Company Name

Telephone Number

Fax Number

Email Address

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Bidders' attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Timetable Goals for Minority Participation for Each Trade (11.9)

Goals for Female Participation in Each Trade (6.9)

These goals are applicable to all the Contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 C.F.R. Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 C.F.R. 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 C.F.R. Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" includes the County of Orange, California.

BIDDER'S CERTIFICATE OF COMPLIANCE
REGARDING
WORKERS' COMPENSATION INSURANCE

In conformance with current statutory requirements of Section 1860, et. seq., of the Labor Code of the State of California, the undersigned confirms the following certification:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code and I will comply with such provisions before commencing the performance of the work of this Contract."

Name of Bidder/Contractor: _____

Signature: _____

Title: _____

Date: _____

BIDDER'S CERTIFICATE OF COMPLIANCE
REGARDING
STATE OF CALIFORNIA
BUSINESS AND PROFESSIONS CODE SECTION 7028.15

Contractor License Number: _____

Expiration Date of Contractor's License: _____

Each, every and all of the representations made by Bidder in the attached bid are true and correct.

Name of Bidder/Contractor: _____

Signed: _____

Title: _____

Subscribed to and sworn before me, a Notary Public in and for the State of California, on _____, 2020.

Notary Public

My commission expires on:

_____, 2020
(NOTARY SEAL)

LIST OF SUBCONTRACTORS (EXHIBIT D)

List only the subcontractors, which will perform work or labor or render services to the bidder in excess of one-half of one percent (1/2 of 1%) of the bidder's total bid amount. Do not list alternative subcontractors for the same work. (Use additional sheets if necessary.)

| Name & Address Under Which Subcontractor is Licensed | License Number | DIR Registration No. | Specific Description of Work to be Rendered | Small Business Y/N | Type* | Dollar Amount |
|---|-----------------------|-----------------------------|--|---------------------------|--------------|----------------------|
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| TOTAL VALUE OF SUBCONTRACTED WORK | | | | | | \$ |

Bidder's Name _____

STATUS OF PAST AND PRESENT CONTRACTS FORM

On the form provided below, Offeror/Bidder shall list the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the past five (5) years in which the contract has been the subject of or may be involved in litigation with the contracting authority. This includes, but is not limited to, claims, settlement agreements, arbitrations, administrative proceedings, and investigations arising out of the contract.

A separate form must be completed for each contract. Offeror/Bidder shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value. Offeror/Bidder shall also provide a brief summary and the current status of the litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations. If the contract was terminated, list the reason for termination.

Offeror/Bidder shall have an ongoing obligation to update the Authority with any changes to the identified contracts and any new litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations that arise subsequent to the submission of the bid. Each form must be signed by an officer of the Offeror/Bidder confirming that the information provided is true and accurate.

| | |
|---|---------------------------------|
| Project city/agency/other: | |
| | |
| Contact Name: | Phone: |
| | |
| Project Award Date: | Original Contract Value: |
| | |
| Term of Contract: | |
| | |
| (1) Litigation, claims, settlements, arbitrations, or investigations associated with contract: | |
| | |
| | |
| | |
| (2) Summary and Status of contract: | |
| | |
| | |
| (3) Summary and Status of action identified in (1): | |
| | |
| | |
| | |
| (4) Reason for termination, if applicable: | |
| | |
| | |

By signing this Form entitled "Status of Past and Present Contracts," I am affirming that all of the information provided is true and accurate.

Name

Signature

Title

Date

**Non-Collusion Declaration to be
Executed by Bidder and Submitted with Bid**

To the Orange County Transportation Authority
The undersigned declares:

I am the _____ of _____, the party making the foregoing bid. In accordance with Title 23 United States Code Section 112 and Public Contract Code Section, 7106 the bidder declares that the bid is not made in the interest of, or on the 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, or that anyone shall 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 bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract. 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, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

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

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

Name of Bidder: _____

Signature: _____

Date: _____



DBE PARTICIPATION COMMITMENT FORM

**THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE BID AS A CONDITION
OF DBE RESPONSIVENESS**

NOTE: Refer to instructions on the reverse side of this form.

Bidder to Complete this Section

1. IFB No.: _____
2. Project Name/Description: _____
3. Prime Bidder Name: _____
4. Contract DBE Goal %: _____
5. Bidder's Total Bid Price _____

Required DBE Commitment Information

| 6. DBE Firm (Name and Address) | 7. DBE Certification Number | 8. Description of Scope of Services/Work | 9. Bid Item (#) | 10. Dollar Value (\$) of Participation | 11. Dollar Value (\$) of Eligible DBE Participation/ Commitment |
|-----------------------------------|-----------------------------------|---|-----------------|--|--|
| | | | | | |
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Note: As a condition of responsiveness, the bidder is required to submit with the Bid a written confirmation signed and dated from each DBE listed in Column 6 acknowledging that the DBE is participating in the contract for the specified dollar value (\$) and scope of work.

A quote or bid from the DBE firm can serve in lieu of the written confirmation; however, the dollar amount in the written confirmation, quote/bid and the amount shown on this form MUST match identically.

12. Total Dollar Value (\$) of Eligible DBE Participation
\$ _____

13. Eligible DBE Participation Represented as a Percentage (%) of Bidder's Total Bid Price
_____ %

Bidder Assurance: The bidder certifies that information on this form is complete and accurate, that it has verified the listed DBE(s) certification status and is only crediting eligible DBE participation towards meeting the contract DBE goal.

14. Preparer's Name (Print) _____

15. Preparer's Signature _____

16. Preparer's Title _____

17. Date _____

18. Telephone No. _____
() _____

19. Email Address _____

INSTRUCTIONS - DBE Participation Commitment Form

Bidder is required to ensure all information is complete and accurate:

1. **IFB No.** - Enter the IFB Number.
2. **Project Name/Description** - Enter the name and/or description of the project.
3. **Prime Bidder Name** - Enter the bidder's firm name.
4. **Contract DBE Goal %** - Enter the contract DBE goal percentage.
5. **Bidder's Total Bid Price** - Enter the bidder's total bid price.
6. **DBE Firm** - Enter name and address of the proposed DBE firm. Identify all DBE firms being claimed for credit, regardless of tier.
7. **DBE Certification Number** - Enter the DBE's certification identification number. All DBEs must have a valid DBE certification at time of bid opening.
8. **Description of Scope of Services/Work** - Enter the scope of services/work for each DBE firm listed to participate on this contract.
9. **Bid Item (#)** - Enter bid item number.
10. **Dollar Value (\$) of Participation** - Enter the total dollar value of participation for each listed DBE firm.
11. **Dollar Value (\$) of Eligible DBE Participation/Commitment** - Enter the dollar value of participation eligible to count towards meeting the contract DBE goal. This value should exclude work performed by lower tier subcontractors and account for the DBE's capacity based on their certification type in conformance with the DBE crediting provisions set forth in Title 49 CFR Part 26.55.
12. **Total Dollar Value (\$) of Eligible DBE Participation** - Enter the sum of all eligible participation listed in column 11.
13. **Eligible DBE Participation Represented as a Percentage (%) of Bidder's Total Bid Price** - Enter the corresponding percentage of the total eligible DBE participation that the bidder is counting towards the bidder's DBE goal commitment (Formula: Item (12) Total Value of Eligible DBE Participation / Item (5) Bidder's Total Bid Price = Bidder's DBE Goal Commitment Percent (%)).
14. **Preparer's Name (Print)** - Clearly enter the name of the authorized person preparing the form on behalf of the bidder.
15. **Preparer's Signature** - Authorized person's signature.
16. **Preparer's Title** - Enter the position/title of the authorized person signing the form on behalf of the bidder.
17. **Date** - Enter the date the form is signed.
18. **Telephone No.** - Enter the area code and telephone number of the authorized person signing the form on behalf of the bidder.
19. **Email Address** - Enter the email address of the authorized person signing the form on behalf of the bidder.

NOTE: A firm is only eligible to count towards DBE participation in the NAICS codes contained within its California Unified Certification Program (CUCP) DBE Profile. Bidders are to verify that listed DBE's certification contains the NAICS codes relevant to the scope they are being listed to perform.



DBE INFORMATION - GOOD FAITH EFFORTS

IFB No: _____

Bid Opening Date _____

The Orange County Transportation Authority (Authority) established a Disadvantaged Business Enterprise (DBE) goal of _____% for this contract. The information provided herein shows that a good faith effort was made by _____(Bidder).

Bidder shall submit the following information to document adequate good faith efforts to the Authority no later than 4:00 p.m. on the 2nd business day after the Authority's bid due date, or as otherwise specified in the solicitation. Bidder should submit the following information even if the "DBE Participation Commitment Form" indicates that the bidder has met the DBE goal. This will protect the bidder's eligibility for award of the contract if Authority determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following good faith efforts items (A through H) shall be minimally performed prior to bid submission. Bidder to complete the following items in sufficient detail to effectively demonstrate that good faith efforts were undertaken to meet the established DBE goal:

- A. Items of Work the Bidder Made Available to DBE Firms; a description of work items and approximate dollar amounts made available to DBE firms by the bidder, value of work items as a percentage of total contract work, breakdown of bid items or larger scopes of contract work (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation sufficient to meet the DBE contract goal. It is the bidder's responsibility to demonstrate that sufficient work was made available to facilitate DBE participation as follows (Provide documents that sufficiently evidence the efforts detailed below):

| Description of Work Item | Bidder Normally Performs (Y/N) | Unbundled from Larger Scope (Y/N) If Yes, List Scope and/or Bid Item (#) | Amount (\$) | Percentage of Contract |
|--------------------------|--------------------------------|---|-------------|------------------------|
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- B. Solicitation Effort Documentation; the names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used to following up initial solicitations to determine with certainty whether the DBEs were interested (attach all copies of solicitation, telephone records, fax confirmations, email communications, etc.), amount of DBEs to repond, documentation to demonstrate the DBE firms were provided information about the contract (location of project, contract number, bid date, items of work made available and contact information) in the Invitation to Bid from the bidder, the bidder solicited through all reasonable means (e.g. attendance at pre-bid meetings, advertising and written notices) the interest of all certified DBEs who have the capability to perform the work of the contract, bidder to provide proof of aforementioned items, and DBEs in the market area for the work identified in 'Item A' as follows:

| DBE Firm | Contact Name/Title | Method of Solicitation | Date of Initial Solicitation | Date of Follow-Up Solicitation | Response/ Interested in Bidding |
|----------|--------------------|------------------------|------------------------------|--------------------------------|---------------------------------|
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(Note: Solicitations should occur at a minimum no later than 14 calendar days prior to the Authority's bid due date and follow up to the solicitation should allow DBE firms reasonable time to respond). DBE firms solicited must be advised if the original bid date has been extended.

- C. Rejected DBE Bid Documentation; the names, addresses, phone numbers, and amount of rejected DBE firms, the reasons for the bidder's rejection of the DBE firms, the firms selected and accepted for that work (attach all copies of quotes from the firms involved inclusive of a detailed cost breakdown if opted to self-perform work) and the price difference for each DBE if the selected firms is not a DBE, include an explanation of quote(s) rejected.
- D. Publication Efforts Made to Advertise the Projects to Solicit DBE Participation; names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (attach copies of advertisements or proof of publications). Publications should be placed at a minimum 14 calendar days before the Authority's bid due date. If bid due date is extended, bidder is to re-advertise new bid due date.

| Publications | Type of Publication (Trade/General/ Minority/Focus) | Dates of Advertisement | Duration of Advertisement | Readvertisement (Bid-Due Date Extension) |
|--------------|---|------------------------|---------------------------|--|
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- E. Agencies, Organizations, or Groups Contacted to Provide Assistance in Contracting, Recruiting, and Using DBEs; the names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (Attach copies of requests to agencies, responses received and efforts made by the bidder in response).

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- F. Efforts to Provide Information About the Plans, Specifications, and Contract Requirements; efforts made to assist interested DBEs in obtaining necessary materials, or related assistance or services, bidder to provide evidence of effort.

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- G. Assistance with Lines of Credit, Insurance, and/or other Services; efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs, bidder to provide a list of any assistance provided to prospective and bided DBEs:

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- H. Additional Data to Support a Demonstration of Good Faith Efforts; in determining whether a bidder made adequate good faith efforts, the Authority will take into account the performance of other bidders in meeting the DBE contract goal. Attach any additional information to support demonstration of good faith in this section:

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NOTE: USE ADDITIONAL SHEETS AS NECESSARY TO DEMONSTRATE RESPONSIVENESS.



Bidders List

The Department of Transportation requires the Authority to create and maintain a "Bidders List" containing information about all firms (DBE and Non-DBE) that bid, propose or quote on the Authority's DOT-assisted contracts, in accordance with 49 CFR Part 26.11. The "Bidders List" is intended to be a count of all firms that are participating, or attempting to participate, on DOT-assisted contracts, whether successful or unsuccessful in their attempt to obtain a contract.

The bidder is to complete all requested information for every firm who submitted a bid, proposal or quote, including the primary bidder, and submit this information to the Authority no later than 4:00 p.m. on the 2nd business day after the Authority's bid due date, or as otherwise specified in the solicitation. The Authority will utilize this information to assist in the Authority's DBE goal-setting process.

| Prime Name and Location | Type of Work/Services/Materials Provided: | Subcontract Amount | Percentage of Bid Item Sub-contracted | Contractor License No. | DBE (Y/N) | Phone: | Annual Gross Receipts |
|-------------------------|---|--------------------|---------------------------------------|------------------------|----------------------|---------|---|
| | NAICS/WCC | | | DIR Reg Number | DBE Certification ID | E-mail: | |
| Prime Bidder: | | | | | | | <input type="checkbox"/> Less than \$1 million <input type="checkbox"/> Less than \$5 million <input type="checkbox"/> Less than \$10 million <input type="checkbox"/> Less than \$15 million <input type="checkbox"/> More than \$15 million Age of Firm: _____yrs. |
| Contact Name: | | | | | | | |
| Address: | | | | | | | |

| Subcontractor Name and Location | Type of Work/Services/Materials Provided: | Subcontract Amount | Percentage of Bid Item Sub-contracted | Contractor License No. | DBE (Y/N) | Phone: | Annual Gross Receipts |
|---------------------------------|---|--------------------|---------------------------------------|------------------------|----------------------|---------|---|
| | NAICS/WCC | | | DIR Reg Number | DBE Certification ID | E-mail: | |
| Firm Name: | | | | | | | <input type="checkbox"/> Less than \$1 million <input type="checkbox"/> Less than \$5 million <input type="checkbox"/> Less than \$10 million <input type="checkbox"/> Less than \$15 million <input type="checkbox"/> More than \$15 million Age of Firm: _____yrs. |
| Contact Name: | | | | | | | |
| Address: | | | | | | | |

**IFB 0-2074
EXHIBIT E-3**

| Subcontractor Name and Location | Type of Work/Services/Materials Provided: | Subcontract Amount | Percentage of Bid Item Sub-contracted | Contractor License No. | DBE (Y/N) | Phone: | Annual Gross Receipts |
|---------------------------------|---|--------------------|---------------------------------------|------------------------|----------------------|---------|---|
| | NAICS/WCC | | | DIR Reg Number | DBE Certification ID | E-mail: | |
| Firm Name: | | | | | | | <input type="checkbox"/> Less than \$1 million |
| Contact Name: | | | | | | | <input type="checkbox"/> Less than \$5 million |
| Address: | | | | | | | <input type="checkbox"/> Less than \$10 million |
| | | | | | | | <input type="checkbox"/> Less than \$15 million |
| | | | | | | | <input type="checkbox"/> More than \$15 million |
| | | | | | | | Age of Firm: _____yrs. |
| Firm Name: | | | | | | | <input type="checkbox"/> Less than \$1 million |
| Contact Name: | | | | | | | <input type="checkbox"/> Less than \$5 million |
| Address: | | | | | | | <input type="checkbox"/> Less than \$10 million |
| | | | | | | | <input type="checkbox"/> Less than \$15 million |
| | | | | | | | <input type="checkbox"/> More than \$15 million |
| | | | | | | | Age of Firm: _____yrs. |
| Name: | | | | | | | <input type="checkbox"/> Less than \$1 million |
| Contact Name: | | | | | | | <input type="checkbox"/> Less than \$5 million |
| Address: | | | | | | | <input type="checkbox"/> Less than \$10 million |
| | | | | | | | <input type="checkbox"/> Less than \$15 million |
| | | | | | | | <input type="checkbox"/> More than \$15 million |
| | | | | | | | Age of Firm: _____yrs. |

NOTE: USE ADDITIONAL SHEETS AS NECESSARY TO DEMONSTRATE RESPONSIVENESS TO THE BIDDERS LIST REQUIREMENTS.

IRAN CONTRACTING ACT CERTIFICATION

(California Public Contract Code Sections 2200, *et seq.*)

The Iran Contracting Act of 2010 (PCC Sections 2200-2208), prohibits bidders who are engaged in investment activities in the energy sector of Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods or services of one million dollars (\$1,000,000) or more. At the time of submitting a bid, each bidder must certify that the bidder is not identified on the Department of General Services list of ineligible persons pursuant to PCC Section 2203(b). Each bidder is also required to certify that the bidder is not engaged in investment activities in violation of the Iran Contracting Act of 2010.

A bidder who is engaged in investment activities in the energy sector of Iran is defined as:

1. A person providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. A person that is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to PCC Section 2203(b).

A bidder is not required to certify that it is engaged in investment activities in the energy sector of Iran if the bidder is exempt from the certification under PCC Section 2203(c) or (d). If the bidder is exempt from the certification requirement, the bidder will be required to provide documentation demonstrating the exemption.

To comply with the Iran Contracting Act of 2010, the bidder shall complete **one** of the options below. Please note: under PCC Section 2205, false certification of this form may result in civil penalties of \$250,000 or twice the amount of the contract for which false certification was made, termination of the contract, and/or ineligibility to bid on contracts for a period of three years.

Option #1: Certification

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below, and any subcontractor who will perform work or labor or render services to the vendor identified below, is not on the current Department of General Services list identifying persons engaged in investment activities in the energy sector of Iran, and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current Department of General Services list identifying persons engaged in investment activities in the energy sector of Iran.

Vendor/Financial Institution: _____

Signature: _____

Name and Title: _____

Date: _____

Option #2: Exemption

Pursuant to PCC Section 2203(c) and (d), a public entity may permit a bidder or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit proposals for, or enter into or renew a contract with a public entity for goods or services of one million dollars (\$1,000,000) or more. If the bidder, financial institution, or any subcontractor who will perform work or labor or render services to the bidder has obtained an exemption from the certification requirement, please complete and sign below and attach the documentation demonstrating the exemption approval.

Vendor/Financial Institution: _____

Signature: _____

Name and Title: _____

Date: _____

Option #3: Non-Applicability

Pursuant to PCC Section 2203(b), a bidder or financial institution engaged in investment activities in Iran may not be eligible for, or to bid on, submit proposals for, or enter into or renew a contract with a public entity for goods or services of one million dollars (\$1,000,000) or more. If the contract is not for goods or services of one million dollars (\$1,000,000) or more, please sign below indicating that the contract is not for goods or services of one million dollars (\$1,000,000) or more and thus bidder is not required to certify and does not meet the exemption.

Vendor/Financial Institution: _____

Signature: _____

Name and Title: _____

Date: _____

BIDDER'S CERTIFICATE
REGARDING
"BUY AMERICA" REQUIREMENTS
FOR
STEEL, IRON, OR MANUFACTURED PRODUCTS

In order to demonstrate compliance with the Buy America Requirements, if the bid is for a contract greater than one hundred and fifty thousand dollars (\$150,000), Bidder shall complete only one of the two statements below:

The _____

Firm name/principal

hereby certifies that it **will comply** with the requirements of 49 U.S.C. Section 5323(j), and the applicable regulations in 49 CFR Part 661.

Signature

Name

Title

Date

Or:

The _____

Firm name/principal

hereby certifies that it **cannot comply** with the requirements of 49 U.S.C. Section 5323(j), but may qualify for an exception to the requirement pursuant to 49 U.S.C. Section 5323(j)(2), as amended, and the applicable regulations in 49 CFR Part 661.7.

Signature

Name

Title

Date

Revised: 05/23/2018

CERTIFICATION
LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS

A. DEFINITIONS

1. Authority, as used in this clause, means the Orange County Transportation Authority.
2. Covered Federal action, as used in this clause, means any of the following Federal actions:
 - a. The awarding of any Federal contract.
 - b. The making of any Federal grant.
 - c. The making of any Federal loan.
 - d. The entering into of any cooperative agreement.
 - e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - f. Indian tribe and tribal organization, as used in this clause, have the meaning provided in Section 450b of the Indian self-determination and Education Assistance Act (25 U.S.C. 450) and include Alaskan Natives.
3. Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
4. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or other were recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
5. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:
 - a. An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.

- b. A member of the uniformed services, as defined in the subsection 101(3), Title 37, United States Code.
 - c. A special Government employee, as defined in Section 202, Title 18, United States Code.
 - d. An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix Section 3.
6. Person, as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 7. Reasonable compensation, as used in this clause, means with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
 8. Reasonable payment, as used in this clause means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.
 9. Recipient, as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 10. Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.
 11. State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State regional or interstate entity having governmental duties and powers.

B. PROHIBITIONS

1. Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or, the modification of any Federal contract, grant, loan, or cooperative agreement.
2. The Act also requires Contractor to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan or cooperative agreement.
3. The prohibitions of the Act do not apply under the following conditions:
 - a. Agency and legislative liaison by own employees.
 - (1) The prohibition on the use of appropriated funds, in subparagraph C.1. of this clause, does not apply in the case of payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.
 - (2) For purposes of paragraph C.3.a.(1) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
 - (3) The following agency and legislative liaison activities are permitted any time where they are not related to a specific solicitation for any covered Federal action:
 - i. Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities.
 - ii. Technical discussions and other activities regarding the application of adaptation of the person's products or services for an agency's use.
 - (4) The following agency and legislative liaison activities are permitted

where they are prior to formal solicitation of any covered Federal action:

- i. Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
- b. Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
 - (1) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.
 - (2) Only those services expressly authorized by paragraph C.3.a.(1) of this clause are permitted under this clause.
- c. Professional and technical services
 - (1) The prohibition on the use of appropriated funds, in subparagraph C.1. of this clause, does not apply in the case of:
 - i. A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as condition for receiving that Federal action.
 - ii. Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application or that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include contractors and trade associations.
 - iii. For purposes of paragraph C.3.a.(1) of this clause, professional and technical services shall be limited to advise and analysis directly applying any professional or technical

discipline. For example, drafting of a legal document accompanying a bid or proposal is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission, or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

- iv. Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- v. Only those services expressly authorized by paragraph C.3.a.(1) and (2) of this clause are permitted under this clause.
- vi. The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

d. Disclosure

- (1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form OMB standard form LLL, Disclosure of Lobbying Activities, (Attachment to the bid package) if such person has made or had agreed to made any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B.1. of this clause, if paid for with appropriated funds.

- (2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph II.A. of this clause. An event that materially affects the accuracy of the information reported includes:
 - i. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - ii. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - iii. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.
- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the Contractor. The Contractor shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding contractor.

e. Agreement

- (1) The Contractor agrees not to make any payment prohibited by this clause.

f. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (2) Contractor may relay without liability on the representation made by its subcontractors in the certification and disclosure forms.

g. Cost Allowability:

- (1) Nothing in this clause is to be interpreted to make allowable or reasonable any costs, which will otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provisions.

**CERTIFICATION OF
RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on behalf (name of offeror) of

_____ that:

(Firm name)

- A. No federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
1. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for making lobbying contracts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
 2. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Bidder, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Bidder understands and agrees that the provisions of 31 U.S.C. 3801, et seq. apply to this certification and disclosure, if any.

Executed this _____ day of _____, 2020

By _____
(Signature of authorized official)

(Title of authorized official)

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by
OMB
003480045

| | | |
|--|--|--|
| 1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance | 2. Status of Federal Action: <input type="checkbox"/> a. bid/offer application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award | 3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material changes For Material Change Only: year _____ quarter _____ date of last report _____ |
| 4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____ | | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____ |
| 6. Federal Department/Agency: | 7. Federal Program Name/Description: CFDA number, if applicable: _____ | |
| 8. Federal Action Number, if known: | 9. Award Amount, if known: \$ _____ | |
| 10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI) | b. Individuals Performing Services (including address if different from No 10a) (last name, first name, MI): | |
| (attach Continuation Sheet(s) SF - LLL - A if necessary) | | |
| 11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned | 13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other specify: _____ | |
| 12. Forum of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify nature: _____ value: _____ | | |
| 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s) or Member(s) contracted for Payment indicated in Item, 11: (attach Continuation Sheet(s) SF-LLL-A if necessary) | | |
| 15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 16. Information requested through this form is authorized by Code 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure. | Signature: _____ Print name: _____ Title: _____ Telephone No: _____ Date: _____ | |
| Federal Use Only | | Authorized for Local Reproduction Standard Form - LLL |

Approved by
OMB
003480045

INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

This DISCLOSURE FORMS SHALL BE COMPLETED BY the reporting entity, whether Subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.
7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Management and Budget Paperwork Reduction Project (0348-0446), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Approved by
OMB
003480045

Reporting Entity: _____ Page _____ of _____

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SECTION III: ADDITIONAL CONTRACTUAL EXHIBITS

SECTION III. ADDITIONAL CONTRACTUAL EXHIBITS

The following Exhibits will be attached to and incorporated into the signed Agreement resulting from this IFB.

A. PERFORMANCE BOND

The successful bidder shall furnish at its own expense a Performance Bond (Exhibit E) satisfactory to the Authority in the amount of one hundred percent (100%) of the full amount of the contract as a guarantee of good faith on behalf of the Contractor that the terms of the contract, including all warranty provisions, shall be complied with in every particular. The bond shall be issued by a corporation surety (not an individual surety) required in the state of California and registered to do business in the county of Orange. The bond shall not be issued from a corporation surety that requires a funds control, funds disbursement, or funds administration company for the issuance of the performance bond.

The bond shall specifically provide that if the Contractor, or its subcontractor, fails to fully perform that the surety or sureties will pay for the same in an amount not exceeding the amount specified in the bond and in case suit is brought against the Authority, that the surety will undertake the defense of same.

B. PAYMENT BOND

The successful bidder shall furnish a Payment Bond (Exhibit F) satisfactory to the Authority in the amount of one hundred percent (100%) of the full amount of the contract. Such bonds shall be in effect during the entire term of the contract and warranty and shall be issued directly by a corporate surety (not an individual surety) registered in the state of California and registered to do business in the county of Orange. The bond shall not be issued from a corporation surety that requires a funds control, funds disbursement, or funds administration company for the issuance of the performance bond.

The bond shall specifically provide that if the Contractor fails to pay for amounts due under the Employment Insurance Act that the surety or sureties will pay for the same in an amount not exceeding the amount specified in the bond and in case suit is brought against the Authority, that the surety will undertake the defense of same.

Pursuant to California Civil Code Sections 9550 through 9554, in conjunction with the Bond and Undertaking Law (Code of Civil Procedure Sections 995.010, et. seq.), Bidders must provide the following information as part of their payment bond; a certificate of Authority from the Orange County Clerks Office indicating that the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed Authority has been granted.

C. GUARANTY

The successful bidder shall also submit to the Authority the executed and notarized Guaranty form (Exhibit G) in this IFB.

All forms must be completed and submitted to the Contract Administrator responsible for this procurement within ten (10) calendar days of award notice by the Authority. Failure to submit the completed and signed forms will result in cancellation of the award.

D. CONTRACT CHANGE ORDER

The Authority's Contract Change Order form (Exhibit H) be attached to and incorporated into the signed Agreement resulting from this IFB.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
hereinafter referred to as "Contractor", as principal, and _____
as surety, are held and firmly bound unto the Orange County Transportation Authority,
State of California, in the sum _____
Dollars, (\$ _____), lawful money of the United States of America,
for the payment of which sum, well and truly to be made, we bind ourselves, jointly and
severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, said Contractor has been awarded and is about to enter into the annexed
Agreement with the Orange County Transportation Authority for the **IFB 0-2074,**
"REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE
CONSTRUCTION CIRCLE BUS BASES," as specified in said Agreement, which is
incorporated herein to this bond by reference, and is required under the terms of said
Agreement to give this bond in connection with the execution thereof;

NOW THEREFORE, if the said Contractor shall well and truly do and perform all of the
covenants and obligations of said Agreement on his part to be done and performed at the
times and in the manner specified herein, then this obligation shall be null and void,
otherwise it shall be and remain in full force and effect; and in the event said Contractor
fails to fully perform all requirements in accordance with the terms and conditions of said
Agreement, then surety shall enforce performance by the Contractor or shall pay the
Orange County Transportation Authority for the same in an amount not exceeding the
amount specified in this bond; and, further, if in the event suit is brought upon this bond
then said surety shall pay the Orange County Transportation Authority for reasonable
attorneys' fees to be fixed by the court;

PROVIDED, that any changes in the work to be done, or the material to be furnished,
whether or not made pursuant to the terms of said contract, shall not in any way release
either the Contractor or the surety there under, nor shall any extensions of time granted
under the provisions of said contract release either the Contractor or the surety, and
notice of such changes or extensions of the contract is hereby waived by the surety.

WITNESS our hands this _____ day of _____, 2020.

(SEAL)

(Contractor)

By _____

Approved:

(Title)

(SEAL)

(Surety)

By _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
hereinafter referred to as "Contractor", as principal, and _____
as surety, are held and firmly bound unto the Orange County Transportation Authority,
State of California, in the sum _____
Dollars, (\$ _____), lawful money of the United States of America, for
the payment of which sum, well and truly to be made, we bind ourselves, jointly and
severally, firmly by these presents.

The Condition of the foregoing obligation is such that,

WHEREAS, said Contractor has been awarded and is about to enter into the annexed Agreement with the ORANGE COUNTY TRANSPORTATION AUTHORITY for the **IFB 0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES,"** as specified in said Agreement, which is incorporated herein to this bond by reference, and is required under the terms of said Agreement to give this bond in connection with the execution thereof;

NOW, THEREFORE, if said Contractor or a subcontractor fails to pay any of the persons named in Section 9100 of the Civil Code of the State of California, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of said Contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then said surety will pay for the same, in an amount not exceeding the sum specified in this bond, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court. This bond shall inure to the benefit of all persons named in Section 9100 of the Civil Code of the State of California so as to give a right of action to such persons or their assigns in any suit brought upon this bond. This bond shall be subject to and include all of the provisions of Title 3 of Part 64 of Division 4 of the Civil Code of California relating to Payment Bond for Public Works, including but not confined to, Civil Code Sections 8150 – 8154, inclusive and Sections 9550 - 9566, inclusive.

PROVIDED, that any changes in the work to be done or the material to be furnished, whether or not made pursuant to the terms of said contract, shall not in any way release either the Contractor or the surety thereunder, nor shall any extensions of time granted under the provisions of said contract release either the Contractor or the surety, and notice of such alterations or extensions of the contract is hereby waived by the surety.

PAYMENT BOND, PAGE 2

WITNESS our hands this _____ day of _____, 2020.

(SEAL)

(Contractor)

By _____

(Title)

Approved:

(Surety)

(SEAL)

By _____

GUARANTY

The undersigned, as "Contractor," guarantees to the Orange County Transportation Authority that the materials furnished and the completed installation work, and the related work performed by the Contractor pursuant to Agreement No. **C-0-2074, "REPLACEMENT OF POWER GENERATORS AT ANAHEIM AND IRVINE CONSTRUCTION CIRCLE BUS BASES"**.

- A. For a period of one (1) year from the date of completion, as evidenced by the date of final acceptance of the work by the Authority, the Contractor warrants to the Authority that work performed and materials furnished under this Contract conforms to the Contract requirements and shall be free from any defect in design, material or workmanship performed by the Contractor or its subcontractors or suppliers. Notwithstanding the foregoing, Contractor shall not be liable for any defects of design, material or equipment provided by Authority.
- B. Under this guaranty, the Contractor shall remedy at its own expense any such failure to conform or any such defect.
- C. Nothing in the above intends or implies that this warranty shall apply to work, which has been abused or neglected by the Authority.
- D. This guaranty shall be in addition to the other guarantees and warranties specified in the Agreement and shall be enforceable concurrently with, or in lieu of, said other guarantees.

Should any of the materials or equipment prove defective or should the work as a whole prove defective, due to faulty workmanship, material furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with the plans and specifications, due to any of the above causes, all within twelve (12) months after the date on which the work is accepted by the Authority, the undersigned agrees to reimburse the Authority, upon demand, for its expenses incurred in restoring any such equipment or materials replaced and the cost of removing and replacing any other work without cost to the Authority so that said work will function correctly as originally contemplated.

The Authority shall have the unqualified option to make any needed replacements or repairs itself or to have such replacements or repairs done by the undersigned. In the event the Authority elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed within a reasonable time after the receipt of demand from the Authority. If the undersigned shall fail or refuse to comply with its obligations under this guaranty, the Authority shall be entitled to all costs and expenses, including attorneys' fees, reasonably incurred by reasons of the said failure or refusal.

GUARANTY, PAGE 2

Subscribed and sworn to before me _____
Name

this ____ day of _____, 2020 _____
Title

Seal of Notary _____
Signature

Notary Public

Date



**CONTRACT
CHANGE
ORDER**

**IFB 0-2074
EXHIBIT H**

DATE:

| | | | | |
|---------|---------|--------------|-----------|--|
| PROJECT | OCTA NO | CONTRACT NO. | SUPPL NO. | CHANGE REQUESTED BY: |
| | | | N/A | <input type="checkbox"/> OWNER <input type="checkbox"/> CONTRACTOR |
| TO: | | ACCOUNT CODE | | OTHER ID |
| TITLE: | | | | |

You are hereby directed to make the herein described changes from the plans and specifications or do the following work not included in the plans and specifications on this contract. NOTE: This change order is not effective until approved by the Orange County Transportation Authority's Manager of Contracts Administration and Materials Management or in the case of change orders in excess of \$210,000.00 the Orange County Transportation Authority's Chief Executive Officer. Describe work to be performed, estimate of quantities, and prices to be paid. Segregate between additional work at contract price, agreed price, and force account. Unless otherwise stated, rates for rental equipment cover only such time as equipment is actually used and no allowance will be made for idle time.

Change Work Description:

MODIFICATIONS DUE TO THIS CHANGE ORDER:

TIME: 0 CALENDER DAYS

PRICE: \$0.00

☐ INCREASE ☐ DECREASE

| | | |
|--------------------------|---|------|
| APPROVAL RECOMMENDED BY: | RESIDENT ENGINEER | DATE |
| APPROVAL RECOMMENDED BY: | PROJECT MANAGER | DATE |
| APPROVAL RECOMMENDED BY: | DIRECTOR OF RAIL PROGRAMS | DATE |
| APPROVAL RECOMMENDED BY: | EXECUTIVE DIRECTOR OF CAPITAL PROGRAMS | DATE |
| APPROVAL RECOMMENDED BY: | GENERAL COUNSEL | DATE |
| APPROVED BY: | CONTRACTS ADMINISTRATION AND MATERIALS MANAGEMENT | DATE |
| APPROVED BY: | CHIEF EXECUTIVE OFFICER | DATE |

We, the Undersigned Contractor, have given careful consideration to the change and hereby agree that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will therefore accept as full payment the prices shown above. Additionally, we agreed that the compensation (time and cost) set forth in this Change Order comprises the total compensation due the Contractor, and all the Subcontractors and all Suppliers, for the work or change defined in this Change Order, including all impact on any unchanged work. By signing this Change Order, the Contractor acknowledges and agrees, on behalf of themselves, all Subcontractors and all Suppliers, that the stipulated compensation includes payment for all work contained in this Change Order, plus all payments for interruption of schedules, extended overhead costs, delay, and all impact, ripple effect or cumulative impact on all other work under the Contract. The signing of this Change Order shall indicate that the Change Order constitutes the total equitable adjustment owed to the Contractor, all Subcontractors and all Suppliers, and the Contractor agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of or as a result of this Change Order or the impact of this Change Order on the remainder of the work under this Contract.

| | | |
|--------------|------------|-------|
| ACCEPTED BY: | CONTRACTOR | DATE |
| | NAME | TITLE |

If the Contractor does not sign acceptance of this order, their attention is directed to the requirements of the specifications as to proceeding with the ordered work and filing a written protest within the time therein specified.

SECTION IV: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
REQUIREMENTS

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM REQUIREMENTS

(Revised on 03/06/19)

1.0 DBE Goal

To assist Bidders in ascertaining DBE availability based on the specific items of work associated with this procurement, the Authority has determined that DBEs are ready, willing and able to compete for subcontracting opportunities on this project. The DBE Goal for this contract is 0%.

2.0 DBE Policy and Applicability

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Orange County Transportation Authority (Authority) has adopted a Disadvantaged Business Enterprise ("DBE") Policy and Program, in conformance with Title 49 CFR part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." The contract is subject to the following stipulated regulations. Pursuant to the intent of these Regulations, it is the policy of the Authority to fulfill the spirit and intent of the DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have an equitable opportunity to compete for and participate in Authority's U.S. DOT-assisted contracts and subcontracts. The Authority is firmly committed to its DBE Program objectives, which are designed to:

- 2.1** Ensure non-discrimination in the award and administration of Authority's DOT-assisted contracts.
- 2.2** Create a level playing field on which DBEs can fairly compete for the Authority's DOT-assisted contracts.
- 2.3** Ensure that the DBE Program and Overall Goal are narrowly tailored in accordance with applicable law.
- 2.4** Ensure that only firms that meet 49 CFR part 26 eligibility standards are permitted to participate as DBEs in the Authority's DBE program.
- 2.5** Help remove barriers which impede the participation of DBEs in the Authority's U.S. DOT-assisted contracts.
- 2.6** Promote the use of DBEs in all types of U.S. DOT-assisted agreements and procurement activities conducted by the Authority.
- 2.7** Provide training and other assistance through our resource partners to address capital, bonding and insurance needs.

- 2.8 Assist in the development of DBE firms that can compete successfully in the marketplace outside the DBE Program; and
- 2.9 Establish and provide opportunities for DBEs by providing flexibility in the implementation of the Authority's DBE Program.

Bidders shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

Any terms used in this section that are defined in 49 CFR part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to U.S. DOT-assisted contracts, the Regulations shall prevail.

Race-Neutral/Race-Conscious DBE Program Measures

The Authority will utilize both race-neutral and race-conscious means to meet its Overall DBE Program goals.

Race-neutral measures will include but are not limited to conducting outreach, training, providing other resource assistance, and assessing bid delivery schedules to ensure that DBEs interested in bidding for U.S. DOT-assisted solicitations are provided accurate and adequate information about the plans, specifications, and requirements of the solicitation in a timely manner to assist them in responding to the bid. Additional Authority race-neutral measures include ensuring that DBEs and other small business are afforded ample opportunity to participate in the Authority's U.S. DOT-assisted solicitations by unbundling large contracts to make them more accessible to small businesses and requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces. Race-neutral participation also includes any time a DBE obtains a Prime Contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE goal.

In conjunction with the race-neutral measures listed above, the Authority will implement race-conscious measures through the use of contract goals and good faith efforts. When a contract-specific goal is assigned to a project, bidders must demonstrate responsiveness by committing to meet the DBE goal or documenting a bona fide good faith effort to do so, as a condition of award. Contract-specific goals are specifically targeted at DBEs certified through the California Unified Certification Program ("CUCP").

3.0 **Definitions**

The following definitions apply to the terms as used in these provisions:

- 3.1 ***"Disadvantaged Business Enterprise ("DBE")"*** means a for-profit small business concern: (a) which is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 3.2 ***"Small Business Concern"*** means a small business as defined pursuant to Section 3 of the Small Business Act and Small Business Administration (SBA) regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).
- 3.3 ***"Socially and Economically Disadvantaged Individuals"*** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of a group and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control:
 - 3.3.1 Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.
 - 3.3.2 Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - 3.3.2.1 "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - 3.3.2.2 "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - 3.3.2.3 "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
 - 3.3.2.4 "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma

(Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

3.3.2.5 "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh, Bhutan, the Maldives Islands, Nepal or Shri Lanka;

3.3.2.6 Women; and

3.3.2.7 Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

3.3.3 Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

3.4 "Owned and Controlled" means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals," or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals;" and (b) whose management and daily business operations are controlled by one or more such individuals.

3.5 "Manufacturer" means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

3.6 "Regular Dealer" means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

3.7 "Fraud" includes a firm that does not meet the eligibility criteria of being a certified DBE and that attempts to participate in a U.S. DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations, or under circumstances indicating a serious lack of

business integrity or honesty. The Authority may take enforcement action under 49 CFR part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31. The Authority may refer cases of identified fraud to the Department of Justice, for prosecution under 18 U.S.C. 1001, or any other applicable provisions of law. Any person who makes a false or fraudulent statement in connection with participation of a DBE in any U.S. DOT-assisted program or otherwise, violates applicable Federal statutes.

- 3.8 "Other Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents), and who, on a case-by-case basis, are determined by the Small Business Administration or the Authority to meet the social and economic disadvantage criteria described below.

3.8.1 Social Disadvantage

- 3.8.1.1 The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
- 3.8.1.2 The individual must demonstrate that he/she has personally suffered social disadvantage.
- 3.8.1.3 The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.
- 3.8.1.4 The individual's social disadvantage must be chronic, longstanding and substantial; not fleeting or insignificant.
- 3.8.1.5 The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.
- 3.8.1.6 A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

3.8.2 Economic Disadvantage

- 3.8.2.1 The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same

line of business and competitive market area that are not socially disadvantaged.

- 3.8.2.2 The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- availability of financing
- bonding capability
- availability of outside equity capital
- available markets

With respect to the individual and the business concern:

- personal and business assets
- personal and business net worth
- personal and business income and profits

4.0 DBE Bid Submission Requirements

Bidder shall complete and submit the following DBE Exhibits (forms) with their bid:

- DBE Participation Commitment Form
 - Written Confirmation (required from each proposed DBE firm listed on the DBE Participation Commitment Form)

Bidder must complete and submit the following DBE Exhibits (forms) to the Authority no later than 4:00 p.m. on the 2nd business day after the bid due date:

- DBE Information – Good Faith Efforts (if sufficient participation to meet the DBE goal has not been proposed on the DBE Participation Commitment Form)
- Bidders List

| Required Forms | Submission |
|---|---|
| DBE Participation Commitment Form | Required at time of bid |
| Written Confirmation (for each DBE firm listed on the DBE Participation Commitment Form) | Required at time of bid |
| DBE Information – Good Faith Efforts | Required no later than 4:00 p.m. on the 2 nd business day after the bid due date |
| Bidders List | Required no later than 4:00 p.m. on the 2 nd business day after the bid due date |

4.1 “DBE Participation Commitment Form” (Exhibit E-1) required at time of Bid. The Bidder is to provide the following information for each DBE that will participate in the contract:

- 4.1.1 The complete name and address of each DBE who will participate in the contract;
- 4.1.2 Valid DBE Certification ID to confirm eligibility status through the CUCP, in conformance with 49 CFR Part 26;
- 4.1.3 A description of the work that each DBE will perform or provide;
- 4.1.4 The dollar amount of the work to be performed or provided by the DBE;
- 4.1.5 The bid item (#) associated with the proposed scope(s) of work;
- 4.1.6 The dollar amount of the work eligible to be credited for each DBE towards the DBE goal (should not include lower-tier participation and should account for the type of work to be performed);
- 4.1.7 The bidder shall also submit, for each DBE to perform under this Agreement, a written confirmation signed and dated from each DBE listed, acknowledging that the DBE is participating in the contract for the specified dollar value and scope of work listed on the DBE Participation Commitment Form. A signed quote or bid from the DBE firm can be used in lieu of the written confirmation; however, the dollar amount and scope(s) in the quote/bid, and the amount and scope reflected on the DBE Participation Commitment Form must match identically.

4.2 “DBE Information - Good Faith Efforts” (Exhibit E-2)

To be a responsible and responsive bidder, the bidder must make good faith efforts to meet the goal. The Bidder can meet this requirement in two ways: (i) the bidder can meet the goal by documenting commitments for participation by DBE firms sufficient for this purpose; or (ii) the bidder can demonstrate that he/she took all necessary and reasonable steps to achieve the DBE goal, or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

If the Bidder did not meet or obtain enough DBE participation to meet the DBE goal, the bidder must complete and submit the “DBE Information – Good Faith Efforts,” form demonstrating that the Bidder made adequate good faith efforts to meet the goal.

If the bidder has met the DBE goal based on the participation of DBEs listed on the bidder’s “DBE Participation Commitment Form,” it is at the bidder’s discretion (i.e. this is not mandatory) to submit “DBE Information – Good Faith Efforts,” form. However, the submission of good faith efforts documentation can protect the bidder’s eligibility for award of the contract if the Authority determines that the bidder failed to meet the goal for various reasons (e.g., a DBE firm was not certified at bid submission or the bidder made a mathematical error). Submittal of only the “DBE Information – Good Faith Efforts,” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made; therefore, the bidder is encouraged to attach additional information and supporting documents as necessary.

Good Faith Efforts documentation must be submitted to the Authority no later than 4:00 p.m. on the 2nd business day after the bid due date.

For further guidance, refer to instructions on Exhibit E-2 “DBE Information – Good Faith Efforts” form and the United States Department of Transportation’s (“U.S. DOT”) DBE Program, Appendix A of Title 49 CFR Part 26 “Guidance Concerning Good Faith Efforts,” and the DBE Section of the Authority’s Pre-Bid PowerPoint.

4.3 “Bidders List” (Exhibit E-3)

The Authority is required by Regulations to create and maintain a “Bidders List,” of all firms bidding or quoting on the Authority’s U.S. DOT-assisted contracts for use in calculating the Authority’s DBE goal(s). Bidders are required to complete and submit the requested information listed on the “Bidders List” form, for all firms (DBE[s] and Non-DBE[s]) who submitted a bid, proposal or quote, including firms who were contracted by the prime bidder.

The “Bidders List” must be submitted to the Authority no later than 4:00 p.m. on the 2nd business day after the bid due date.

SECTION V: CALIFORNIA UNIFIED CERTIFICATION PROGRAM

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



Dear Business Owner:

Thank you for your interest in participating in the Unified Certification Program (UCP) of California for Disadvantaged Business Enterprises (DBEs). As mandated by the United States Department of Transportation (U.S. DOT) in the DBE Program, Final Rule 49 Code of Federal Regulations (CFR), Part 26, all U.S. DOT recipients of federal financial assistance must participate in a statewide UCP by March 2002. The UCP is a "One-Stop Shopping" certification procedure that will eliminate the need for DBE firms to obtain certifications from multiple agencies within the State.

The UCP of California is charged with the responsibility of certifying firms and compiling and maintaining the Database of certified DBEs for U.S. DOT grantees in California, pursuant to 49 CFR Part 26. The Database is intended to expand the use of DBE firms by maintaining complete and current information on those businesses and the products and services they can provide to all grantees of California.

Complete the attached application and supplemental questionnaire if you wish to be considered for DBE certification and your business meets the following general guidelines:

1. The firm must be at least 51% owned by one or more socially and economically disadvantaged individuals.
2. The firm must be an independent business, and one or more of the socially and economically disadvantaged owners must control its management and daily operations.
3. Only existing for-profit "Small Business Concerns," as defined by the Small Business Act and Small Business Administration (SBA) regulations may be certified. DBE applicants are first subject to the applicable small business size standards of the SBA. Second, the average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed U.S. DOT's cap of \$17.42 million.

For firm applying for airport concession DBE certification: The average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed \$30 million.

4. The Personal Net Worth (PNW) of each socially and economically disadvantaged owner must not exceed \$750,000. The PNW excludes the individual's ownership interest in the applicant firm and the equity in his/her primary residence.

For firm applying for airport concession DBE certification: A PNW is not required at this time.

Socially and economically disadvantaged individual means any individual who is a citizen of the United States (or lawfully admitted permanent resident) and who is a member of the following groups: Black American, Hispanic American, Native American, Asian-Pacific American, Subcontinent Asian American, or Women,

or

Any individual found to be socially and economically disadvantaged on a case-by-case basis by a certifying agency pursuant to the standards of the U.S. DOT 49 CFR part 26.

In order to avoid unnecessary delays, complete all portions of the application and supplemental questionnaire, placing "N/A" next to items that are not applicable. Include all copies of documents requested on the application, and have the Affidavit of Certification, Affidavit of Social and Economic Disadvantage and Personal Net Worth Statement notarized. Additional documentation may be requested if it is considered necessary to make a certification determination. Incomplete applications/supplemental questionnaires or applications/supplemental questionnaires without all the required documents will not be evaluated until such documents are submitted. We recommend keeping a copy of all submitted documents for your records.

REMEMBER: It is no longer necessary to apply at more than one agency. If your firm meets the criteria for certification, it will be entered into the Database of DBEs for all U.S. DOT grantees in California. Only firms currently certified as eligible DBEs may participate in the DBE programs of U.S. DOT grantees of California.

The California UCP has established four Regional DBE Certification Clusters throughout the State to effectively facilitate statewide DBE certification activities. Forward your completed certification packet to one of the agencies serving the county where your firm has its principal place of business. (See enclosed Roster of Certifying Agencies.)

For Out-of-State Firms: The California UCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state. If your firm is located outside of California and is certified as a DBE at its home state, forward your completed certification packet, along with a copy of your DBE certificate, to the California Department of Transportation. (See page 3 of the enclosed Roster of Certifying Agencies.)

CALIFORNIA UNIFIED
CERTIFICATION PROGRAM

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



DEFINITIONS OF TERMS USED IN UNIFORM CERTIFICATION APPLICATION

Alaska Native Corporation (ANC) – Any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended.

Concession – A grant of property made by a government or other controlling authority in return for stipulated services or a promise that the property will be used for a specific purpose.

Corporate Tax Returns – Federal Tax Return Form 1120 or 1120S, including Schedules E or C.

Indian Tribe – Any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of Tribally-Owned Concern.

Key Person Insurance – Life insurance and long-term disability income insurance on major employees, with benefits payable to the business.

Native Hawaiian – Any individual whose ancestors were natives, prior to 1778, of the area, which now comprises the State of Hawaii.

Native Hawaiian Organization – Any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians and whose business activities will principally benefit such Native Hawaiians.

Partnership Tax Returns – Federal Tax Return Form 1065, including Schedules K and K-1.

Personal Net Worth – The net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Personal Tax Returns – Federal Tax Return Form 1040, including Schedules B and C.

Regular Dealer – A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.

Socially and Economically Disadvantaged Individual – Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is –

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - “African Americans” or “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa.
 - “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
 - “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
 - “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong.
 - “Asian Indian Americans” or “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.
 - Women.
 - Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-Owned Concerns – Any concern at least 51 percent owned by an Indian tribe.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 CFR PART 26

UNIFORM CERTIFICATION APPLICATION

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 CFR Parts 180 and 1200, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice under 18 U.S.C. 1001.

ROADMAP FOR APPLICANTS

← **Should I apply?**

Your firm must meet the following requirements to qualify as a DBE under the United States Department of Transportation (DOT) DBE program:

- ☐ Disadvantaged owners are U.S. citizens or legal permanent residents.
- ☐ Firm's annual gross income does NOT exceed \$23.98 million (averaged over 3 years).
- ☐ Firm is at least 51% owned and controlled by socially and economically disadvantaged individuals.
- ☐ Firm meets SBA small business size in the primary industry group (13 CFR Part 121).
- ☐ Firm owned by ANCs, Indian Tribes, and Native Hawaiian Organizations meet the small business size requirements and are controlled by socially and economically disadvantaged individuals.
- ☐ Firm and owners meet the requirements of Part 26 concerning licenses and credentials.
- ☐ Firm must be for-profit.

Note: Firm must undergo an on-site review.

↑ **Is there an easier way to apply?**

If you are currently certified as an 8(a), or SDB firm, you may be eligible for a streamlined certification application process pursuant to a Memorandum of Understanding (MOU) between DOT and the SBA. Under the MOU, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to submit an entirely new application. You must still meet the requirements for the DBE program.

→ **What documents must I submit with this application?**

The following documents must be attached to your application. Missing documents or incomplete information will delay the processing of your application.

All Applicants

- ☐ Work experience resumes that include places of ownership/employment and corresponding dates.
- ☐ Personal Net Worth statement or statement from CPA.
- ☐ Social & economic disadvantage statement.
- ☐ Entire copy of personal tax returns for the last 3 years, if applicable.
- ☐ Documented proof of contributions used to acquire ownership for each owner (e.g. both sides of cancelled checks).
- ☐ Signed loan agreement and security agreements.
- ☐ Description of real estate and proof of ownership listed.
- ☐ List of equipment leased and signed lease agreements.
- ☐ List of construction equipment and/or vehicles owned and titles/proof of ownership.
- ☐ Signed leases for office/storage space.
- ☐ End of Year Balance Sheets and Income Statements for the past 3 years (or life of firm if less than 3 years). A new business must provide a current Balance Sheet.
- ☐ Copies of relevant licenses.
- ☐ DBE/MBE/WBE, SBA 8(a) or SDB certifications or denials and decertifications.
- ☐ Bank Authorizations and Signatory cards.
- ☐ Schedule of salaries paid to all officers, managers, owners or directors of the firm (W-2s).

Sole Proprietorship

- ☐ Assumed name, fictitious name or other registration

certificate from appropriate governmental agency.

Partnership or Joint Venture

- ☐ Original and any amended Partnership or Joint Venture Agreements.
- ☐ Assumed name, fictitious name, or other registration Certificate from appropriate governmental agency, if applicable.
- ☐ Partnership tax returns for last 3 years.

Corporation or LLC

- ☐ Official Articles of Incorporation (signed by the state official).
- ☐ Both sides of all Corporate Stock Certificates and Stock.
- ☐ Transfer Ledger.
- ☐ Entire copy of corporate tax returns for the last 3 years.
- ☐ Shareholders' Agreement.
- ☐ Minutes of all Stockholders' and Board of Directors' meetings.
- ☐ Corporate By-laws and any amendments.

NOTE: The specific state or recipient to which you are applying may have additional requirements.

↓ **Where can I find more information?**

U.S. DOT – <http://osdbuweb.dot.gov/business/dbe/index.html>

SECTION 1: CERTIFICATION INFORMATION**1. Prior/Other Certifications.**

| | | |
|---|---|---|
| (a) Is your firm currently certified for any of the following programs? (If Yes, attach a copy of your certification(s)). | <input type="checkbox"/> DBE | Name of certifying agency: |
| | <input type="checkbox"/> 8(a) <input type="checkbox"/> SDB | Has this firm's home state conducted an on-site visit? <input type="checkbox"/> Yes, on ____/____/____ <input type="checkbox"/> No |
| (b) Has your firm applied for certification for any program listed in 1(a) in the past? <input type="checkbox"/> Yes, on ____/____/____ <input type="checkbox"/> No If Yes, identify: Other names your company has used: Identification and certification numbers: | | |
| (c) Has this firm or any of its owners, Board of Directors, officers or management personnel been denied certification or decertified before by any agency in any state, local or Federal entity? <input type="checkbox"/> Yes, on ____/____/____ <input type="checkbox"/> No If Yes, identify State and name of agency: | | |

SECTION 2: GENERAL INFORMATION**2. Contact Information.**

| | | | |
|---|----------------|-----------------------------|------|
| Contact Person: | | Legal name of firm: | |
| Phone #: | Cell #: | Fax #: | |
| E-Mail: | | Web Site (if firm has one): | |
| Street address of firm: (No P.O. box no.) | | | |
| Mailing address of firm: | | | |
| City: | County/Parish: | State: | Zip: |

3. Business Profile.

| | | | |
|---|--|--|--|
| Primary nature of business/NAICS code: | | Federal tax ID: | |
| Federal identification number or Applicant's Social Security number: | | | |
| This firm was established on ____/____/____ | | I(we) have owned this firm since: ____/____/____ | |
| Did the business exist under a different type of ownership prior to the date indicated above? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Explain. | | | |
| Method of acquisition (check all that apply): <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other (explain) _____ | | | |
| Has this firm operated under a different name during the past five years? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain. | | | |
| Has this firm applied for reorganization under Chapter 11 and/or liquidation under Chapter 7, within the last 3 years? (If Yes, provide court papers) <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| Type of firm (Check all applicable): <input type="checkbox"/> Sole proprietorship (provide a copy of the assumed name certificate) <input type="checkbox"/> Partnership (provide copies of all partnership agreements and the assumed named certificate) <input type="checkbox"/> Corporation (provide Articles of Incorporation, copies of the stock certificates (both sides), Stock Transfer Ledger, Shareholders' Agreement, all minutes of the shareholders' meetings and Board of Directors' meetings, the Corporate Bylaws and Bylaws Amendments (if applicable), the Corporate Bank Resolution and Bank Signature Cards) <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other _____ | | | |
| Number of employees: Permanent Full-time____ Temporary Full-time____ Seasonal Full-time____ Permanent Part-time____ Temporary Part-time____ Seasonal Part-time____ | | | |
| Where do you obtain seasonal employees? | | | |
| Does your firm directly pay, in its own name, all its employees? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, explain. | | | |
| Specify the gross receipts of the firm for the last 3 years: (Attach copies of full transactions for each year) | | | |
| Year ending____ | | Total receipts: \$____ | |
| Year ending____ | | Total receipts: \$____ | |
| Year ending____ | | Total receipts: \$____ | |

SECTION 3: OWNERSHIP

4. Identify all individuals or holding companies with any ownership interest. List their cash, equipment and/or real estate and/or other investment in the firm; and attach the documentation of the source of these investments. (Attach work experience resumes of each person; If more than two owners, attach a separate sheet.)

| First Person | | | | | |
|---|--|---|--------|--------------|--------------|
| Name: | | Title: | | Home Phone#: | |
| Home Address (street and number): | | | | | |
| City: | | | State: | | Zip |
| Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female | | Ethnic Group (attach proof of status): <input type="checkbox"/> African American <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Caucasian <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Asian Indian <input type="checkbox"/> Other Ethnic Group (explain)_____ | | | |
| U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| Legal permanent resident: <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| Number of years owned: | | Initial investment to acquire ownership interest in firm: | | Type | Dollar Value |
| Percentage owned: | | | | Cash | \$ |
| Familial relationship to other owners: | | | | Real Estate | \$ |
| | | | | Equipment | \$ |
| | | | | Other | \$ |
| Shares of Stock: <u>Number</u> <u>Percentage</u> <u>Class</u> <u>Date Acquired</u> <u>Method Acquired</u> | | | | | |
| Additional contributions made by anyone since the business was started/acquired: | | | | | |

| Second Person | | | | | |
|---|--|---|--------|--------------|--------------|
| Name: | | Title: | | Home Phone#: | |
| Home Address (street and number): | | | | | |
| City: | | | State: | | Zip: |
| Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female | | Ethnic Group (Attach proof of status): <input type="checkbox"/> African American <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Caucasian <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Asian Indian <input type="checkbox"/> Other Ethnic Group (explain)_____ | | | |
| U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| Legal permanent resident: <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| Number of years owned: | | Initial investment to acquire ownership interest in firm: | | Type | Dollar Value |
| Percentage owned: | | | | Cash | \$ |
| Familial relationship to other owners: | | | | Real Estate | \$ |
| | | | | Equipment | \$ |
| | | | | Other | \$ |
| Shares of Stock: <u>Number</u> <u>Percentage</u> <u>Class</u> <u>Date Acquired</u> <u>Method Acquired</u> | | | | | |
| Additional contributions made by anyone since the business was started/acquired: | | | | | |

SECTION 4: CONTROL

5. Identify Officers & Board of Directors. (Attach work experience resumes of each person; If additional space is required, attach a separate sheet.)

| | Name | Title/Date Appointed | Ethnicity | Gender |
|--------------------|----------------------------|----------------------|-----------|--------|
| Company Officers | 1. 2. 3. 4. 5. | | | |
| Board of Directors | 1. 2. 3. 4. 5. | | | |

6. Identify management personnel who control the firm in the following areas. (Attach work experience resumes, including dates of employment at each company for each person; if more than two persons, attach a separate sheet)

| | Name | Title | Ethnicity | Gender |
|--|----------|-------|-----------|--------|
| Financial Decision (<i>responsibility for check signing, acquisition of lines of credit, surety bonding, supplies, etc.</i>) | 1. 2. | | | |
| Estimating, bidding and negotiating (<i>cost estimates, bid preparation and submission, negotiation or contract execution</i>) | 1. 2. | | | |
| Hiring/firing of management personnel | 1. 2. | | | |
| Field/Production Operations Supervisor (<i>site supervision/scheduling, project management services</i>) | 1. 2. | | | |
| List all field supervisors | 1. 2. | | | |
| Office management | 1. 2. | | | |
| Marketing/Sales | 1. 2. | | | |
| Purchasing of major equipment | 1. 2. | | | |

7. Identify persons or firms who provide the following services.

| | Name of firm | Name of person | Address | Phone No. |
|---|--|----------------|---------|-----------|
| External management or technical/Computer service | | | | |
| Accountant | | | | |
| Attorney | | | | |
| Principal Suppliers | 1. Materials or equipment supplied _____ 2. Materials or equipment supplied _____ | | | |

8. Identify those union(s), business(es), or professional association(s) in which the owner(s) or management personnel have membership.

| Name of union, business or professional association | Address | Phone No. |
|---|---------|-----------|
| 1. | | |
| 2. | | |
| 3. | | |

9. Attach a list of equipment and/or vehicles within your firm's possession or under your control (indicate separately), office space (owned or leased) and storage space (owned or leased), including signed leasing agreements.

10. Financial Information.

| | | | | |
|--|--|--|--|--|
| (a) Banking Information Name of bank: _____ Phone No. () _____ Name of officer: _____ Address of bank: _____ City: _____ State: _____ Zip: _____ | | | | |
| (b) Bonding Information: If you have bonding capacity, identify: Name of agent or broker: _____ Phone No: () _____ Address of agent/broker: _____ City: _____ State: _____ Zip: _____ Bonding limit: Aggregate limit \$ _____ Project limit \$ _____ | | | | |
| (c) Attach copies of year end balance sheet and profit and loss (income) statements for the last 3 years, or if business has been in operation for less than one year, provide a current balance sheet, a projected profit and loss statement for the next 12 month period and a projected balance sheet for the end of that period. | | | | |

11. Identify all sources, amount and purposes of money loaned to the firm, including name of person or firm securing the loan, if other than owner(s). (Attach copies of all loan agreements.)

| Name of Source | Address of Source | Amount |
|----------------|-------------------|--------|
| 1. | | |
| 2. | | |
| 3. | | |

12. List current licenses (e.g. contractor, engineer, architect, ICC, etc.). (Attach copies of licenses.)

| Name of Individual or Firm | Name of License | Expiration Date | License Number |
|----------------------------|-----------------|-----------------|----------------|
| 1. | | | |
| 2. | | | |
| 3. | | | |

13. Does your firm have key person insurance? ☐ Yes ☐ No
 (If Yes, attach a list of the persons named and the value.)

14. List the 3 largest contracts completed by this firm in the past 3 years.

| Name of owner/contractor | Name/location of project | Type of work performed |
|--------------------------|--------------------------|------------------------|
| 1. | | |
| 2. | | |
| 3. | | |

15. List all active jobs this firm is currently working on. (If additional space is required, attach a separate sheet.)

| Name of prime contractor and project number | Location of project | Type of work | Date project began | Anticipated completion date |
|---|---------------------|--------------|--------------------|-----------------------------|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |

AFFIDAVIT OF CERTIFICATION

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name), swear or affirm under penalty of law that I am _____ (title) of applicant firm _____ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm, as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I declare under penalty of perjury that the foregoing is true and correct.

Signature of owner, officer or partner _____ Date (mm/dd/yy) _____

I declare under penalty of perjury that the information provided in this application and supporting documents relating to my disadvantaged status and me is true and correct.

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

NOTARY CERTIFICATION

STATE OF _____

)SS:

COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20____

Signature of Notary Public _____

Printed/typed name of Notary Public _____

County of residence _____ Date commission expires _____

AFFIDAVIT OF SOCIAL AND ECONOMIC DISADVANTAGE

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

SOCIAL DISADVANTAGE

I hereby certify under penalty of perjury that I am a member of one of the following groups:

- ☐ African American ☐ Hispanic ☐ Native American ☐ Caucasian ☐ Asian Pacific
☐ Asian Indian ☐ Other Ethnic Group (*explain*) _____

And that I have held myself out as a member of that group and have acted as a member of that group.

I further certify that I am an owner of the company seeking DBE certification and that I have experienced social disadvantage due to the effect of discrimination based upon my (check all that apply)

- ☐ race ☐ ethnicity ☐ gender ☐ other (*explain*) _____

Print Name: _____ Signature: _____ Date: _____

PERSONAL FINANCIAL STATEMENT

I hereby certify under penalty of perjury that my personal net worth does not exceed \$1,320,000.

Print Name: _____ Signature: _____ Date: _____

This statement is supported by (check one)

- ☐ A signed, notarized statement of personal net worth, with appropriate supporting documentation.
☐ A signed, notarized statement from a certified public accountant (CPA) attesting that he/she has examined my personal net worth and determined, consistent with the provisions of 49 CFR Section 26.67(a)(2) and generally accepted accounting standards, that my personal net worth does not exceed \$1,320,000.

| NOTARY CERTIFICATION | |
|---|------|
| STATE OF _____ | |
| COUNTY OF _____ | }SS: |
| Subscribed and sworn to before me this _____ day of _____, 20____ | |
| Signature of Notary Public _____ | |
| Printed/typed name of Notary Public _____ | |
| County of residence _____ Date commission expires _____ | |

PERSONAL NET WORTH STATEMENT
(49 CFR PART 26)

As of _____

For firm applying for airport concession DBE certification: A PNW is not required at this time.

Each individual owner of a DBE firm whose ownership or control is relied upon for DBE certification is required to provide Personal Net Worth (PNW) information and include it in the notarized DBE Certification Application package. For a firm with more than one owner relied upon for DBE certification, make additional copies of this Statement. The Unified Certification Program of California reserves the right to request additional information as necessary and may conduct an on-site visit to verify the information contained in this Statement.

I understand that all personal financial information I submit will remain confidential unless I give my written consent to release this information to a third party. I also understand that the only exception to this confidentiality provision is if I decide to appeal a decision by the Unified Certification Program of California.

Name _____ Phone _____
 Business Address _____
 City, State, & Zip Code _____
 Business Name _____

| Assets¹ | Liabilities |
|---|---|
| Cash on Hand & in Banks\$ _____ | Accounts Payable\$ _____ |
| Savings Accounts\$ _____ | Notes Payable to Banks and Others\$ _____ |
| IRA or Other Retirement Accounts\$ _____ | Installment Accounts (Auto)\$ _____ |
| Accounts/Notes Receivable\$ _____ | (Mo. Payments \$ _____) |
| Life Insurance/Cash Surrender Value\$ _____ | Other Installment Accounts\$ _____ |
| Stocks and Bonds\$ _____ | (Mo. Payments \$ _____) |
| Real Estate ²\$ _____ | Loans on Life Insurance\$ _____ |
| Automobile – Present Value\$ _____ | Mortgages on Real Estate ²\$ _____ |
| Other Personal Property\$ _____ | Unpaid Taxes\$ _____ |
| Other Assets\$ _____ | Other Liabilities\$ _____ |
| Total Assets\$ _____ | Total Liabilities\$ _____ |
| | NET WORTH \$ _____ |
| Sources of Income | Contingent Liabilities |
| Salary\$ _____ | As Endorse or Co-Maker\$ _____ |
| Net Investment Income\$ _____ | Legal Claims and Judgment\$ _____ |
| Real Estate Income\$ _____ | Provision for Federal Income Tax\$ _____ |
| Other Income ³\$ _____ | Other Special Debt\$ _____ |

Is any portion of the equity in the individual's primary residence attributable to withdrawal(s) from the firm applying for DBE certification? _____ If yes, how much? \$ _____

The undersigned does hereby swear that the foregoing statements are true, accurate, and complete.

Signature _____ Date _____

1. Exclude an individual's ownership interest in the firm applying for DBE certification.
 For individuals claiming to be Alaska Native, exclude any of the following which the individual receives from any Alaska Native Corporation ("ANC"): Cash (including cash dividends on stock received from an ANC) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per year; a partnership interest; land, or an interest in land (including land or an interest in land received from an ANC as a dividend or distribution on stock); and an interest in a settlement trust.
2. Do not include the individual's primary residence.
3. Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.

PERSONAL NET WORTH STATEMENT
NOTARY ACKNOWLEDGEMENT

STATE OF _____

COUNTY OF _____

On this ____ day of _____, _____ before me, the undersigned Notary Public, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within Affidavit, and acknowledged that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument, the person(s) executed the instrument.

WITNESS my hand and Official Seal.

Signature: _____

Name: _____
(Typed or Printed)

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



SUPPLEMENTAL QUESTIONNAIRE

For firm applying for airport concession DBE certification: A Supplemental Questionnaire is not required at this time.

Firm Name: _____

1. Is the firm's principal place of business in California? Yes _____ No

If no, please include a copy of the firm's DBE certificate issued in its home state. (The California UCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state.)

2. Is the firm authorized to do business in the State of California? Yes _____ No

3. List all office locations in California: _____

4. Has the firm ever done business with any U.S. DOT Grantees of California? Yes _____ No

If yes, please indicate the agency name(s) and latest year(s):

| Agency | Latest Year |
|--------|-------------|
| | |
| | |

| Agency | Latest Year |
|--------|-------------|
| | |
| | |

5. Is there an upcoming project in which the firm is interested and therefore, would need to be certified prior to a specific date in order to be counted toward DBE participation? Yes _____ No

If yes, please answer the following:

Agency letting contract: _____

Contract number and name: _____

Bid opening date (If Request for Proposal, submission due date): _____

6. Indicate areas where you prefer to do your work. You may select Statewide (SW) to indicate you are willing to work anywhere in the State.

- | | | | | |
|---------------------------------------|--|---------------------------------------|--|---|
| <input type="checkbox"/> SW Statewide | <input type="checkbox"/> 10 Fresno | <input type="checkbox"/> 20 Madera | <input type="checkbox"/> 30 Orange | <input type="checkbox"/> 40 San Luis Obispo |
| | <input type="checkbox"/> 50 Stanislaus | | | |
| <input type="checkbox"/> 01 Alameda | <input type="checkbox"/> 11 Glenn | <input type="checkbox"/> 21 Marin | <input type="checkbox"/> 31 Placer | <input type="checkbox"/> 41 San Mateo |
| | <input type="checkbox"/> 51 Sutter | | | |
| <input type="checkbox"/> 02 Alpine | <input type="checkbox"/> 12 Humboldt | <input type="checkbox"/> 22 Mariposa | <input type="checkbox"/> 32 Plumas | <input type="checkbox"/> 42 Santa Barbara |
| | <input type="checkbox"/> 52 Tehema | | | |
| <input type="checkbox"/> 03 Amador | <input type="checkbox"/> 13 Imperial | <input type="checkbox"/> 23 Mendocino | <input type="checkbox"/> 33 Riverside | <input type="checkbox"/> 43 Santa Clara |
| | <input type="checkbox"/> 53 Trinity | | | |
| <input type="checkbox"/> 04 Butte | <input type="checkbox"/> 14 Inyo | <input type="checkbox"/> 24 Merced | <input type="checkbox"/> 34 Sacramento | <input type="checkbox"/> 44 Santa Cruz |
| | <input type="checkbox"/> 54 Tulare | | | |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



| | | | | |
|--|---|--------------------------------------|--|--------------------------------------|
| <input type="checkbox"/> 05 Calaveras | <input type="checkbox"/> 15 Kern | <input type="checkbox"/> 25 Modoc | <input type="checkbox"/> 35 San Benito | <input type="checkbox"/> 45 Shasta |
| <input type="checkbox"/> 06 Colusa | <input type="checkbox"/> 55 Tuolumne | <input type="checkbox"/> 26 Mono | <input type="checkbox"/> 36 San Bernardino | <input type="checkbox"/> 46 Sierra |
| <input type="checkbox"/> 07 Contra Costa | <input type="checkbox"/> 16 Kings | <input type="checkbox"/> 27 Monterey | <input type="checkbox"/> 37 San Diego | <input type="checkbox"/> 47 Siskiyou |
| <input type="checkbox"/> 08 Del Norte | <input type="checkbox"/> 56 Ventura | <input type="checkbox"/> 28 Napa | <input type="checkbox"/> 38 San Francisco | <input type="checkbox"/> 48 Solano |
| <input type="checkbox"/> 09 El Dorado | <input type="checkbox"/> 17 Lake | <input type="checkbox"/> 29 Nevada | <input type="checkbox"/> 39 San Joaquin | <input type="checkbox"/> 49 Sonoma |
| | <input type="checkbox"/> 57 Yolo | | | |
| | <input type="checkbox"/> 18 Lassen | | | |
| | <input type="checkbox"/> 58 Yuba | | | |
| | <input type="checkbox"/> 19 Los Angeles | | | |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



WORK CATEGORY CODES

Review the enclosed Work Category Codes list and indicate below areas of expertise that you prefer to perform in order of importance. DBE applicants are first subject to the applicable small business size standards of the Small Business Administration (SBA). Second, the average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed the U.S. Department of Transportation's cap of \$17.42 million. Note that size standards are subject to change at any time by the SBA. To determine if the firm meets SBA's and U.S. DOT's size standards, contact one of the certifying agencies on the enclosed roster.

For firm applying for airport concession DBE certification: The average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed \$30 million.

| <u>Work Code</u> | <u>Title (Description of Work/Service)</u> |
|------------------|--|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



AGRICULTURE, FORESTRY, AND FISHING

| | |
|-------|-------------------------------------|
| A0110 | CASH GRAINS |
| A0130 | FIELD CROPS, EXCEPT CASH GRAINS |
| A0160 | VEGETABLES & MELONS |
| A0170 | FRUITS & TREE NUTS |
| A0180 | HORTICULTURAL SPECIALTIES |
| A0190 | GENERAL FARMS, PRIMARILY CROP |
| A0210 | LIVESTOCK, EXCEPT DAIRY AND POULTRY |
| A0240 | DAIRY FARMS |
| A0250 | POULTRY & EGGS |
| A0270 | ANIMAL SPECIALTIES |
| A0290 | GENERAL FARMS, PRIMARILY ANIMAL |
| A0710 | SOIL PREPARATION SERVICES |
| A0720 | CROP SERVICES |
| A0740 | VETERINARY SERVICES |
| A0750 | ANIMAL SERVICES, EXCEPT VETERINARY |
| A0760 | FARM LABOR & MANAGEMENT SERVICES |
| A0780 | LANDSCAPE & HORTICULTURAL SERVICES |
| A0810 | TIMBER TRACTS |
| A0830 | FOREST PRODUCTS |
| A0850 | FORESTRY SERVICES |
| A0910 | COMMERCIAL FISHING |
| A0920 | FISH HATCHERIES & PRESERVES |
| A0970 | HUNTING, TRAPPING, GAME PROPAGATION |

MINING

| | |
|-------|--------------------------------------|
| B1010 | IRON ORES |
| B1020 | COPPER ORES |
| B1030 | LEAD & ZINC ORES |
| B1040 | GOLD & SILVER ORES |
| B1060 | FERROALLOY ORES, EXCEPT VANADIUM |
| B1080 | METAL MINING SERVICES |
| B1090 | MISC METAL ORES |
| B1220 | BITUMINOUS COAL & LIGNITE MINING |
| B1230 | ANTHRACITE MINING |
| B1240 | COAL MINING SERVICES |
| B1310 | CRUDE PETROLEUM & NATURAL GAS |
| B1320 | NATURAL GAS LIQUIDS |
| B1380 | OIL & GAS FIELD SERVICES |
| B1410 | DIMENSION STONE |
| B1420 | CRUSHED & BROKEN STONE |
| B1440 | SAND & GRAVEL |
| B1450 | CLAY, CERAMIC, & REFRACTORY MINERALS |
| B1470 | CHEMICAL & FERTILIZER MINERALS |
| B1480 | NONMETALLIC MINERALS SERVICES |
| B1490 | MISC NONMETALLIC MINERALS |

CONSTRUCTION

| | |
|-------|-----------------------------|
| C0600 | MISC SUPPLIERS |
| C0612 | SAFETY |
| C0620 | LANDSCAPING & NURSERY |
| C0624 | PETROLEUM, OIL, LUBRICANTS |
| C0625 | SAND & GRAVEL |
| C0626 | GRANITE & MARBLE |
| C0639 | ASPHALT |
| C0649 | PILINGS |
| C0651 | CONCRETE & CEMENT |
| C0652 | REINFORCING BAR SECTION |
| C0655 | STEEL |
| C0656 | DOORS & FRAMES |
| C0657 | LUMBER |
| C0658 | PAPER |
| C0659 | PAINT |
| C0670 | PIPE |
| C0680 | FENCING |
| C0683 | GUARD RAILINGS & BARRIERS |
| C0685 | PAVEMENT MARKERS |
| C0686 | ELECTRICAL & SIGNALS |
| C0687 | GLASS & GLASS BLOCK |
| C0698 | BUILDING MATERIAL |
| C0699 | TOOLS |
| C0700 | CONSTRUCTION STAKING |
| C1200 | CONSTRUCTION AREA SIGNS |
| C1201 | TRAFFIC CONTROL SYSTEM |
| C1522 | RESET, ADJUST ROADWAY ITEMS |
| C1531 | PLANE ASPHALT CONCRETE |
| C1575 | REMOVE BRIDGE ITEM |
| C1580 | MODIFY BRIDGE ITEM |
| C1601 | CLEARING & GRUBBING |
| C1701 | DEVELOP WATER SUPPLY |
| C1801 | DUST PALLIATIVE |
| C1901 | ROADWAY EXCAVATION |
| C1910 | GRADING |
| C1920 | STRUCTURE EXCAVATION |
| C1925 | SHAPED BEDDING |
| C1930 | STRUCTURE BACKFILL |
| C1940 | DITCHES EXCAVATION |
| C1970 | EMBANKMENT CONSTRUCTION |
| C1980 | IMPORTED BORROW |
| C2000 | HIGHWAY PLANTING |
| C2020 | SOIL AMENDMENTS |
| C2021 | HYDROSEEDING |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



CONSTRUCTION (CONTINUED)

C2030 EROSION CONTROL
 C2065 IRRIGATION SYSTEM
 C2201 FINISHING ROADWAY
 C2401 LIME TREATMENT
 C2501 AGGREGATE SUBBASE
 C2602 AGGREGATE BASE
 C2700 CEMENT TREATED BASE
 C2800 CONCRETE BASE
 C3600 PENETRATION TREATMENT & PRIME COAT
 C3701 SEAL COAT
 C3901 ASPHALT CONCRETE
 C3910 PAVING ASPHALT (ASPHALT CONCRETE)
 C3930 PAVEMENT REINFORCING FABRIC
 C3940 PLACE ASPHALT CONCRETE DIKE & MISC
 C3990 RECYCLE, RECLAIM ASPHALT CONCRETE
 C4010 PORTLAND CEMENT & CONCRETE PAVEMENT
 C4040 CLEAN & SEAL PAVEMENT JOINTS - ROUT & SEAL
 CRACKS
 C4101 PAVEMENT SUBSEALING & JACKING
 C4201 GROOVE & GRIND PAVEMENT
 C4901 FURNISH & DRIVE PILING
 C4906 CAST-IN-DRILLED-HOLE CONCRETE PILING
 C5000 PRESTRESSING CONCRETE CAST-IN-PLACE
 C5100 CONCRETE STRUCTURE
 C5105 MINOR CONCRETE STRUCTURE
 C5110 CONCRETE SURFACE FINISH
 C5111 CONCRETE OVERLAY – DRILL & BOND
 C5120 FURNISH PRECAST CONCRETE DECK UNIT
 C5124 ERECT PRECAST CONCRETE
 C5135 CONCRETE BLOCK & MASONRY RETAINING
 WALL
 C5136 REINFORCED CONCRETE CRIB WALL
 C5150 CORE CONCRETE - REPAIR BRIDGE DECK
 C5180 SOUND WALL (MASONRY BLOCK - CONCRETE)
 C5190 JOINT SEAL - WATER STOP
 C5201 REINFORCING STEEL
 C5301 AIR-BLOWN MORTAR
 C5310 PIPE LINING (CEMENT MORTAR)
 C5401 WATERPROOFING
 C5501 STEEL STRUCTURES
 C5570 STEEL CRIB WALL
 C5601 SIGN STRUCTURE
 C5620 ROADSIDE SIGN
 C5701 LUMBER & TIMBER
 C5900 CLEAN & PAINT STEEL
 C6101 RAILROAD WORK
 C6200 ALTERNATIVE PIPE CULVERT

C6301 CAST-IN-PLACE CONCRETE PIPE
 C6401 ASBESTOS-CEMENT PIPE
 C6500 REINFORCED CONCRETE PIPE
 C6552 JACKED REINFORCED CONCRETE PIPE
 C6591 NON-REINFORCED CONCRETE PIPE
 C6650 CORRUGATED METAL PIPE (CSP)
 C6680 JACKED CORRUGATED STEEL PIPE)
 C6700 STRUCTURAL STEEL PLATE PIPE, ARCH & PIPE
 ARCH
 C6800 SUBSURFACE DRAIN
 C6811 EDGE DRAIN
 C6815 HORIZONTAL DRAIN
 C6819 FILTER FABRIC
 C6820 PERMEABLE MATERIAL
 C6900 DOWNDRAIN
 C7000 PLASTIC PIPE
 C7006 CORRUGATED STEEL PIPE INLET & RISER
 C7026 CORRUGATED STEEL PIPE ENERGY DISSIPATOR
 C7035 WELDED STEEL PIPE
 C7041 JACKED WELDED STEEL PIPE
 C7065 DEBRIS RACK-DRAINAGE GATE
 C7112 REINFORCED CONCRETE SEWER PIPE
 C7140 CLAY SEWER PIPE
 C7160 ASBESTOS-CEMENT SEWER PIPE
 C7180 CAST IRON SEWER PIPE
 C7191 SEWER MANHOLE
 C7194 JUNCTION CHAMBER
 C7200 ROCK SLOPE PROTECTION
 C7215 CONCRETED-ROCK SLOPE PROTECTION
 C7218 AIR-BLOWN MORTAR (SLOPE PAVING)
 C7250 SACKED CONCRETE
 C7301 CONCRETE CURB & SIDEWALK - MISC
 C7405 DRAINAGE PUMPING EQUIPMENT
 C7410 PUMPING PLANT ELECTRICAL EQUIPMENT
 C7415 ENGINE GENERATOR SET
 C7500 MISC IRON & STEEL FRAME, COVER & GRATE
 C7505 MISC BRIDGE METAL PUMPING PLANT METAL
 C7600 DEVELOP, TEST, DRILL, MAINTAIN WELLS
 C8000 FENCING
 C8101 SURVEY OR HISTORICAL MONUMENT
 C8201 OBJECT MARKER
 C8320 METAL BEAM GUARD RAILING
 C8330 METAL RAILING
 C8331 CONCRETE BARRIER
 C8391 METAL BEAM BARRIER
 C8405 THERMOPLASTIC TRAFFIC STRIPE & MARKING
 C8406 PAINTED TRAFFIC STRIPE & MARKING
 C8501 PAVEMENT MARKING

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



CONSTRUCTION (CONTINUED)

| | | | |
|-------|---|-------|--|
| C8602 | SIGNAL & LIGHTING | C9774 | TRUCKER |
| C8603 | SIGNAL | C9801 | BUILDING CONSTRUCTION |
| C8604 | LIGHTING | C9810 | SMALL STRUCTURES |
| C8605 | MESSAGE SIGNS, LIGHTING & SIGN ILLUMINATION | C9822 | CARPENTRY |
| C8608 | DETECTOR | C9826 | LAND SURVEYING |
| C8609 | TRAFFIC COUNT STATION | C9827 | DRYWALL CONSTRUCTION |
| C8610 | SPEED MONITORING STATION | C9828 | CRANE WORK |
| C8611 | RAMP METERING SYSTEM | C9829 | RETAINER WALLS |
| C8700 | CONSULTANT | C9830 | WALL COVERING |
| C8701 | BUSINESS ADMINISTRATION | C9834 | CABINETS |
| C8702 | MANAGEMENT INFORMATION SYSTEMS | C9835 | LATHING |
| C8703 | TRAFFIC ENGINEER | C9836 | PLASTERING |
| C8704 | ARCHITECTURAL | C9837 | ROOFING |
| C8705 | DESIGN | C9838 | CERAMIC TILE |
| C8706 | DESIGN BRIDGES | C9839 | CARPET & DRAPES |
| C8707 | FEASIBILITY STUDIES | C9840 | FLOOR COVERING |
| C8710 | ENGINEERING | C9842 | MASONRY |
| C8711 | COMPUTER | C9846 | ADDITIONS, ALTERATIONS OR REPAIRS |
| C8712 | PUBLIC RELATIONS | C9850 | PLUMBING |
| C8716 | ARCHITECTURAL ENGINEER | C9852 | EXTERMINATORS |
| C8720 | CIVIL ENGINEERING | C9854 | PAINTING STRUCTURES |
| C8721 | RIGHT OF WAY ENGINEER | C9858 | RESIDENTIAL ELECTRICAL |
| C8722 | ENVIRONMENTAL ENGINEER | C9860 | WATER METER & TEMP FACILITIES |
| C8730 | SAFETY STUDIES | C9862 | RESIDENTIAL AIR CONDITIONING & SHEET METAL |
| C8740 | ELECTRICAL ENGINEERS | C9864 | SHOWER DOORS & MIRROR INSTALLATION |
| C8742 | MECHANICAL ENGINEERS | C9866 | HEATING & AIR CONDITIONING |
| C8744 | LANDSCAPE ARCHITECTS | C9868 | INSULATION |
| C8750 | REAL ESTATE | C9869 | ASBESTOS REMOVAL/ABATEMENT |
| C8760 | SURVEYOR | C9872 | SEWER CONNECTION |
| C8761 | GEOPHYSICS | C9874 | HARDWARE (ROUGH) |
| C8765 | DRAFTING | C9876 | HARDWARE (FINISH) |
| C8770 | CONSTRUCTION MANAGEMENT | C9878 | SIDING, STUCCO, VENEER |
| C8900 | RAIL CAR SERVICES | C9901 | MISC SERVICES – CALTRANS FACILITIES |
| C8901 | AIR CONDITIONING/SHEET METAL | C9902 | FUEL SYSTEMS |
| C8902 | HEATING | C9903 | CONSTRUCTION CLEAN UP |
| C8903 | ELECTRICAL | C9904 | CORING |
| C8904 | GLASS INSTALLATION | C9905 | CUTTING |
| C8905 | SEATS | C9906 | SANDBLASTING |
| C8906 | AUTO SERVICE | C9907 | CONSTRUCTION EQUIPMENT RENTAL |
| C8907 | MACHINING | C9908 | HEAVY EQUIPMENT RENTAL |
| C8908 | PERSONNEL TRANSPORTATION | C9947 | ELEVATOR |
| C9602 | BOTTOM DUMP TRUCKING | C9980 | DEMOLITION |
| C9605 | FLAT BED TRUCKING | C9981 | BUILDING MOVER |
| C9632 | HAZARDOUS WASTE TRUCKING | C9988 | MOVING & STORAGE |
| C9670 | TRUCK RENTAL | C9999 | BROKER (FOR FEE ONLY) |
| C9771 | TRUCK BROKER | | |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



MANUFACTURING

| | | | |
|-------|--|-------|--------------------------------------|
| D2010 | MEAT PRODUCTS | D2670 | MISC CONVERTED PAPER PRODUCTS |
| D2020 | DAIRY PRODUCTS | D2710 | NEWSPAPERS |
| D2030 | PRESERVED FRUITS & VEGETABLES | D2720 | PERIODICALS |
| D2040 | GRAIN MILL PRODUCTS | D2730 | BOOKS |
| D2050 | BAKERY PRODUCTS | D2740 | MISC PUBLISHING |
| D2060 | SUGAR & CONFECTIONERY PRODUCTS | D2750 | COMMERCIAL PRINTING |
| D2070 | FATS & OILS | D2760 | MANIFOLD BUSINESS FORMS |
| D2080 | BEVERAGES | D2770 | GREETING CARDS |
| D2090 | MISC FOOD & KINDRED PRODUCTS | D2780 | BLANKBOOKS & BOOKBINDING |
| D2110 | CIGARETTES | D2790 | PRINTING TRADE SERVICES |
| D2120 | CIGARS | D2810 | INDUSTRIAL INORGANIC CHEMICALS |
| D2130 | CHEWING & SMOKING TOBACCO | D2820 | PLASTICS MATERIALS & SYNTHETICS |
| D2140 | TOBACCO STEMMING & REDRYING | D2830 | DRUGS |
| D2210 | BROADWOVEN FABRIC MILLS, COTTON | D2840 | SOAP, CLEANERS, & TOILET GOODS |
| D2220 | BROADWOVEN FABRIC MILLS, MANMADE | D2850 | PAINTS & ALLIED PRODUCTS |
| D2230 | BROADWOVEN FABRIC MILLS, WOOL | D2860 | INDUSTRIAL ORGANIC CHEMICALS |
| D2240 | NARROW FABRIC MILLS | D2870 | AGRICULTURAL CHEMICALS |
| D2250 | KNITTING MILLS | D2890 | MISC CHEMICAL PRODUCTS |
| D2260 | TEXTILE FINISHING, EXCEPT WOOL | D2910 | PETROLEUM REFINING |
| D2270 | CARPETS & RUGS | D2950 | ASPHALT PAVING & ROOFING MATERIALS |
| D2280 | YARN & THREAD MILLS | D2990 | MISC. PETROLEUM & COAL PRODUCTS |
| D2290 | MISC TEXTILE GOODS | D3010 | TIRES & INNER TUBES |
| D2310 | MEN'S & BOYS' SUITS & COATS | D3020 | RUBBER & PLASTICS FOOTWEAR |
| D2320 | MEN'S & BOYS' FURNISHINGS | D3050 | HOSE & BELTING & GASKETS & PACKING |
| D2330 | WOMEN'S & MISSES' OUTERWEAR | D3060 | FABRICATED RUBBER PRODUCTS, NEC |
| D2340 | WOMEN'S & CHILDREN'S UNDERGARMENTS | D3080 | MISC PLASTICS PRODUCTS, NEC |
| D2350 | HATS, CAPS, & MILLINERY | D3110 | LEATHER TANNING & FINISHING |
| D2360 | GIRLS' & CHILDREN'S OUTERWEAR | D3130 | FOOTWEAR CUT STOCK |
| D2370 | FUR GOODS | D3140 | FOOTWEAR, EXCEPT RUBBER |
| D2380 | MISC APPAREL & ACCESSORIES | D3150 | LEATHER GLOVES & MITTENS |
| D2390 | MISC FABRICATED TEXTILE PRODUCTS | D3160 | LUGGAGE |
| D2410 | LOGGING | D3170 | HANDBAGS & PERSONAL LEATHER GOODS |
| D2420 | SAWMILLS & PLANING MILLS | D3190 | LEATHER GOODS, NEC |
| D2430 | MILLWORK, PLYWOOD & STRUCTURAL MEMBERS | D3210 | FLAT GLASS |
| D2440 | WOOD CONTAINERS | D3220 | GLASS & GLASSWARE, PRESSED OR BLOWN |
| D2450 | WOOD BUILDINGS & MOBILE HOMES | D3230 | PRODUCTS OF PURCHASED GLASS |
| D2490 | MISC WOOD PRODUCTS | D3240 | CEMENT, HYDRAULIC |
| D2510 | HOUSEHOLD FURNITURE | D3250 | STRUCTURAL CLAY PRODUCTS |
| D2520 | OFFICE FURNITURE | D3260 | POTTERY & RELATED PRODUCTS |
| D2530 | PUBLIC BUILDING & RELATED FURNITURE | D3270 | CONCRETE, GYPSUM, & PLASTER PRODUCTS |
| D2540 | PARTITIONS & FIXTURES | D3280 | CUT STONE & STONE PRODUCTS |
| D2590 | MISC FURNITURE & FIXTURES | D3290 | MISC NONMETALLIC MINERAL PRODUCTS |
| D2610 | PULP MILLS | D3310 | BLAST FURNACE & BASIC STEEL PRODUCTS |
| D2620 | PAPER MILLS | D3320 | IRON & STEEL FOUNDRIES |
| D2630 | PAPERBOARD MILLS | D3330 | PRIMARY NONFERROUS METALS |
| D2650 | PAPERBOARD CONTAINERS & BOXES | D3340 | SECONDARY NONFERROUS METALS |
| | | D3350 | NONFERROUS ROLLING & DRAWING |
| | | D3360 | NONFERROUS FOUNDRIES (CASTINGS) |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



MANUFACTURING (CONTINUED)

D3390 MISC PRIMARY METAL PRODUCTS
 D3410 METAL CANS & SHIPPING CONTAINERS
 D3420 CUTLERY, HANDTOOLS, & HARDWARE
 D3430 PLUMBING & HEATING, EXCEPT ELECTRIC
 D3440 FABRICATED STRUCTURAL METAL PRODUCTS
 D3450 SCREW MACHINE PRODUCTS, BOLTS, ETC.
 D3460 METAL FORGINGS & STAMPINGS
 D3470 METAL SERVICES, NEC
 D3480 ORDNANCE & ACCESSORIES, NEC
 D3490 MISC FABRICATED METAL PRODUCTS
 D3510 ENGINES & TURBINES
 D3520 FARM & GARDEN MACHINERY
 D3530 CONSTRUCTION & RELATED MACHINERY
 D3540 METALWORKING MACHINERY
 D3550 SPECIAL INDUSTRY MACHINERY
 D3560 GENERAL INDUSTRIAL MACHINERY
 D3570 COMPUTER & OFFICE EQUIPMENT
 D3580 REFRIGERATION & SERVICE MACHINERY
 D3590 INDUSTRIAL MACHINERY, NEC
 D3610 ELECTRIC DISTRIBUTION EQUIPMENT
 D3620 ELECTRICAL INDUSTRIAL APPARATUS
 D3630 HOUSEHOLD APPLIANCES
 D3640 ELECTRIC LIGHTING & WIRING EQUIPMENT
 D3650 HOUSEHOLD AUDIO & VIDEO EQUIPMENT
 D3660 COMMUNICATIONS EQUIPMENT
 D3670 ELECTRONIC COMPONENTS & ACCESSORIES
 D3690 MISC ELECTRICAL EQUIPMENT & SUPPLIES
 D3710 MOTOR VEHICLES & EQUIPMENT
 D3720 AIRCRAFT & PARTS
 D3730 SHIP & BOAT BUILDING & REPAIRING
 D3740 RAILROAD EQUIPMENT
 D3750 MOTORCYCLES, BICYCLES, & PARTS
 D3760 GUIDED MISSILES, SPACE VEHICLES, PARTS
 D3790 MISC TRANSPORTATION EQUIPMENT
 D3810 SEARCH & NAVIGATION EQUIPMENT
 D3820 MEASURING & CONTROLLING DEVICES
 D3840 MEDICAL INSTRUMENTS & SUPPLIES
 D3850 OPHTHALMIC GOODS
 D3860 PHOTOGRAPHIC EQUIPMENT & SUPPLIES
 D3870 WATCHES, CLOCKS, WATCHCASES & PARTS
 D3910 JEWELRY, SILVERWARE, & PLATED WARE
 D3930 MUSICAL INSTRUMENTS
 D3940 TOYS & SPORTING GOODS
 D3950 PENS, PENCILS, OFFICE, & ART SUPPLIES
 D3960 COSTUME JEWELRY & NOTIONS
 D3990 MISC MANUFACTURES

TRANSPORTATION & PUBLIC UTILITIES

E4010 RAILROADS
 E4110 LOCAL & SUBURBAN TRANSPORTATION
 E4120 TAXICABS
 E4130 INTERCITY & RURAL BUS TRANSPORTATION
 E4140 BUS CHARTER SERVICE
 E4150 SCHOOL BUSES
 E4170 BUS TERMINAL & SERVICE FACILITIES
 E4210 TRUCKING & COURIER SERVICES, EX. AIR
 E4220 PUBLIC WAREHOUSING & STORAGE
 E4230 TRUCKING TERMINAL FACILITIES
 E4310 U. S. POSTAL SERVICE
 E4410 DEEP SEA FOREIGN TRANS. OF FREIGHT
 E4420 DEEP SEA DOMESTIC TRANS. OF FREIGHT
 E4430 FREIGHT TRANS. ON THE GREAT LAKES
 E4440 WATER TRANSPORTATION OF FREIGHT, NEC.
 E4480 WATER TRANSPORTATION OF PASSENGERS
 E4490 WATER TRANSPORTATION SERVICES
 E4510 AIR TRANSPORTATION, SCHEDULED
 E4520 AIR TRANSPORTATION, NONSCHEDULED
 E4580 AIRPORTS, FLYING FIELDS, & SERVICES
 E4610 PIPELINES, EXCEPT NATURAL GAS
 E4720 PASSENGER TRANSPORTATION ARRANGEMENT
 E4724 TRAVEL SERVICE
 E4730 FREIGHT TRANSPORTATION ARRANGEMENT
 E4740 RENTAL OF RAILROAD CARS
 E4780 MISC TRANSPORTATION SERVICES
 E4810 TELEPHONE COMMUNICATIONS
 E4820 TELEGRAPH & OTHER COMMUNICATIONS
 E4830 RADIO & TELEVISION BROADCASTING
 E4840 CABLE & OTHER PAY TV SERVICES
 E4890 COMMUNICATIONS SERVICES, NEC
 E4910 ELECTRIC SERVICES
 E4920 GAS PRODUCTION & DISTRIBUTION
 E4930 COMBINATION UTILITY SERVICES
 E4940 WATER SUPPLY
 E4950 SANITARY SERVICES, NEC
 E4952 SEWERAGE SYSTEMS
 E4953 WASTE COLLECTION AND DISPOSAL
 E4954 HAZARDOUS WASTE COLLECTION AND DISPOSAL
 E4960 STEAM & AIR-CONDITIONING SUPPLY
 E4970 IRRIGATION SYSTEMS

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



SUPPLIERS

(Construction suppliers listed in Construction section.)

F5030 LUMBER AND CONSTRUCTION MATERIAL
F5040 PROFESSIONAL & COMMERCIAL EQUIPMENT
F5044 OFFICE EQUIPMENT
F5045 COMPUTERS, PERIPHERALS & SOFTWARE
F5050 METALS & MINERALS, EXCEPT PETROLEUM
F5060 ELECTRICAL GOODS
F5070 HARDWARE, PLUMBING & HEATING EQUIPMENT
F5080 MACHINERY, EQUIPMENT, & SUPPLIES
F5085 COMPUTER EQUIPMENT & SUPPLIES
F5088 TRANSPORTATION EQUIPMENT & SUPPLIES
F5090 MISC DURABLE GOODS
F5110 PAPER & PAPER PRODUCTS
F5130 APPAREL, PIECE GOODS, & NOTIONS
F5140 GROCERIES & RELATED PRODUCTS
F5150 FARM-PRODUCT RAW MATERIALS
F5160 CHEMICALS & ALLIED PRODUCTS
F5170 PETROLEUM & PETROLEUM PRODUCTS
F5180 BEER, WINE, & DISTILLED BEVERAGES
F5190 MISC NONDURABLE GOODS
F5210 LUMBER & OTHER BUILDING MATERIALS
F5230 PAINT, GLASS, & WALLPAPER STORES
F5251 HARDWARE STORES
F5260 RETAIL NURSERIES & GARDEN STORES
F5270 MOBILE HOME DEALERS
F5310 DEPARTMENT STORES
F5330 VARIETY STORES
F5390 MISC GENERAL MERCHANDISE STORES
F5410 GROCERY STORES
F5420 MEAT & FISH MARKETS
F5430 FRUIT & VEGETABLE MARKETS
F5440 CANDY, NUT, & CONFECTIONERY STORES
F5450 DAIRY PRODUCTS STORES
F5460 RETAIL BAKERIES
F5490 MISC FOOD STORES
F5510 NEW & USED CAR DEALERS
F5520 USED CAR DEALERS
F5530 AUTO & HOME SUPPLY STORES
F5540 GASOLINE SERVICE STATIONS
F5550 BOAT DEALERS
F5560 RECREATIONAL VEHICLE DEALERS
F5570 MOTORCYCLE DEALERS
F5590 AUTOMOTIVE DEALERS, NEC
F5610 MEN'S & BOYS' CLOTHING STORES
F5620 WOMEN'S CLOTHING STORES
F5630 WOMEN'S ACCESSORY
F5640 CHILDREN'S & INFANTS' WEAR STORES

F5650 FAMILY CLOTHING STORES
F5660 SHOE STORES
F5690 MISC APPAREL & ACCESSORY STORES
F5710 FURNITURE & HOMEFURNISHINGS STORES
F5720 HOUSEHOLD APPLIANCE STORES
F5730 RADIO, TELEVISION, & COMPUTER STORES
F5810 EATING & DRINKING PLACES
F5820 CATERING
F5910 DRUG STORES & PROPRIETARY STORES
F5920 LIQUOR STORES
F5930 USED MERCHANDISE STORES
F5940 MISC SHOPPING GOODS STORES
F5960 NONSTORE RETAILERS
F5980 FUEL DEALERS
F5990 RETAIL STORES, NEC
F5992 FLORIST

FINANCE INSURANCE & REAL ESTATE

H6010 CENTRAL RESERVE DEPOSITORIES
H6020 COMMERCIAL BANKS
H6030 SAVINGS INSTITUTIONS
H6060 CREDIT UNIONS
H6080 FOREIGN BANK & BRANCHES & AGENCIES
H6090 FUNCTIONS CLOSELY RELATED TO BANKING
H6110 FEDERAL & FED.-SPONSORED CREDIT
H6140 PERSONAL CREDIT INSTITUTIONS
H6150 BUSINESS CREDIT INSTITUTIONS
H6160 MORTGAGE BANKERS & BROKERS
H6210 SECURITY BROKERS & DEALERS
H6220 COMMODITY CONTRACTS BROKERS, DEALERS
H6230 SECURITY & COMMODITY EXCHANGES
H6280 SECURITY & COMMODITY SERVICES
H6310 LIFE INSURANCE
H6320 MEDICAL SERVICE & HEALTH INSURANCE
H6330 FIRE, MARINE, & CASUALTY INSURANCE
H6350 SURETY INSURANCE
H6360 TITLE INSURANCE
H6370 PENSION, HEALTH, & WELFARE FUNDS
H6390 INSURANCE CARRIERS, NEC
H6410 INSURANCE AGENTS, BROKERS, & SERVICE
H6510 REAL ESTATE OPERATORS & LESSORS
H6530 REAL ESTATE AGENTS & MANAGERS
H6531 REAL ESTATE APPRAISERS & BROKERS
H6540 TITLE ABSTRACT OFFICES
H6550 SUBDIVIDERS & DEVELOPERS
H6710 HOLDING OFFICES
H6720 INVESTMENT OFFICES
H6730 TRUSTS
H6790 MISC INVESTING

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



SERVICES

| | | | |
|-------|--|-------|---------------------------------------|
| I7010 | HOTELS & MOTELS | I7850 | MISCELLANEOUS AUDIO VISUAL SERVICES |
| I7020 | ROOMING & BOARDING HOUSES | I7910 | DANCE STUDIOS, SCHOOLS, & HALLS |
| I7030 | CAMPS & RECREATIONAL VEHICLE PARKS | I7920 | PRODUCERS, ORCHESTRAS, ENTERTAINERS |
| I7040 | MEMBERSHIP-BASIS ORG. HOTELS | I7930 | BOWLING CENTERS |
| I7210 | LAUNDRY, CLEANING, & GARMENTS | I7940 | COMMERCIAL SPORTS |
| I7220 | PHOTOGRAPHIC STUDIOS, PORTRAIT | I7990 | MISC AMUSEMENT, RECREATION SERVICES |
| I7230 | BEAUTY SHOPS | I8010 | OFFICES & CLINICS OF MEDICAL DOCTORS |
| I7240 | BARBER SHOPS | I8020 | OFFICES & CLINICS OF DENTISTS |
| I7250 | SHOE REPAIR & SHOESHINE PARLORS | I8030 | OFFICES OF OSTEOPATHIC PHYSICIANS |
| I7260 | FUNERAL SERVICE & CREMATORIES | I8040 | OFFICES OF OTHER HEALTH PRACTITIONERS |
| I7290 | MISC PERSONAL SERVICES | I8050 | NURSING & PERSONAL CARE FACILITIES |
| I7291 | TAX RETURN PREPARATION SERVICES | I8060 | HOSPITALS |
| I7310 | ADVERTISING | I8070 | MEDICAL LABORATORIES |
| I7320 | CREDIT REPORTING & COLLECTION | I8073 | DRUG TESTING |
| I7330 | MAILING, REPRODUCTION, STENOGRAPHIC | I8080 | HOME HEALTH CARE SERVICES |
| I7336 | COMMERICAL ART AND GRAPHIC DESIGN | I8090 | HEALTH & ALLIED SERVICES, NEC |
| I7340 | SERVICES TO BUILDINGS | I8110 | LEGAL SERVICES |
| I7341 | JANITORIAL SERVICES | I8210 | ELEMENTARY & SECONDARY SCHOOLS |
| I7342 | DISINFECTING AND PEST CONTROL | I8220 | COLLEGES & UNIVERSITIES |
| I7349 | BUILDING MAINTENANCE SERVICES | I8230 | LIBRARIES |
| I7350 | MISC EQUIPMENT RENTAL & LEASING | I8240 | VOCATIONAL SCHOOLS |
| I7360 | PERSONNEL SUPPLY SERVICES | I8290 | SCHOOLS & EDUCATIONAL SERVICES, NEC |
| I7370 | COMPUTER & DATA PROCESSING SERVICES | I8320 | INDIVIDUAL & FAMILY SERVICES |
| I7371 | COMPUTER PROGRAMMING | I8330 | JOB TRAINING & RELATED SERVICES |
| I7372 | PREPACKAGED SOFTWARE | I8350 | CHILD DAY CARE SERVICES |
| I7373 | INTEGRATED SYSTEMS & CAD/CAM SYSTEMS | I8360 | RESIDENTIAL CARE |
| I7375 | INFORMATION RETRIEVAL SYSTEMS | I8390 | SOCIAL SERVICES, NEC |
| I7377 | COMPUTER RENTAL AND LEASING | I8410 | MUSEUMS & ART GALLERIES |
| I7378 | COMPUTER MAINTENANCE & REPAIR | I8420 | BOTANICAL & ZOOLOGICAL GARDENS |
| I7380 | MISC BUSINESS SERVICES | I8610 | BUSINESS ASSOCIATIONS |
| I7381 | DETECTIVE & ARMORED CAR SERVICES | I8620 | PROFESSIONAL ORGANIZATIONS |
| I7382 | SECURITY SYSTEMS SERVICES | I8630 | LABOR ORGANIZATIONS |
| I7388 | INTERIOR DECORATING & DESIGN | I8640 | CIVIC & SOCIAL ASSOCIATIONS |
| I7510 | AUTOMOTIVE RENTALS, NO DRIVERS | I8650 | POLITICAL ORGANIZATIONS |
| I7520 | AUTOMOBILE PARKING | I8660 | RELIGIOUS ORGANIZATIONS |
| I7530 | AUTOMOTIVE REPAIR SHOPS | I8690 | MEMBERSHIP ORGANIZATIONS, NEC |
| I7540 | AUTOMOTIVE SERVICES, EXCEPT REPAIR | I8720 | ACCOUNTING, AUDITING, & BOOKKEEPING |
| I7550 | TOWING | I8730 | RESEARCH & TESTING SERVICES |
| I7620 | ELECTRICAL REPAIR SHOPS | I8734 | LABORATORY TESTING AND ANALYSIS |
| I7630 | WATCH, CLOCK, & JEWELRY REPAIR | I8740 | MANAGEMENT & PUBLIC RELATIONS |
| I7640 | REUPHOLSTERY & FURNITURE REPAIR | I8810 | PRIVATE HOUSEHOLDS |
| I7690 | MISC REPAIR SHOPS | I8990 | SERVICES, NEC |
| I7698 | LOCKSMITH | I8991 | RECYCLING |
| I7810 | MOTION PICTURE & VIDEO TAPE PRODUCTION | | |
| I7820 | MOTION PICTURE & VIDEO TAPE DISTRIBUTION | | |
| I7830 | MOTION PICTURE THEATERS | | |
| I7840 | VIDEO TAPE RENTAL | | |

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PUBLIC ADMINISTRATION

J9110 EXECUTIVE OFFICES
J9120 LEGISLATIVE BODIES
J9130 EXECUTIVE & LEGISLATIVE COMBINED
J9190 GENERAL GOVERNMENT, NEC
J9210 COURTS
J9220 PUBLIC ORDER & SAFETY
J9410 ADMIN. OF EDUCATIONAL PROGRAMS
J9430 ADMIN. OF PUBLIC HEALTH PROGRAMS
J9440 ADMIN. OF SOCIAL & MANPOWER PROGRAMS

J9450 ADMINISTRATION OF VETERANS' AFFAIRS
J9510 ENVIRONMENTAL QUALITY
J9530 HOUSING & URBAN DEVELOPMENT
J9610 ADMIN. OF GENERAL ECONOMIC PROGRAMS
J9620 REGULATIONS, ADMIN. OF TRANSPORTATION
J9630 REGULATION, ADMIN. OF UTILITIES
J9640 REGULATION OF AGRICULTURAL MARKETING
J9650 REGULATION MISC COMMERCIAL SECTORS
J9660 SPACE RESEARCH AND TECHNOLOGY
J9710 NATIONAL SECURITY
J9720 INTERNATIONAL AFFAIRS

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



ROSTER OF CERTIFYING AGENCIES

Note: Underlined website includes the California Unified Certification Program Application Package.

If firm has its principal place of business in another state and is certified in that state, please contact the California Department of Transportation in Cluster 4.

| Area | Counties | Certifying Agencies | |
|--|--|---|--|
| Riverside, Imperial & San Diego (RIS) <i>Cluster 1</i> | Imperial Riverside San Diego | SAN DIEGO UNIFIED PORT DISTRICT Equal Opportunity Management P.O. Box 120488 San Diego, CA 92112-0488 Phone: (619) 686-6420 or (800) 854-2757 Fax: (619) 686-6413 www.portofsandiego.org CITY OF SAN DIEGO Equal Opportunity Contracting Program 1010 Second Avenue, #500 San Diego, CA 92101 Phone: (619) 533-4492 Fax: (619) 533-4474 www.sannet.gov | SUNLINE TRANSIT AGENCY Contracts and Compliance 32-505 Harry Oliver Trail Thousand Palms, CA 92276-3501 Phone: (760) 343-3456, Ext. 167 Fax: (760) 343-3845 www.sunline.org |
| Los Angeles Area <i>Cluster 2</i> | Kern Los Angeles Orange San Bernardino San Luis Obispo Santa Barbara Ventura | CITY OF LOS ANGELES Office of Contract Compliance 600 South Spring St., Suite 1300 Los Angeles, CA 90014 Phone: (213) 847-6480 Fax: (213) 847-5566 www.lacity.org/bca COUNTY OF ORANGE JOHN WAYNE AIRPORT 3160 Airway Avenue Costa Mesa, CA 92626 Phone: (949) 252-5175 Fax: (949) 252-5225 www.ocair.com | LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (MTA) Small Business Diversity and Labor Compliance One Gateway Plaza Los Angeles, CA 90012 Phone: (213) 922-2600 Fax: (213) 922-7660 www.mta.net |

Roster of Certifying Agencies (Continued)

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



| Area | Counties | Certifying Agencies | |
|---|--|--|--|
| BayArea Central Valley <i>Cluster 3</i> | Alameda Amador Calaveras Contra Costa Fresno Kings Madera Marin Mariposa Merced Monterey Napa San Benito San Francisco San Joaquin San Mateo Santa Clara Santa Cruz Solano Sonoma Stanislaus Tulare Tuolumne | SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA) Small & Disadvantaged Businesses 3331 North First Street San Jose, CA 95134-1906 Phone: (408) 321-5962 Fax: (408) 955-9729 www.vta.org | SAN MATEO COUNTY TRANSIT DISTRICT (SAMTRANS)/ PENINSULA CORRIDOR JOINT POWERS BOARD (JPB) DBE Office 1250 San Carlos Avenue San Carlos, CA 94070 Phone: (650) 508-7939 Fax: (650) 508-7738 www.samtrans.com |
| | | BAY AREA RAPID TRANSIT DISTRICT (BART) Office of Civil Rights 1330 Broadway, #1702 Oakland, CA 94612 Phone: (510) 464-6195 Fax: (510) 464-7848 www.bart.gov | CENTRAL CONTRA COSTA TRANSIT AUTHORITY (CCCTA) Office of Civil Rights 2477 Arnold Industrial Way Concord, CA 94520-5327 Phone: (925) 676-1976 Fax: (925) 686-2630 www.cccta.org |
| | | SAN JOAQUIN REGIONAL RAIL COMMISSION DBE Liaison Officer 5000 S. Airport Way, #102 Stockton, CA 95206 Phone: (209) 468-5600 Fax: (209) 468-5613 www.acerail.com | ALAMEDA-CONTRA COSTA TRANSIT DISTRICT (AC TRANSIT) DBE Program Compliance Administrator 1600 Franklin Street, 6th Floor Oakland, CA 94612 Phone: (510) 891-7176 Fax: (510) 891-4724 www.actransit.org |
| | | CITY OF FRESNO DBE Program 2101 G Street, Building A Fresno, CA 93706 Phone: (559) 498-4071 Fax: (559) 488-1069 www.ci.fresno.ca.us | SAN FRANCISCO PUBLIC TRANSPORTATION DEPT. Accessible Services and Contract Compliance 1145 Market Street, 7th Floor San Francisco, CA 94103 Phone: (415) 934-3987 Fax: (415) 934-3980 www.sfmuni.com |
| | | CITY OF OAKLAND Contract Compliance Office 250 Frank H. Ogawa Plaza, #3341 Oakland, CA 94612 Phone: (510) 238-3970 Fax: (510) 238-3363 www.oaklandnet.com | AIRPORT CONCESSIONS ONLY: SF INTERNATIONAL AIRPORT Airport Minority/Women Opportunity P.O. Box 8097 San Francisco, CA 94128 Phone: (650) 821-5021 Fax: (650) 821-5146 www.flysfo.com |

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



Roster of Certifying Agencies (Continued)

| Area | Counties | Certifying Agencies | |
|--|---|---|--|
| Northern California <i>Cluster 4</i> | Alpine Butte Colusa Del Norte El Dorado Glenn Humboldt Inyo Lake Lassen Mendocino Modoc Mono Nevada Placer Plumas Sacramento Shasta Sierra Siskiyou Sutter Tehama Trinity Yolo Yuba | CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) Civil Rights MS 79 1823 14th Street Sacramento, CA 95814 Phone: (916) 324-1700 or (866) 810-6346 Fax: (916) 324-1862 www.dot.ca.gov | YOLO COUNTY TRANSPORTATION DISTRICT DBE Programs 350 Industrial Way Woodland, CA 95776 Phone: (530) 661-0816 Fax: (530) 661-1732 www.yctd.org |

SECTION VI: AGREEMENT

1 **AGREEMENT NO. C-0-2074**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 _____
6 **THIS AGREEMENT** is effective this ____ day of _____, 2020 ("Effective
7 Date"), by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box
8 14184, Orange, CA 92863-1584, a public corporation of the State of California (hereinafter referred to as
9 "AUTHORITY"), and _____ (hereinafter referred to as "CONTRACTOR").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY has determined that it requires replacement of power generators at the
12 AUTHORITY's Anaheim Bus Base and Irvine Construction Circle Bus Base; and

13 **WHEREAS**, said work cannot be performed by the regular employees of AUTHORITY; and

14 **WHEREAS**, CONTRACTOR has represented that it has the requisite personnel, experience,
15 material, and equipment and is otherwise qualified to perform such services; and

16 **WHEREAS**, CONTRACTOR wishes to perform these services; and

17 **WHEREAS**, AUTHORITY's Board of Directors authorized this Agreement on _____.

18 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and CONTRACTOR
19 as follows:

20 **ARTICLE 1. COMPLETE AGREEMENT**

21 A. This Agreement, including all exhibits and other documents incorporated herein and made
22 applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of
23 the Agreement between AUTHORITY and CONTRACTOR and it supersedes all prior representations,
24 understandings and communications. The invalidity in whole or in part of any term or condition of this
25 Agreement shall not affect the validity of other terms or conditions.

26 /

1 B. AUTHORITY's failure to insist in any one or more instances upon the performance of any
2 terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of
3 AUTHORITY's right to such performance by CONTRACTOR or to future performance of such terms or
4 conditions and CONTRACTOR's obligation in respect thereto shall continue in full force and effect.
5 CONTRACTOR shall be responsible for having taken steps reasonably necessary to ascertain the nature
6 and location of the work, and the general and local conditions, which can affect the work or the cost
7 thereof. Any failure by CONTRACTOR to do so will not relieve it from responsibility for successfully
8 performing the work without additional expense to AUTHORITY.

9 C. AUTHORITY assumes no responsibility for any understanding or representations concerning
10 conditions made by any of its officers, employees or agents prior to the execution of this Agreement,
11 unless such understanding or representations by AUTHORITY are expressly stated in this Agreement.

12 D. Time shall be of the essence hereunder; but CONTRACTOR shall perform work hereunder
13 only to the minimum extent consistent with requirements herein.

14 E. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except
15 when specifically confirmed in writing by an authorized representative of AUTHORITY and issued in
16 accordance with the provisions of this Agreement.

17 **ARTICLE 2. AUTHORITY DESIGNEE**

18 The Chief Executive Officer of AUTHORITY, or designee, shall have the authority to act for and
19 exercise any of the rights of AUTHORITY as set forth in this Agreement.

20 **ARTICLE 3. SCOPE OF WORK**

21 CONTRACTOR shall provide all labor, equipment, materials and facilities necessary for all work
22 related to replacement of power generators at AUTHORITY's Anaheim Bus Base and Irvine Construction
23 Circle Bus Base in strict compliance with all the requirements specified herein and in:

24 Attachment A, entitled "Disadvantaged Business Enterprise (DBE) Contract Provisions for U.S.
25 DOT-assisted Contracts";

26 Attachment A-1, entitled "DBE Participation Commitment Form";

Exhibit A, entitled "General Provisions"; Addendum No's ____;

Exhibit B, entitled "Specifications";

Exhibit C, entitled "List of Drawings";

Exhibit D, entitled "List of Subcontractors";

Exhibit E, entitled "Performance Bond";

Exhibit F, entitled "Payment Bond";

Exhibit G, entitled "Guaranty";

Exhibit H, entitled "Contract Change Order"; and

Exhibit I, entitled "Level III Safety Specifications";

all of which documents are attached to and, by this reference, incorporated in and made a part of this Agreement. By this reference, also incorporated in and made a part of this Agreement are all applicable provisions of the IFB and all representations made by CONTRACTOR in its original bid to AUTHORITY, including, but not limited to, CONTRACTOR's certifications relative to Workers' Compensation Insurance, and compliance with Section 7028.15 of the State of California Business and Professions Code.

ARTICLE 4. DELIVERY / RECOVERY SCHEDULE

A. CONTRACTOR shall fully complete the herein above described work within (Two Hundred Seventy) calendar days from the effective date of written Notice to Proceed (NTP) issued by AUTHORITY. CONTRACTOR shall give AUTHORITY not less than seventy-two (72) hours advance notice of the start of any work. Within five (5) calendar days after said notice, CONTRACTOR shall provide any construction schedules as may be requested by AUTHORITY.

B. If at any time, the critical path schedule reflects -30 or a greater negative number of days of total float, then CONTRACTOR, within ten (10) days after CONTRACTOR first becomes aware of such schedule delay, shall prepare and submit to AUTHORITY for review and approval a Recovery Schedule demonstrating CONTRACTOR's proposed plan to regain lost schedule progress and to achieve the original contractual milestones in accordance with the Agreement. AUTHORITY shall notify CONTRACTOR within ten days after receipt of each such Recovery Schedule whether the schedule is

deemed accepted or rejected. Within five (5) days after AUTHORITY's rejection of the schedule, CONTRACTOR will resubmit a revised Recovery Schedule incorporating AUTHORITY's comments. When AUTHORITY accepts CONTRACTOR's Recovery Schedule, CONTRACTOR shall, within five (5) days after AUTHORITY's acceptance, incorporate and fully include such schedule into the Project Schedule and deliver it to AUTHORITY.

C. All costs incurred by CONTRACTOR in preparing, implementing and achieving the Recovery Schedule shall be borne by CONTRACTOR and shall not result in a change to the contract price.

D. In the event that CONTRACTOR fails to provide an acceptable Recovery Schedule within thirty (30) days of CONTRACTOR's receipt of a notice to do so, CONTRACTOR shall have no right to receive progress payments until CONTRACTOR has prepared and AUTHORITY has approved such Recovery Schedule.

ARTICLE 5. START OF WORK

CONTRACTOR shall incur no costs, and shall not perform or furnish any work, services, materials or equipment under this Agreement, unless and until a written Notice to Proceed has been given to CONTRACTOR by AUTHORITY. Conditions precedent to AUTHORITY issuing said Notice to Proceed are CONTRACTOR furnishing the Exhibit E "Performance Bond", Exhibit F "Payment Bond", Exhibit G "Guaranty", and certificates of insurance as set forth in Article 11 hereunder. CONTRACTOR shall furnish said documents within ten (10) calendar days after notification of contract award from AUTHORITY. Upon receipt of acceptable bonds, guaranty, and insurance certificates, AUTHORITY will within ten (10) working days thereafter, issue the written Notice to Proceed.

ARTICLE 6. PAYMENT

A. For CONTRACTOR's full and complete performance of its obligations under this Agreement, and subject to the maximum cumulative payment obligation provision set forth in Article 8, AUTHORITY shall pay CONTRACTOR the firm fixed sum of _____ Dollars (\$____.00).

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B. Progress payments and the final payment will be made by AUTHORITY to CONTRACTOR in accordance with the terms as set forth in Exhibit A, "General Provisions", under the "Progress Payments" and "Final Payment and Claims" sections therein. The acceptance by CONTRACTOR of AUTHORITY's final payment hereunder shall constitute a waiver of all claims against AUTHORITY under or arising out of this herein Agreement, as such may from time to time be amended.

C. Failure by AUTHORITY to pay amount in dispute shall not alleviate, diminish or modify in any respect the CONTRACTOR's obligation to achieve final acceptance of and all work in accordance with the contract documents, and CONTRACTOR shall not cease or slow down its performance under this Agreement on account of any such amount in dispute. CONTRACTOR shall proceed as directed by AUTHORITY pending resolution of dispute. Upon resolution of dispute, each party shall promptly pay any amount owing.

ARTICLE 7. PROMPT PAYMENT CLAUSE

A. AUTHORITY has adopted a prompt payment provision on all U.S. DOT-assisted contracts to facilitate timely payment to all subcontractors in accordance with regulatory mandates. Pursuant to 49 CFR Part 26.29, AUTHORITY will include the following clause in each U.S. DOT-assisted contract:

B. "CONTRACTOR agrees to pay each subcontractor under this Contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment CONTRACTOR receives from AUTHORITY. CONTRACTOR agrees further to return retainage payments to each subcontractor within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the Agreement work by AUTHORITY. Any delay or postponement of payment from the above referenced time frame may take place only for good cause and with AUTHORITY's prior written approval." CONTRACTOR shall incorporate this clause verbatim, set forth above, in all subcontract, broker, dealer, vendor, supplier, purchase order or other source agreements issued to both DBE and non-DBE firms.

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C. Any violation of the provisions listed above shall subject the violating CONTRACTOR to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONTRACTOR or subcontractor in the event of a dispute involving late payment or nonpayment by CONTRACTOR; deficient subcontractor performance and/or noncompliance by a subcontractor.

D. Failure to comply with this provision without prior approval from AUTHORITY will constitute noncompliance, which may result in the application of appropriate administrative sanctions, including, but not limited to, a penalty of two percent (2%) of the invoice amount due per month, for every month that full payment is not made.

ARTICLE 8. MAXIMUM OBLIGATION

Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and CONTRACTOR mutually agree that AUTHORITY's maximum cumulative payment obligation hereunder (including obligation for CONTRACTOR 's profit), shall be _____Dollars (\$____.00), which shall include all amounts payable to CONTRACTOR for its subcontracts, leases, materials and costs arising from, or due to termination of, this Agreement.

ARTICLE 9. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, returned receipt requested, postage prepaid and addressed as follows:

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| | |
|----------------|--|
| To CONTRACTOR: | To AUTHORITY: |
| | Orange County Transportation Authority |
| | 550 South Main Street |
| | P.O. Box 14184 |
| | Orange, CA 92863-1584 |
| ATTENTION: | ATTENTION: Michael Le |
| Title: | Title: Contract Administrator |
| Tel: | Tel: (714) 560 - 5314 |
| E-Mail: | E-Mail: mle1@octa.net |
| | Cc: Alex Janecek, Project Manager |
| | Tel: (714) 560-5345 |
| | E-Mail: ajanecek@octa.net |

AUTHORITY will provide timely notification to CONTRACTOR of the receipt of any third-party claim relating to the Agreement, and CONTRACTOR agrees to timely reimburse AUTHORITY for its reasonable costs incurred in providing such notice in accordance with Public Contract Code Section 9201.

ARTICLE 10. INDEPENDENT CONTRACTOR

A. CONTRACTOR's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONTRACTOR's personnel performing work under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of AUTHORITY. CONTRACTOR shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

B. Should CONTRACTOR's personnel or a state or federal agency allege claims against AUTHORITY involving the status of AUTHORITY as employer, joint or otherwise, of said personnel, or

allegations involving any other independent contractor misclassification issues, CONTRACTOR shall defend and indemnify AUTHORITY in relation to any allegations made.

ARTICLE 11. INSURANCE

A. CONTRACTOR shall procure and continuously maintain in full force and effect through contract completion, insurance coverages specified herein. Coverages shall not be subject to self-insurance provisions. CONTRACTOR shall provide the following insurance coverage:

1. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, and Personal Injury with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate.

2. Automobile Liability to include owned, hired and non-owned autos with a combined single limit of \$1,000,000 each accident;

3. Workers' Compensation with limits as required by the State of California, including waiver of subrogation, in favor of AUTHORITY, its officers, directors, employees and agents.

4. Builders All Risk policy or course of construction including earthquake and flood coverage with minimum limits of \$1,410,000.

5. Employers' Liability with minimum limits of \$1,000,000.

6. Professional Liability with minimum limits of \$1,000,000 per claim and \$5,000,000 general aggregate.

B. Prior to commencement of any work hereof, CONTRACTOR shall furnish to AUTHORITY's Contract Administrator broker-issued insurance certificate showing the required insurance coverages and further providing that:

1. AUTHORITY, its officers, directors, employees and agents must be named as additional insured on Commercial General Liability and Automobile Liability policy with respect to performance hereunder; and

2. The coverage shall be primary and noncontributory as to any other insurance with respect to performance hereunder; and

3. Thirty (30) days prior written notice of cancellation or material change be given to
AUTHORITY.

C. "Occurrence," as used herein, means any event or related exposure to conditions, which
result in bodily injury or property damage.

D. The Certificate of Insurance shall reference Agreement Number C-0-2074; and, the Contract
Administrator's Name, Michael Le.

E. Upon AUTHORITY's request, certified, true and exact copies of each of the insurance policies
shall be provided to AUTHORITY.

F. AUTHORITY shall notify CONTRACTOR in writing of any changes in the requirements to
insurance required to be provided by CONTRACTOR. Except as set forth in this Article, any additional
cost from such change shall be paid by AUTHORITY and any reduction in cost shall reduce the
Agreement price pursuant to a change order.

G. CONTRACTOR shall also include in each subcontract the stipulation that subcontractors shall
maintain coverage in the amounts required as provided in this Agreement.

H. CONTRACTOR shall be required to immediately notify AUTHORITY of any modifications or
cancellation of any required insurance policies.

ARTICLE 12. BONDS

A. By submitting Exhibit E, entitled "Performance Bond", and Exhibit F, entitled "Payment Bond",
CONTRACTOR shall satisfy AUTHORITY's requirements that CONTRACTOR deposit with AUTHORITY
bonds with values in the sum of one hundred percent (100%) of this Agreement's price to cover
CONTRACTOR's failure to fully perform hereunder and CONTRACTOR's failure to pay its labor, material
or failure to comply with Article 39 of this Agreement, in performing hereunder. If the Agreement price is
increased in connection with a Change Order, AUTHORITY may, in its sole discretion, require a
corresponding increase in the amount of the Performance and Payment bonds or new bonds covering
the Change Order work.

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B. Notwithstanding any other provision set forth in this Agreement, performance by a Surety or Guarantor of any obligations of CONTRACTOR shall not relieve CONTRACTOR of any of its obligations thereunder.

ARTICLE 13. ORDER OF PRECEDENCE

To the extent there are any conflicts or inconsistency arising between any provisions or documents incorporated in this Agreement, the order of precedence for conflict resolution in descending order shall be as follows: (1) the provisions of this Agreement, including its Exhibits; (2) the provisions of IFB including all Addendums; (3) the bid submitted to AUTHORITY by CONTRACTOR in response to said IFB; and (4) any other documents, cited herein or incorporated by reference. In the event of conflicting provisions between Exhibit B "Specifications", and Exhibit C "List of Drawings", the Specifications (Exhibit B) shall take precedence.

ARTICLE 14. CHANGES

A. By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make any change in the general scope of this Agreement, including, but not limited to, changes in the drawings, specifications, schedules (either deceleratory or acceleratory) or any other particular of the specifications or provisions of this Agreement. If any such work suspension or change causes an increase or decrease in the price or time required for performance, CONTRACTOR shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONTRACTOR from proceeding immediately with the Agreement as changed. Changes will be made in accordance with the terms as set forth in Exhibit A, "General Provisions", paragraph F, Extra Work and Changes, by written Change Order.

B. No claims by CONTRACTOR for equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

C. Any work performed beyond the technical provisions specified in this Agreement, or any extra work performed without AUTHORITY's written authority, will be considered unauthorized work and the

1 cost thereof will not be paid for. Upon order of AUTHORITY's Engineer or its designee, unauthorized
2 work shall be remedied, removed or replaced at CONTRACTOR's expense.

3 D. Any changes under this Article will be made using AUTHORITY's Contract Change Order
4 form, set forth in Exhibit I, "Contract Change Order".

5 E. Any changes which constitute a "Claim" as defined by Public Contract Code Section 9204
6 (hereinafter "Section 9204") will be processed in accordance with Section 9204 and Exhibit A, "General
7 Provisions."

8 **ARTICLE 15. MODIFICATION BID-PRICE BREAKDOWN**

9 CONTRACTOR, in connection with any bid it makes for a change order, shall furnish a price
10 breakdown, itemized as required by AUTHORITY. Unless otherwise directed, the price breakdown shall
11 be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract and overhead
12 costs, as well as profit, and shall cover all work involved in the modification, whether such work was
13 deleted, added or changed. Any expense claimed by subcontractors shall be supported by a similar price
14 breakdown. In addition, if the bid includes a time extension, a justification therefore shall be furnished.
15 The bid, together with the price breakdown and time extension justification, shall be furnished by the date
16 specified by AUTHORITY.

17 **ARTICLE 16. DISPUTES**

18 A. Except as otherwise provided in this Agreement, when a dispute arises between
19 CONTRACTOR and AUTHORITY, the project managers shall meet to resolve the issue. If project
20 managers do not reach a resolution, the dispute will be decided by AUTHORITY's Director of Contracts
21 Administration and Materials Management (CAMM), who shall reduce the decision to writing and mail or
22 otherwise furnish a copy thereof to CONTRACTOR. The decision of the Director, CAMM, shall be the
23 final and conclusive administrative decision.

24 B. Pending final decision of a dispute hereunder, CONTRACTOR shall proceed diligently with
25 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
26 CAMM. Nothing in this Agreement, however, shall be construed as making final the decision of any

AUTHORITY official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

ARTICLE 17. TERMINATION FOR CONVENIENCE

A. AUTHORITY may terminate this Agreement for its convenience at any time in whole or in part, by giving CONTRACTOR written notice thereof. AUTHORITY shall terminate by delivering to CONTRACTOR a written Notice of Termination for Convenience specifying the extent of termination and its effective date. Upon termination, AUTHORITY shall pay CONTRACTOR its allowable costs incurred to date of that portion terminated. The rights, duties and obligations of the parties shall be construed in accordance with the applicable provisions of the Code of Federal Regulations (CFR) Title 48, Chapter 1, part 49, of the Federal Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination for convenience. If AUTHORITY sees fit to terminate this Agreement for convenience, said notice shall be given to CONTRACTOR in accordance with the provisions of the FAR referenced above and Article 9, herein. Upon receipt of said notification, CONTRACTOR shall immediately proceed with all obligations, regardless of any delay in determining or adjusting any amounts due under this Article, and agrees to comply with all applicable provisions of the FAR pertaining to termination for convenience.

ARTICLE 18. TERMINATION FOR DEFAULT-DAMAGES FOR DELAY-TIME EXTENSIONS

A. If CONTRACTOR refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, or fails to complete said work within such time, AUTHORITY may, by written notice to CONTRACTOR that specifies the nature of the default, terminate CONTRACTOR's right to proceed with the work or such part of the work as to which there has been delay. In such event, AUTHORITY may take over the work and prosecute the same to completion, by Agreement or otherwise, and may take possession of and utilize in completing the work such materials, appliances and plant as may be on the site of the work and necessary therefore. Whether or not CONTRACTOR's right to proceed with the work

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1 is terminated, CONTRACTOR and its sureties shall be liable for any damage to AUTHORITY resulting
2 from its refusal or failure to complete the work within the specified time.

3 B. If AUTHORITY so terminates CONTRACTOR's right to proceed, the resulting damage will
4 consist of such liquidated damages as set forth in the Article 38 in this Agreement entitled "Liquidated
5 Damages," until such reasonable time as may be required for final completion of the work together with
6 any increased costs occasioned AUTHORITY in completing the work. If AUTHORITY does not so
7 terminate CONTRACTOR's right to proceed, the resulting damage will consist of such liquidated
8 damages until the work is completed or accepted.

9 C. CONTRACTOR's right to proceed shall not be so terminated nor the CONTRACTOR charged
10 with resulting damage if:

11 1. The delay in completing the work arises from unforeseeable causes beyond the
12 control and without the fault or negligence of CONTRACTOR, including but not restricted to, acts of God,
13 acts of the public enemy, acts or omissions of AUTHORITY, acts of another CONTRACTOR in the
14 performance of an Agreement with AUTHORITY, fires, floods, epidemics, quarantine restrictions, freight
15 embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from
16 unforeseeable causes beyond the control and without the fault or negligence of both CONTRACTOR and
17 such subcontractors or suppliers; and

18 2. CONTRACTOR, within ten (10) calendar days from the beginning of any such delay,
19 notifies AUTHORITY in writing of the causes of delay. AUTHORITY shall ascertain the facts and the
20 extent of the delay and extend the time for completing the work when, in its judgment, the findings of fact
21 justify such an extension, and its findings of fact shall be final and conclusive on the parties, subject only
22 to appeal as provided in the "Disputes" clause of this Agreement. Any such time extensions will not
23 become effective until approved by AUTHORITY's Engineer in writing. AUTHORITY's Engineer will
24 furnish CONTRACTOR a weekly statement showing the number of calendar days charged to the
25 Agreement for the preceding week, the number of calendar days of time extensions being considered or
26 approved, the number of calendar days originally specified for the completion of this Agreement and the

1 number of calendar days remaining to complete this Agreement, and the extended date for completion
2 thereof.

3 3. Should at any time extensions be included by AUTHORITY's Engineer on the Weekly
4 Statement of Contract Calendar Days, a change order covering the sum total of the time extensions will
5 be issued to CONTRACTOR at periodic intervals during the project.

6 D. If, after notice of termination of CONTRACTOR's right to proceed under the provisions of this
7 clause, it is determined for any reason that CONTRACTOR was not in default under the provisions of this
8 clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of
9 the parties shall be the same as if the notice of termination had been issued pursuant to Article 17, entitled
10 "Termination for Convenience".

11 E. The rights and remedies of AUTHORITY provided in this clause are in addition to any other
12 rights and remedies provided by law or under this Agreement.

13 F. As used in paragraph C.1 of this Article, the term "subcontractors or suppliers," means
14 subcontractors or suppliers at any tier.

15 **ARTICLE 19. INDEMNIFICATION**

16 CONTRACTOR shall indemnify, defend, and hold harmless AUTHORITY, its officers, directors,
17 employees and agents from and against any and all claims (including attorneys' fees and reasonable
18 expenses for litigation or settlement) for any loss, costs, penalties, fines, damages, bodily injuries,
19 including death, damage to or loss of use of property, arising out of, resulting from, or in connection with
20 the performance of CONTRACTOR, its officers, directors, employees, agents, subcontractors or
21 suppliers under the Agreement. Notwithstanding the foregoing, such obligation to defend, hold harmless,
22 and indemnify AUTHORITY, its officers, directors, employees and agents shall not apply to such claims
23 or liabilities arising from the sole or active negligence or willful misconduct of AUTHORITY.

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ARTICLE 20. ASSIGNMENTS AND SUBCONTRACTS

A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONTRACTOR either voluntarily or by operation of law. CONTRACTOR shall not have the right to make any substitutions of any subcontractor listed in Exhibit D, entitled "List of Subcontractors," except in accordance with the provisions of the Subletting and Subcontractors Fair Practices Act, Public Contract Code Section 4100 et seq. AUTHORITY's consent shall not be deemed to relieve CONTRACTOR of its obligation to fully comply with the requirements of this Agreement.

B. CONTRACTOR shall be fully responsible to AUTHORITY for all acts and omissions of its own employees, and of subcontractors and their employees. CONTRACTOR shall coordinate the work performed by any subcontractor.

C. AUTHORITY shall have the right, but not the obligation, to review the form of any subcontract used by CONTRACTOR for the project and to require modifications thereto to conform to the requirements set forth herein.

ARTICLE 21. ACCESS TO RECORDS AND REPORTS

CONTRACTOR shall provide AUTHORITY, the U.S. Department of Transportation (DOT), the Comptroller General of the United States, and their respective representatives, and any other agents of AUTHORITY, such access to CONTRACTOR's accounting books, records, payroll documents and facilities of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of examining, auditing and inspecting all accounting books, records, work data, documents and activities related hereto. CONTRACTOR shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONTRACTOR's performance hereunder and for a period of four (4) years from the date of final payment by AUTHORITY, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case CONTRACTOR agrees to maintain same until AUTHORITY, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. AUTHORITY's right to audit books and records

1 directly related to this Agreement shall also extend to all first-tier subcontractors. CONTRACTOR shall
2 permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts
3 and transcriptions as reasonably necessary. CONTRACTOR agrees to include these requirements in all
4 subcontracts at any tier.

5 **ARTICLE 22. CONFLICT OF INTEREST**

6 CONTRACTOR agrees to avoid organizational conflicts of interest. An organizational conflict of
7 interest means that due to other activities, relationships or contracts, the CONTRACTOR is unable, or
8 potentially unable to render impartial assistance or advice to AUTHORITY; CONTRACTOR's objectivity
9 in performing the work identified in the Scope of Work is or might be otherwise impaired; or
10 CONTRACTOR has an unfair competitive advantage. CONTRACTOR is obligated to fully disclose to
11 AUTHORITY in writing Conflict of Interest issues as soon as they are known to CONTRACTOR. All
12 disclosures must be submitted in writing to AUTHORITY pursuant to the Notice provision herein. This
13 disclosure requirement is for the entire term of this Agreement.

14 **ARTICLE 23. CODE OF CONDUCT**

15 CONTRACTOR agrees to comply with AUTHORITY's Code of Conduct as it relates to Third-
16 Party contracts which is hereby referenced and by this reference is incorporated herein. CONTRACTOR
17 agrees to include these requirements in all of its subcontracts.

18 **ARTICLE 24. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

19 CONTRACTOR and all subcontractors performing work under this Agreement, shall be
20 prohibited from concurrently representing or lobbying for any other party competing for a contract with
21 AUTHORITY, either as a prime contractor or subcontractor. Failure to refrain from such representation
22 may result in termination of this Agreement.

23 **ARTICLE 25. FEDERAL, STATE AND LOCAL LAWS**

24 CONTRACTOR warrants that, in the performance of this Agreement, it shall comply with all
25 applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and
26 regulations promulgated thereunder.

ARTICLE 26. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

C. CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with CONTRACTOR's legal duty to furnish information.

D. CONTRACTOR will send to each labor union or representative of workers with which CONTRACTOR has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR's commitments

1 under this Article, and shall post copies of the notice in conspicuous places available to employees and
2 applicants for employment.

3 E. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24,
4 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5 F. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of
6 September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto,
7 and will permit access to CONTRACTOR's books, records, and accounts by the DOT and the Secretary
8 of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

9 G. In the event of CONTRACTOR's noncompliance with the nondiscrimination clauses of this
10 Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled,
11 terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further
12 Government contracts or federally-assisted construction contracts in accordance with procedures
13 authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed
14 and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule,
15 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

16 H. CONTRACTOR will include the portion of the sentence immediately preceding Paragraph (A)
17 and the provisions of Paragraphs (A) through (H) of this Article in every subcontract or purchase order
18 unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section
19 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each
20 subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or
21 purchase order as the DOT may direct as a means of enforcing such provisions, including sanctions for
22 noncompliance: provided, however, that in the event CONTRACTOR becomes involved in, or is
23 threatened with, litigation with a subcontractor or vendor as a result of such direction by the DOT,
24 CONTRACTOR may request the United States to enter into such litigation to protect the interests of the
25 United States.

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ARTICLE 27. FINISHED AND PRELIMINARY DATA

A. All of CONTRACTOR's finished technical data, including but not limited to illustrations, photographs, tapes, software, software design documents, including without limitation source code, binary code, all media, technical documentation and user documentation, photoprints and other graphic information required to be furnished under this Agreement, shall be AUTHORITY's property upon payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary restriction except as elsewhere authorized in this Agreement. CONTRACTOR further agrees that it shall have no interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said data is subject to the provisions of the Freedom of Information Act, Title 5 of the United States Code (U.S.C.) Section 552.

B. It is expressly understood that any title to preliminary technical data is not passed to AUTHORITY but is retained by CONTRACTOR. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by CONTRACTOR solely for the purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given for preparation of finished artwork. Preliminary data title and right thereto shall be made available to AUTHORITY if CONTRACTOR causes AUTHORITY to exercise Article 17, and a price shall be negotiated for all preliminary data.

ARTICLE 28. NONDISCRIMINATION

A. Nondiscrimination: In accordance with Federal transit law at 49 U.S.C. Section 5332, CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex disability, or age. CONTRACTOR agrees to comply with all applicable regulations and other implementing requirements the Federal Transit Administration (FTA) may issue.

B. Race, Color, Creed, National, Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e et seq.; and Federal transit laws at 49 U.S.C. Section 5332; CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of

U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor;" 41 CFR part 60; and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. Section 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. Section 2000e. CONTRACTOR further agrees to comply with Title VI of the Civil Rights Act, as amended, 42 U.S.C. Section 2000d et seq.; 49 CFR part 21; the most recent version of FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients;" DOT Order 5610.2(a) to Address Environmental Justice in Minority Populations and Low Income Populations;" Executive Order No. 13166 and DOT Policy Guidance concerning Recipients' Responsibilities to Limited English Proficiency (70 FR 74087, Dec. 14, 2005); and the most recent version of FTA Circular 4704.1 "Equal Employment Program Guidelines for Grant Recipients," as applicable. CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

C. Age: In accordance with the Age Discrimination in Employment Act, 29 U.S.C. Sections 621-634; U.S. Equal Employment Opportunity Commission regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625; the Age Discrimination Act of 1975, as amended, 42 U.S.C. Section 6101 et seq.; U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR part 90; and Federal transit law at 49 U.S.C. Section 5332; CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. CONTRACTOR agrees to comply with implementing requirements FTA may issue.

D. Disabilities: In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. Section 12101 et seq.; the Architectural Barriers Act of 1968, as amended, 42 U.S.C. Section 4151 et seq., and Federal transit law at 49 U.S.C. Section 5332; CONTRACTOR agrees that it will not discriminate against individuals on the basis of disability. CONTRACTOR agrees to comply with all applicable

implementing regulations and requirements FTA may issue, including 49 CFR parts 27, 37, 38, and 39 and the most recent version of FTA Circular 4710.1 "Americans with Disabilities Act: Guidance."

E. DISADVANTAGED BUSINESS ENTERPRISE (DBE): CONTRACTOR, AUTHORITY or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the AUTHORITY deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the CONTRACTOR from future bidding/proposing as non-responsible.

CONTRACTOR agrees to include these requirements in all subcontracts at any tier.

ARTICLE 29. DISADVANTAGED BUSINESS ENTERPRISES

A. At the time of Agreement execution, CONTRACTOR committed to utilize one or more Disadvantaged Business Enterprise ("DBE") firms in the performance of this U.S. DOT-assisted contract. CONTRACTOR agrees to ensure that any DBE subcontractor listed on the "DBE Participation Commitment Form" (Attachment A-1), will perform work and/or supply materials pursuant to all original commitments, unless otherwise directed and/or approved by AUTHORITY prior to CONTRACTOR effectuating any changes to its DBE participation commitment. CONTRACTOR shall comply with all the requirements set forth in Attachment "A" entitled, "DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT PROVISIONS FOR U.S. DOT-ASSISTED CONTRACTS," which is attached to, and incorporated herein by reference to this Agreement.

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ARTICLE 30. PRIVACY ACT

A. CONTRACTOR shall comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. Section 552(a). Among other things, CONTRACTOR agrees to obtain the express consent of the Federal Government before CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. CONTRACTOR understands the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

B. CONTRACTOR agrees to include this requirement in all of its subcontracts.

ARTICLE 31. OWNERSHIP OF REPORTS AND DOCUMENTS

A. The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made for CONTRACTOR's records but shall not be furnished to others without written authorization from AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by AUTHORITY.

B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings, descriptions, and all other written information submitted to CONTRACTOR in connection with the performance of this Agreement shall not, without prior written approval of AUTHORITY, be used for any purposes other than the performance under this Agreement, nor be disclosed to an entity not connected with the performance of the project. CONTRACTOR shall comply with AUTHORITY's policies regarding such material. Nothing furnished to CONTRACTOR, which is otherwise known to CONTRACTOR or is or becomes generally known to the related industry shall be deemed confidential. CONTRACTOR shall not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of AUTHORITY.

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C. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be released by CONTRACTOR to any other person or agency except after prior written approval by AUTHORITY, except as necessary for the performance of services under this Agreement. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be handled only by AUTHORITY unless otherwise agreed to by CONTRACTOR and AUTHORITY.

ARTICLE 32. INCORPORATION OF FTA TERMS

All contractual provisions required by the DOT, whether or not expressly set forth in this document, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any AUTHORITY requests, which would cause AUTHORITY to be in violation of the FTA terms and conditions.

ARTICLE 33. FEDERAL CHANGES

CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between AUTHORITY and FTA, as they may be amended or promulgated from time to time during this Agreement. CONTRACTOR's failure to comply shall constitute a material breach of Agreement.

ARTICLE 34. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

AUTHORITY and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to AUTHORITY, CONTRACTOR, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the underlying Agreement. CONTRACTOR agrees to include this requirement in all of its subcontracts.

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ARTICLE 35. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND ACTS

A. CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Sections 3801 et seq. and DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this project. By execution of this Agreement, CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement of the FTA assisted project for which this Agreement's work is being performed. In addition to other penalties that may be applicable, CONTRACTOR acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

B. CONTRACTOR also acknowledges that if CONTRACTOR makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under the authority of 49 U.S.C. Chapter 53, the Federal Government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5323 on the CONTRACTOR, to the extent the Federal Government deems appropriate. CONTRACTOR agrees to include this requirement in all of its subcontracts.

ARTICLE 36. CONVICT LABOR

In connection with the performance of work under this Agreement, CONTRACTOR agrees not to employ any person undergoing sentence of imprisonment at hard labor. This does not include convicts who are on parole or probation.

ARTICLE 37. NOTICE OF LABOR DISPUTE

Whenever CONTRACTOR has knowledge that any actual or potential labor dispute may delay its performance under this Agreement, CONTRACTOR shall immediately notify and submit all relevant

1 information to AUTHORITY. CONTRACTOR shall insert the substance of this entire clause in any
2 subcontract hereunder as to which a labor dispute may delay performance under this Agreement.
3 However, any subcontractor need give notice and information only to its next higher-tier subcontractor.

4 **ARTICLE 38. LIQUIDATED DAMAGES**

5 If CONTRACTOR fails to complete the work within the time specified in Article 4 of this
6 Agreement, or any AUTHORITY authorized extension thereof, the actual damage to AUTHORITY for the
7 delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, CONTRACTOR
8 shall pay to AUTHORITY as fixed, agreed-to liquidated damages for each calendar day of delay the sum
9 of Three Hundred Dollars (\$300.00). Alternatively, AUTHORITY may terminate this Agreement in whole
10 or in part as provided in Article 17 of this Agreement, and in that event, CONTRACTOR shall be liable, in
11 addition to the excess costs provided in Article 17 of this Agreement, for such liquidated damages
12 accruing until such time as AUTHORITY may reasonably obtain delivery or performance of similar
13 supplies or services from a different source. CONTRACTOR shall not be charged with liquidated
14 damages when the delay is determined to be excusable in accordance with Article 59 hereunder.
15 AUTHORITY shall ascertain the facts and extent of the delay and shall extend the time for performance
16 of the Agreement when in its judgment, the findings of fact justify an extension.

17 **ARTICLE 39. WARRANTY**

18 A. In addition to any other warranties set forth in this Agreement, whether expressed or implied,
19 CONTRACTOR warrants that (1) all work performed and all equipment and material provided under this
20 Agreement by CONTRACTOR or any of its subcontractors or suppliers at any tier, conforms to the
21 requirements herein and is free of any defects; (2) equipment furnished by CONTRACTOR or any of its
22 subcontractors or suppliers at any tier, shall be of modern design, in good working condition and fit for
23 use of its intended purpose; and (3) all work shall meet all of the requirements of this Agreement. Such
24 warranty shall continue for a period of one (1) year from AUTHORITY's acceptance as shown in Article
25 42 hereunder. Under this warranty, CONTRACTOR shall remedy at its own expense any such failure to
26 conform or correct any such defect. In addition, CONTRACTOR shall remedy at its own expense any

1 damage to AUTHORITY owned or controlled real or personal property, when that damage is the result
2 of CONTRACTOR's failure to conform to Agreement requirements or any such defect of equipment,
3 material, workmanship or design. CONTRACTOR shall also restore any work damaged in fulfilling the
4 terms of this clause. CONTRACTOR's warranty with respect to work repaired or replaced hereunder will
5 run for one year from the date of such repair or replacement.

6 B. AUTHORITY shall notify CONTRACTOR in writing within a reasonable time after the
7 discovery of any failure, defect or damage. CONTRACTOR has seven (7) days from receipt of notice
8 from AUTHORITY to respond to AUTHORITY's notification and indicate how CONTRACTOR will remedy
9 the failure, defect, or damage. If AUTHORITY is not satisfied with the remedy proposed by
10 CONTRACTOR, CONTRACTOR and AUTHORITY shall meet and mutually agree when and how
11 CONTRACTOR shall remedy such violation. In the case of an emergency requiring immediate corrective
12 action, CONTRACTOR shall implement such action, as it deems necessary and shall notify AUTHORITY
13 in writing of the urgency of a decision and action taken. CONTRACTOR and AUTHORITY shall, then
14 promptly meet in order to agree on a remedy. If CONTRACTOR and AUTHORITY fail to agree on the
15 remedy within a five (5)-day period, AUTHORITY, after notice to CONTRACTOR, shall have the right to
16 perform or have performed by third parties the necessary remedy, and the costs thereof shall be borne
17 by CONTRACTOR.

18 C. Should CONTRACTOR fail to remedy any failure, defect or damage described in paragraph
19 A above within a reasonable time after receipt of notice thereof, AUTHORITY shall have the right to
20 replace, repair or otherwise remedy such failure, defect or damage at CONTRACTOR's expense and
21 CONTRACTOR shall be liable for all damages, including, but not limited to, actual or consequential
22 damages and cost of any suit to enforce AUTHORITY's rights hereunder, including reasonable attorney's
23 fees.

24 D. In addition to the other rights and remedies provided by this clause, all subcontractors,
25 manufacturers, and suppliers' warranties, expressed or implied, respecting any work and materials
26 furnished hereunder, shall, at the direction of AUTHORITY, be enforced by CONTRACTOR for the benefit

of AUTHORITY. In such case if CONTRACTOR's warranty under paragraph A above has expired, any suit directed by AUTHORITY shall be at the expense of AUTHORITY. CONTRACTOR shall obtain any warranties, which the subcontractors, manufacturers or suppliers would give in normal commercial practice and shall cause all subcontractor or supplier warranties to be extend to AUTHORITY.

E. If directed by AUTHORITY, CONTRACTOR shall require any such warranties to be executed in writing to AUTHORITY.

F. Notwithstanding any other provision of this clause, unless such a defect is caused by the negligence of CONTRACTOR or its subcontractors or suppliers at any tier, CONTRACTOR shall not be liable for the repair of any defects of material or design furnished by AUTHORITY nor for the repair of any damage which results from any such defect in AUTHORITY furnished material or design.

G. The warranty specified herein shall not limit AUTHORITY's rights under the Inspection and Acceptance clause of this Agreement with respect to latent defects, gross mistakes or fraud.

H. Defects in design or manufacture of equipment specified by AUTHORITY on a "brand name and model" basis shall not be included in this warranty. CONTRACTOR shall require any subcontractors, manufacturers or suppliers thereof to execute their warranties in writing directly to AUTHORITY.

I. Any disagreement between AUTHORITY and CONTRACTOR relating to this Article shall be subject to dispute resolution in accordance with Article 16.

ARTICLE 40. GENERAL WAGE RATES AND DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

A. State Prevailing Wage and Labor Code Requirements. Notice is hereby given that, in accordance with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, Articles 1 and 2, CONTRACTOR is required to pay not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public works is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work. In that regard, the Director of the Department of Industrial Relations of the State of California (DIR) is required to and has determined such general prevailing rates of per diem wages. CONTRACTOR agrees to comply with the provisions of

California Labor Code Sections 1771, 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Copies of such prevailing rates of per diem wages may be obtained online at (<http://www.dir.ca.gov/>), are on file at the AUTHORITY's office, and will be available to any interested party upon request. In accordance with the Labor Code, no workman employed upon work under this Agreement shall be paid less than the above referenced prevailing wage rate. A copy of said rates shall be posted at each job site during the course of construction.

1. This Agreement is subject to compliance monitoring and enforcement by the DIR. The DIR shall monitor and enforce compliance with applicable prevailing wage requirements for this Agreement. The reporting requirements may be found at <https://www.dir.ca.gov/Public-Works/Contractors.html>. CONTRACTOR is responsible for complying with all requirements of the DIR, including filing electronic payroll reports.

2. Pursuant to Labor Code Section 1771.1, CONTRACTOR and any subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work on a public works project unless registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Business and Professions Code Section 7029.1 or by Public Contract Code Section 10164 or 20103.5, provided CONTRACTOR is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. CONTRACTOR shall not perform any work under this Agreement with any subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

3. Pursuant to Labor Code Section 1771.4, CONTRACTOR will post all job site notices, as prescribed by regulation.

4. CONTRACTOR, and all subcontractors, shall comply with the provisions of Labor Code Sections 1777.5 and 1777.6 concerning the employment of apprentices. CONTRACTOR shall

1 have full responsibility for compliance with such Labor Code sections for all apprenticeable occupations,
2 regardless of any other contractual or employment relationships alleged to exist.

3 5. CONTRACTOR agrees to comply with the provisions of Labor Code Section 1776,
4 including the keeping of payroll records and furnishing certified copies thereof in accordance with said
5 Section and with the terms as set forth in Exhibit A, "General Provisions." CONTRACTOR is responsible
6 for compliance with Section 1776 by all subcontractors.

7 6. CONTRACTOR agrees to comply with all applicable Labor Code provisions governing
8 legal working hours and shall forfeit, as a penalty to AUTHORITY, twenty-five dollars (\$25.00) for each
9 laborer, workman or mechanic employed in the execution of the contract, by him or any sub-contractor
10 under him, upon any of the work hereinbefore mentioned, for each calendar day during which the laborer,
11 workman or mechanic is required or permitted to labor more than eight (8) hours in any one calendar day
12 and forty (40) hours in any one calendar week in violation of the Labor Code.

13 7. In accordance with the provisions of Labor Code Section 3700, CONTRACTOR will
14 be required to secure the payment of compensation to his or her employees.

15 B. Federal Prevailing Wage Rates and Anti-Kickback.

16 1. CONTRACTOR shall comply with the Davis-Bacon Act, 40 U.S.C. Sections 3141-
17 3144 and Sections 3146-3148, as supplemented by U.S. DOL regulations at 29 CFR part 5, "Labor
18 Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction."
19 Under 49 U.S.C. Section 5333(a), prevailing wage protections apply to laborers and mechanics employed
20 on FTA-assisted construction, alteration, or repair projects. In accordance with the statute,
21 CONTRACTOR shall pay wages to laborers and mechanics at a rate not less than the prevailing wages
22 specified in a wage determination made by the Secretary of Labor. CONTRACTOR agrees to pay wages
23 not less than once per week. CONTRACTOR shall comply with the Davis-Bacon Labor Provisions of 2
24 CFR Section 5.5, as set forth in Exhibit A, "General Provisions."

25 2. CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C.
26 Section 3145), as supplemented by U.S. DOL regulations at 29 CFR part 3, "Contractors and

Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” CONTRACTOR is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

ARTICLE 41. CONTRACT WORK HOURS AND SAFETY STANDARDS

A. If the maximum cumulative payment obligation of this Agreement exceeds \$100,000, CONTRACTOR agrees to comply with the Federal Contract Work Hours and Safety Standards (40 U.S.C. Section 3701 et seq. as supplemented by 29 CFR part 5). Under 40 U.S.C. Section 3702, CONTRACTOR shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of forty (40) hours.

1. Overtime requirements: CONTRACTOR, and any subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, shall not require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages: In the event of any violation of paragraph (A) of this Article, CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, CONTRACTOR and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this Article, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (A) of this Article.

3. Withholding for unpaid wages and liquidated damages: FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to

be withheld, from any moneys payable on account of work performed by CONTRACTOR or subcontractor under any such contract or any other Federal contract with CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in this Article.

4. Subcontracts: CONTRACTOR shall insert in any subcontracts the clauses set forth in paragraphs (A) of this Article and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraph A of this Article.

B. CONTRACTOR agrees to comply with U.S. DOL Regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 CFR part 1904; "Occupational Safety and Health Standards," 29 CFR part 1910; and "Safety and Health Regulations for Construction," 29 CFR part 1926.

ARTICLE 42. INSPECTION AND ACCEPTANCE

A. All work (which term includes but is not restricted to materials, equipment, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by AUTHORITY at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of AUTHORITY and shall not relieve CONTRACTOR of the responsibility of providing quality control measures to assure that the work strictly complies with requirements of this Agreement. No inspection or test by AUTHORITY or its representative shall be construed as constituting or implying acceptance. Any inspection or test shall not relieve CONTRACTOR of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of AUTHORITY after acceptance of the completed work under the terms of paragraph F of this Article, except as herein above provided.

B. CONTRACTOR shall, without charge, replace any material or correct any workmanship found by AUTHORITY not to conform to the requirements of this Agreement, unless in the public interest AUTHORITY consents to accept such material or workmanship with an appropriate adjustment in the

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price of this Agreement. CONTRACTOR shall promptly segregate and remove rejected material from the premises.

C. CONTRACTOR shall furnish promptly, without additional charge, all facilities, labor, equipment and material reasonably needed for performing such safe and convenient inspection and test as may be required by AUTHORITY. All inspections and tests by AUTHORITY shall be performed in such manner as to not unnecessarily delay the work. AUTHORITY reserves the right to charge to CONTRACTOR any additional cost of inspection or test when material or workmanship is not ready at the time specified by CONTRACTOR for inspection or test or when reinspection or retest is necessitated by prior rejection.

D. If CONTRACTOR does not promptly replace rejected material or correct rejected workmanship, AUTHORITY (1) may, by Agreement or otherwise, replace such material or correct such workmanship and charge the cost thereof to CONTRACTOR, or (2) may terminate CONTRACTOR's right to proceed in accordance with the clause of this Agreement entitled "Termination for Default."

E. Should it be considered necessary or advisable by AUTHORITY at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, CONTRACTOR shall, on request, promptly furnish all necessary facilities, labor and material. If such work is found to be defective or nonconforming in any material respect, due to the fault of CONTRACTOR or its subcontractors, CONTRACTOR shall pay all costs of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of this Agreement, an equitable adjustment shall be made in the Agreement price to compensate CONTRACTOR for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, it shall in addition, be granted a suitable extension of time.

F. Unless otherwise provided in this Agreement, acceptance by AUTHORITY shall be made as promptly as practicable after completion and inspection of all work required by this Agreement, or that portion of the work that AUTHORITY determines can be accepted separately. Acceptance shall be final

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and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud or as regards AUTHORITY's rights under the warranty provisions set forth herein.

ARTICLE 43. MATERIAL AND WORKMANSHIP

A. Unless otherwise specifically provided in this Agreement, all equipment, material, and articles incorporated in the work covered by this Agreement are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this Agreement, reference to any equipment, material, article or patented process, by trade name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and CONTRACTOR may, at its option, use any equipment, material, article or process which, in the judgment of AUTHORITY, is equal to that named. CONTRACTOR shall furnish to AUTHORITY for its approval the name of the manufacturer, the model number and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment, which CONTRACTOR contemplates incorporating in the work. When required by this Agreement or when called for by AUTHORITY, CONTRACTOR shall furnish AUTHORITY, for approval, full information concerning the material or articles, which it contemplates incorporating in the work. When so directed, samples shall be submitted for approval at CONTRACTOR's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without required approval shall be at the risk of subsequent rejection.

B. All work under this Agreement shall be performed in a skillful and workmanlike manner. Notwithstanding the provisions of Article 3 hereof, AUTHORITY may, in writing, require CONTRACTOR to remove from the work any employee AUTHORITY deems incompetent, careless or otherwise objectionable.

ARTICLE 44. NON-CONFORMING WORK

A. Nonconforming work rejected by AUTHORITY shall be removed and replaced so as to conform to the requirements of this Agreement, at CONTRACTOR's cost and without a time extension; and CONTRACTOR shall promptly take all action necessary to prevent similar deficiencies from occurring

in the future. The fact that AUTHORITY may not have discovered the nonconforming work shall not constitute an acceptance of such nonconforming work. If CONTRACTOR fails to correct any nonconforming work within ten (10) days of receipt of notice from AUTHORITY requesting correction, or if such nonconforming work cannot be corrected within ten (10) days, and CONTRACTOR fails to; (1) provide to AUTHORITY a schedule for correcting any such nonconforming work acceptable to AUTHORITY within such ten (10) day period, (2) commence such corrective work within such ten (10) day period and (3) thereafter diligently prosecute such correction in accordance with such approved schedule to completion, then AUTHORITY may cause the nonconforming work to be remedied or removed and replaced and may deduct the cost of doing so from any moneys due or to become due to CONTRACTOR and/or obtain reimbursement from CONTRACTOR for such cost.

B. If AUTHORITY agrees to accept any nonconforming work without requiring it to be fully corrected, AUTHORITY shall be entitled to reimbursement of a portion of the contract price in an amount equal to the greater of the amount deemed appropriate by AUTHORITY to provide compensation for future maintenance and/or other costs relating to the nonconforming work, or 100% of CONTRACTOR's cost savings associated with its failure to perform the work in accordance with Contract requirements. Such reimbursement shall be payable to AUTHORITY within ten (10) days after CONTRACTOR's receipt of an invoice thereof. CONTRACTOR acknowledges and agrees that AUTHORITY shall have sole discretion regarding acceptance or rejection of nonconforming work and that AUTHORITY shall have sole discretion with regard to the amount payable in connection therewith.

ARTICLE 45. CONTRACTOR INSPECTION SYSTEM

CONTRACTOR shall maintain an adequate inspection system and perform such inspections as will assure that the work performed under this Agreement conforms to the specified requirements, and shall maintain and make available to AUTHORITY adequate records of such inspections.

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ARTICLE 46. SUPERINTENDENCE BY CONTRACTOR

CONTRACTOR, at all times during performance and until the work is completed and accepted, shall give its personal superintendence to the work or have on the work a competent superintendent, satisfactory to AUTHORITY and with authority to act for and on behalf of CONTRACTOR.

ARTICLE 47. OTHER CONTRACTS

AUTHORITY may undertake or award other agreements for additional work, and CONTRACTOR shall fully cooperate with such other CONTRACTOR's and AUTHORITY's employees and carefully fit its own work to such additional work as may be directed by AUTHORITY. CONTRACTOR shall not commit or permit any act, which will interfere with the performance of work by any other CONTRACTOR or by AUTHORITY.

ARTICLE 48. INSPECTION OF SITE

CONTRACTOR acknowledges that it has investigated and satisfied itself as to the conditions affecting the work including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power and roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. CONTRACTOR further acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by AUTHORITY, as well as from information presented by the drawings and specifications made a part of this Agreement. Any failure by CONTRACTOR to acquaint itself with the available information will not relieve it from responsibility for the difficulty or cost of successfully performing the work. AUTHORITY assumes no responsibility for any conclusions or interpretations made by CONTRACTOR on the basis of the information made available by AUTHORITY.

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ARTICLE 49. DIFFERING SITE CONDITIONS

A. CONTRACTOR shall immediately, and before such conditions are disturbed, notify AUTHORITY in writing of: (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this Agreement, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement. AUTHORITY will investigate the conditions within three (3) business days of receipt of notification, and if it finds that such conditions do materially so differ and cause an increase or decrease in CONTRACTOR's cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Agreement modified in writing accordingly.

B. No claim of CONTRACTOR under this Article shall be allowed unless CONTRACTOR has given the written notice required above; no claim by CONTRACTOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

ARTICLE 50. SEISMIC SAFETY REQUIREMENTS

CONTRACTOR agrees that the work performed under this Agreement will be accomplished in accordance with the standards for Seismic Safety required in DOT's Seismic Safety Regulations 49 CFR part 41 and will certify compliance to the extent required by the regulation for such work. CONTRACTOR shall ensure that all work performed under this Agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ARTICLE 51. RECYCLED PRODUCTS

CONTRACTOR shall comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. Section 6962), including but not limited to the regulatory provisions of 40 CFR part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 CFR part 247. CONTRACTOR agrees to include this requirement in all of its subcontracts.

ARTICLE 52. ENERGY CONSERVATION REQUIREMENTS

If the maximum cumulative payment obligation of this Agreement exceeds the Simplified Acquisition Threshold, as defined in 48 CFR Subpart 2.1, CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy Conservation Act.

ARTICLE 53. CLEAN AIR

CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. CONTRACTOR shall report any violations of use of prohibited facilities to the FTA and the United States Environmental Protection Agency (US EPA). CONTRACTOR agrees to include this requirement in each subcontractor exceeding Simplified Acquisition Threshold.

ARTICLE 54. CLEAN WATER REQUIREMENTS

If the maximum cumulative payment obligation of this Agreement exceeds Simplified Acquisition Threshold, as defined in 48 CFR Subpart 2.1, CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq. CONTRACTOR shall report any violations of use of prohibited facilities to the FTA and US EPA. CONTRACTOR agrees to include this requirement in each subcontract exceeding Simplified Acquisition Threshold.

ARTICLE 55. OPERATIONS AND STORAGE AREAS

A. All operations of CONTRACTOR (including storage of materials and equipment) on AUTHORITY-owned premises shall be confined to areas authorized or approved by AUTHORITY. CONTRACTOR shall hold AUTHORITY and its officers and agents free and harmless from liability of any nature occasioned by CONTRACTOR's operations.

B. Temporary building (storage sheds, shops, offices, etc.) may be erected by CONTRACTOR with the written consent of AUTHORITY, and shall be built with labor and materials furnished by CONTRACTOR without expense to AUTHORITY. Such temporary buildings and utilities shall remain

the property of CONTRACTOR and shall be removed by CONTRACTOR at its expense upon the completion of the work. With the written consent of AUTHORITY, such buildings and utilities may be abandoned and need not be removed.

C. CONTRACTOR shall, under regulations prescribed by AUTHORITY, use only established roadways or construct and use such temporary roadways as may be authorized by AUTHORITY. Where materials are transported in the prosecution of work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state or local law or regulation. When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by CONTRACTOR and any damaged roads, curbing or sidewalks shall be repaired by, or at the expense of, CONTRACTOR.

ARTICLE 56. BUY AMERICA

A. If the maximum cumulative payment obligation of this Agreement exceeds one hundred fifty thousand dollars (\$150,000), CONTRACTOR shall comply with the "Buy America" requirements of 49 U.S.C. Section 5323(j) and 49 CFR part 661, as amended, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver.

B. CONTRACTOR shall furnish a Certificate of Compliance, conforming to the provisions of this Article, for all steel and iron materials.

C. CONTRACTOR shall ensure all subcontractors at every tier comply with these requirements.

ARTICLE 57. PROTECTION OF VEGETATION, UTILITIES, IMPROVEMENTS

A. CONTRACTOR shall preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interfere with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment, or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound as directed by AUTHORITY.

1 B. CONTRACTOR shall protect from damage all existing improvements or utilities at or near the
2 site of the work, the location of which is made known to it, and will repair or restore any damage to such
3 facilities resulting from failure to comply with the requirements of this Agreement or the failure to exercise
4 reasonable care in the performance of the work. If CONTRACTOR fails or refuses to repair any such
5 damage promptly, AUTHORITY may have the necessary work performed and charge the cost to
6 CONTRACTOR.

7 **ARTICLE 58. CLEANING UP**

8 A. CONTRACTOR shall at all times keep the construction area, including storage areas used by
9 it, free from accumulations of waste material or rubbish, and prior to completion of the work remove any
10 rubbish from AUTHORITY owned premises and all tools, scaffolding, equipment and materials not the
11 property of AUTHORITY. Upon completion of the construction, CONTRACTOR shall leave the work and
12 premises in a clean, neat and workmanlike condition satisfactory to AUTHORITY.

13 B. After completion of all work on the project, and before making application for acceptance of
14 the work, CONTRACTOR shall clean the construction site, including all areas under the control of
15 AUTHORITY, that have been used by CONTRACTOR in connection with the work on the project and
16 remove all debris, surplus material and equipment, and all temporary construction or facilities of whatever
17 nature, unless otherwise approved by AUTHORITY. Final acceptance of the work by AUTHORITY will
18 be withheld until CONTRACTOR has satisfactorily complied with the foregoing requirements for final
19 cleanup of the project site.

20 C. Full compensation for conforming to the provisions in this Article, not otherwise provided for,
21 shall be considered as included in price of this Agreement and no additional compensation will be allowed
22 therefore.

23 **ARTICLE 59. USE AND POSSESSION TO COMPLETION**

24 AUTHORITY shall have the right to take possession of or use any completed or partially
25 completed part of the work. Prior to such possession or use, AUTHORITY shall furnish CONTRACTOR
26 an itemized list of work remaining to be performed or corrected on such portions of the project as are to

be possessed or used by AUTHORITY, provided that failure to list any item of work shall not relieve CONTRACTOR of responsibility for compliance with the terms of this Agreement. Such possession or use shall not be deemed an acceptance of any work under this Agreement. While AUTHORITY has such possession or use, CONTRACTOR shall be relieved of the responsibility for the loss or damage to the work resulting from AUTHORITY's possession or use. If such prior possession or use by AUTHORITY delays the progress of the work or causes additional expense to CONTRACTOR, an equitable adjustment in the Agreement price or the time of completion will be made and the Agreement shall be modified in writing accordingly.

ARTICLE 60. PROHIBITED INTERESTS

A. CONTRACTOR covenants that, for the term of this Agreement, no director, officer or employee of AUTHORITY, during his/her tenure in office or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

B. No member of or delegates to the Congress of the United States shall have any interest, direct or indirect, in this Agreement or the benefits thereof.

ARTICLE 61. CONTRACTOR PURCHASED EQUIPMENT

A. If during the course of this Agreement, additional equipment is required, which will be paid for by AUTHORITY, CONTRACTOR must request prior written authorization from AUTHORITY's project manager before making any purchase. As part of this purchase request, CONTRACTOR shall provide a justification for the necessity of the equipment or supply and submit copies of three (3) competitive quotations. If competitive quotations are not obtained, CONTRACTOR must provide the justification for the sole source.

B. CONTRACTOR shall maintain an inventory record for each piece of equipment purchased that will be paid for by AUTHORITY. The inventory record shall include the date acquired, total cost, serial number, model identification, and any other information or description necessary to identify said equipment or supply. A copy of the inventory record shall be submitted to AUTHORITY upon request.

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C. At the expiration or termination of this Agreement, CONTRACTOR may keep the equipment and credit AUTHORITY in an amount equal to its fair market value. Fair market value shall be determined, at CONTRACTOR's expense, on the basis of an independent appraisal. CONTRACTOR may sell the equipment at the best price obtainable and credit AUTHORITY in an amount equal to the sales price. If the equipment is to be sold, then the terms and conditions of the sale must be approved in advance by AUTHORITY's project manager.

D. Any subcontractor agreement entered into as a result of this Agreement shall contain all provisions of this clause.

ARTICLE 62. DEBARMENT AND SUSPENSION GUIDELINES

CONTRACTOR shall not do business with a subcontractor or other participant who is debarred, suspended or otherwise disqualified. CONTRACTOR shall comply with 2 CFR part 180, as adopted and supplemented by 2 CFR part 1200. CONTRACTOR shall include the requirements in any lower tier covered transaction it enters into.

ARTICLE 63. HEALTH AND SAFETY SPECIFICATIONS

CONTRACTOR shall comply with all requirements set forth in Exhibit H, Level 3 Safety Specifications.

ARTICLE 64. LOBBYING

CONTRACTOR shall comply with the lobbying requirements of 31 U.S.C. Section 1352 and the applicable regulations under 49 CFR part 20. If the maximum cumulative payment obligation of this Agreement exceeds \$100,000, CONTRACTOR shall file both the "Certification of Restrictions on Lobbying" and the "Disclosure of Lobbying Activities." CONTRACTOR shall also require each subcontractor to certify to CONTRACTOR that subcontractor will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. Section 1352. CONTRACTOR shall also require any subcontractor to disclose to

CONTRACTOR the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. Section 1352.

ARTICLE 65. TRANSPORTATION OF EQUIPMENT, MATERIALS OR COMMODITIES BY OCEAN VESSEL

A. CONTRACTOR shall utilize privately owned United States-flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

B. CONTRACTOR shall furnish within twenty (20) working days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipping originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of lading in English for each shipment of cargo described in paragraph A of this Article to AUTHORITY (through the prime CONTRACTOR in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, marked with appropriate identification of the project.

ARTICLE 66. FLY AMERICA REQUIREMENTS

A. CONTRACTOR agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipient of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a

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certificate of compliance with the Fly America requirements. CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

ARTICLE 67. CLAYTON AND CARTWRIGHT ACT

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to this Agreement, CONTRACTOR and any subcontractor offers and agrees to assign to AUTHORITY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or subcontract entered into for purposes of this Agreement. This assignment shall be made and become effective at the time the AUTHORITY tenders final payment to the CONTRACTOR, without further acknowledgment by the parties.

ARTICLE 68. FORCE MAJEURE

Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

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ORANGE COUNTY TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

APPROVED:

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DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT PROVISIONS FOR U.S. DOT-ASSISTED CONTRACTS

I. DBE Participation

It is the CONTRACTOR's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26 and AUTHORITY's DBE program developed pursuant to these regulations.

If CONTRACTOR has committed to utilize a DBE in the performance of this U.S. DOT-assisted contract, CONTRACTOR's submitted "DBE Participation Commitment Form," in combination with the executed subcontract and/or purchase order will be utilized to monitor CONTRACTOR's DBE commitment. Unless otherwise directed and/or approved by AUTHORITY prior, CONTRACTOR must not effectuate any changes to its DBE participation commitment.

CONTRACTOR must complete and submit all required DBE documentation to effectively capture DBE utilization on AUTHORITY's U.S. DOT-assisted contracts whether achieved race neutrally or race consciously. No changes to CONTRACTOR's DBE commitment shall be made until proper review and approval by AUTHORITY is rendered in writing.

To ensure full compliance with the requirements of 49 CFR, Part 26 and AUTHORITY's DBE Program, CONTRACTOR must:

- A. Take appropriate actions to ensure that it will satisfy good faith efforts to meet the DBE agreement goal and continue to meet the DBE commitment made at award, when change orders or other modifications alter the dollar amount of the Agreement or the distribution of work. CONTRACTOR must apply and report its DBE goal commitment against the total Agreement value, including any change orders and/or amendments.

II. DBE Policy and Applicability

In accordance with federal financial assistance agreements with the U.S. Department of Transportation ("U.S. DOT"), AUTHORITY has adopted a Disadvantaged Business Enterprise ("DBE") Policy and Program in conformance with Title 49 CFR, Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs".

The project is subject to these stipulated regulations and AUTHORITY's DBE Program. To ensure that AUTHORITY achieves its overall DBE Program goals and objectives, AUTHORITY encourages the participation of DBEs as defined in 49 CFR, Part 26, in the performance of agreements financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of AUTHORITY to:

Fulfill the spirit and intent of the DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have an equitable opportunity to compete for and participate in AUTHORITY's U.S. DOT-assisted contracts and subcontracts. AUTHORITY is firmly committed to the DBE Program objectives, which are designed to:

- A. Ensure non-discrimination in the award and administration of AUTHORITY's U.S. DOT-assisted contracts;
- B. Create a level playing field by which DBE's can fairly compete for AUTHORITY's U.S. DOT-assisted contracts;
- C. Ensure that AUTHORITY's DBE Program and Overall Goals are narrowly tailored in accordance with applicable law;
- D. Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBE's in the AUTHORITY's DBE Program;
- E. Help remove barriers which impede the participation of DBE's in AUTHORITY's U.S. DOT-assisted contracts;
- F. Promote the use of DBE's in all types of U.S. DOT-assisted contracts and procurement activities conducted by AUTHORITY;
- G. Provide training and other assistance through our resource partners to address capital, bonding, and insurance needs;
- H. Assist in the development of DBE firms that can compete successfully in the marketplace outside of the DBE Program; and
- I. Establish and provide opportunities for DBEs by providing flexibility in the implementation of AUTHORITY's DBE Program.

CONTRACTOR must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontractor. Any terms used in this section that are defined in 49 CFR, Part 26, or elsewhere in the Regulations, must have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and AUTHORITY's DBE Program with respect to U.S. DOT-assisted contracts, the Regulations must prevail.

III. AUTHORITY's DBE Policy Implementation Directives

Pursuant to the provisions associated with Title 49 CFR, Part 26, the Disadvantaged Business Enterprise ("DBE") Program exists to ensure participation, equitable competition, and assistance

to participants in the U.S. DOT DBE program. Accordingly, based on the AUTHORITY's analysis of its past utilization data, coupled with Overall Goal Methodology findings and examination of similar Agencies' disparity studies, AUTHORITY's DBE Program is implemented utilizing both race-conscious and race-neutral means. When a contract-specific DBE goal is assigned to a project, meeting the contract-specific goal by committing to utilize DBEs, or documenting a bona fide good faith effort to do so, is a condition of award.

A. Definitions

The following definitions apply to the terms used in these provisions:

1. **"Disadvantaged Business Enterprise (DBE)"** means a small business concern:
(a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
2. **"Small Business Concern"** means a small business as defined pursuant to Section 3 of the Small Business Act and Small Business Administration (SBA) regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).
3. **"Socially and Economically Disadvantaged Individuals"** means any individual who is a citizens (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.
 - a) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.
 - b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa";
 - ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race";

- iii. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaskan Natives, or Native Hawaiians”;
 - iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong”;
 - v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;”
 - vi. Women; and
 - vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- c) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.
4. **“Owned and Controlled”** means a business: (a) which is at least 51 percent owned by one or more “Socially and Economically Disadvantaged Individuals” or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more “Socially and Economically Disadvantaged Individuals”; and (b) whose management and daily business operations are controlled by one or more such individuals.
5. **“Manufacturer”** means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the CONTRACTOR.
6. **“Regular Dealer”** means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the Agreement are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.
7. **“Fraud”** includes a firm that does not meet the eligibility criteria of being a certified DBE and attempts to participate in a U.S. DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations, or under circumstances indicating a serious lack of business integrity or honesty. AUTHORITY may take enforcement action under 49 CFR, Part 31, Program Fraud and Civil

Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR, Part 31. AUTHORITY may refer cases of identified fraud to the Department of Justice, for prosecution under 18 U.S.C. 1001, or any other applicable provisions of law. Any person who makes a false or fraudulent statement in connection with participation of a DBE in any U.S. DOT-assisted program or otherwise, violates applicable Federal statutes.

8. ***“Other Socially and Economically Disadvantaged Individuals”*** means those individuals who are citizens of the United States (or lawfully admitted permanent residents), and who, on a case-by-case basis, are determined by Small Business Administration or AUTHORITY to meet the social and economic disadvantage criteria described below.

B. “Social Disadvantage”

1. The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
2. The individual must demonstrate that he/she has personally suffered social disadvantage.
3. The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.
4. The individual's social disadvantage must be chronic, longstanding and substantial; not fleeting or insignificant.
5. The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.
6. A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

C. “Economic Disadvantage”

1. The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.
2. The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- availability of financing
- bonding capability
- availability of outside equity capital
- available markets

With respect to the individual and the business concern:

- personal and business assets
- personal and business net worth
- personal and business income and profits

IV. Submission of DBE Information and Ongoing Reporting Requirements (Post-Award)

If there is a DBE goal and/or DBE commitment on the Agreement, CONTRACTOR must complete and submit within the specified timelines, the following DBE documentation, electronically through e-mail or an AUTHORITY-approved electronic reporting system consistent with CONTRACTOR's DBE goal commitment:

- A. "Monthly DBE Subcontractor Commitment and Attainment Report Summary and Payment Verification" (Form 103)

The purpose of this form is to ensure CONTRACTOR DBE commitments are attained, properly reported, and credited in accordance with DBE crediting provisions based on the capacity the DBE performs the scope of work/service. This form further serves to collect DBE utilization data required under 49 CFR, Part 26.

The CONTRACTOR is required to complete and submit this form to AUTHORITY by the 10th of each month until completion of the Agreement. CONTRACTOR must submit first Form 103 following the first month of Agreement activity. Even if no DBE participation will be reported within a period, CONTRACTOR must execute and return the form.

The Form 103 must include the following information:

1. General Agreement Information – Including Agreement Number and Title, CONTRACTOR Name and the following:
 - a) Original Agreement Amount
 - b) Running Total of Change Order Amount
 - c) Current Agreement Amount
 - d) Amount Paid to CONTRACTOR during Month
 - e) Amount Paid to CONTRACTOR from Inception to Date
 - f) DBE Contract Goal
 - g) Total Dollar Amount of DBE Commitment

h) DBE Commitment as Percentage of Current Agreement Amount

2. Listed and Proposed CONTRACTOR/Subcontractor Information – For All DBE participation being claimed either race-neutrally or race-consciously, regardless of tier:

- a) DBE Firm Name, Address, Phone Number, DBE Capacity Type, Certification Type and Certification Number.
- b) DBE Firm Contract Value Information:
Original Contract Amount, running total of change order amount, Current Contract Amount, Amount Paid to CONTRACTOR or Subcontractor(s) During Month and Amount Paid to CONTRACTOR or Subcontractor(s) to date.

CONTRACTOR is advised not to report the participation of DBE(s) toward the CONTRACTOR's DBE attainment until the amount being claimed has been paid to the DBE.

3. CONTRACTOR Assurance of Full Compliance with Prompt Payment Provisions

CONTRACTOR must sign the prompt payment assurance statement of compliance contained within the Monthly Form 103, providing assurance that timely payments have been issued to all subcontractors in accordance with regulatory mandates and as required by 49 CFR Part 26.29.

4. CONTRACTOR Payment Verification Summary

CONTRACTOR is to further maintain and submit a Verification of Payment Summary inclusive of a detailed running tally of related invoices submitted by DBE(s) and non-DBE(s), including dates of invoice submission, dates accepted and corresponding dates and amount of payment made. The Verification of Payment Summary must also include:

DBE(s) and non DBE(s) invoice number, invoice amount, invoice date, CONTRACTOR's invoice number that incorporated the corresponding DBE and non-DBE invoice(s) for billing purposes, date of invoice submission to AUTHORITY, date and amount AUTHORITY paid on CONTRACTOR's Invoice. The report must reflect a breakout of retention withheld (including retention as specified in subcontract agreement(s) and disputed invoice retention) and retention payments made, check number and date paid to DBEs and non-DBEs.

CONTRACTOR to submit a Verification of Payment Summary with the Monthly Form 103 submission for each DBE firm in which CONTRACTOR has reflected a value

paid within the reporting period. Verification of Payment Summary must be signed by the applicable DBE and submitted with Form 103 to authenticate reported payments.

B. "Monthly DBE Trucking Verification" Form

Prior to the 10th of each month, CONTRACTOR must submit documentation on the "Monthly DBE Trucking Verification," Form to AUTHORITY showing the amount paid to DBE trucking companies. CONTRACTOR must also obtain and submit documentation to AUTHORITY showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, CONTRACTOR may count only the fee or commission the DBE receives as a result of the lease arrangement.

CONTRACTOR must also obtain and submit documentation to AUTHORITY showing the truck number, owner's name, California Highway Patrol CA number, and if applicable, the DBE certification number of the owner of the truck for all trucks used during that month.

C. DBE Subcontract Agreements

CONTRACTOR must submit to AUTHORITY copies of executed subcontracts and/or purchase orders (PO) for all DBE firms participating on the contract within ten (10) working days of award. CONTRACTOR must immediately notify AUTHORITY in writing, of any problems it may have in obtaining the subcontract agreements from listed DBE firms within the specified time.

D. Semi-Annual Subcontractor Paid Report Summary

AUTHORITY will require CONTRACTOR (inclusive of DBE primes) to report payment data to lower-tiers on a semi-annual basis each year, using the "Semi-Annual Subcontractor Paid Report Summary." These reports will capture payments to CONTRACTOR and payments to non-DBEs within the respective reporting period. Reported payments to lower-tiers must include a signed payment verification form.

CONTRACTOR will adhere to the following submittal schedule:

- April 10th Report, reporting period: October 1st through March 31st
- October 10th Report, reporting period: April 1st through September 30th

E. Final Report-Utilization of Disadvantaged Business Enterprises (DBE)

Upon completion of the project, CONTRACTOR must complete and submit a "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), Subcontractors," certified correct by CONTRACTOR or the CONTRACTOR's authorized representative,

to facilitate reporting and capturing DBE attainments at conclusion of the project. The form must be furnished to AUTHORITY within thirty (30) days from the date of the project. The amount of ten-thousand dollars (\$10,000) will be withheld from payment until a satisfactory form is submitted.

F. Disadvantaged Business Enterprises (DBE) Certification Status Change

If a DBE subcontractor is decertified during the life of the project, the decertified subcontractor must notify the CONTRACTOR in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the project, the subcontractor must notify CONTRACTOR in writing with the date of certification (Attach DBE certification/decertification letter). CONTRACTOR must furnish the written documentation to AUTHORITY within ten (10) days of receipt. Upon completion of the project, the "Disadvantaged Business Enterprises (DBE) Certification Status Change" must be signed and certified correct by the CONTRACTOR indicating the DBEs' existing certification status. If there are no changes, indicate "No Changes." The signed and certified form must be furnished to AUTHORITY within thirty (30) days from the date of project acceptance.

Failure to submit any of the required submittals above and their support documentation within the specified timeline shall result in a penalty of ten dollars (\$10) per day, per submittal document.

AUTHORITY requires CONTRACTOR to maintain records and documents of payments to lower-tiers, including DBEs, for a period of four (4) years from the date of final payment by AUTHORITY, unless otherwise provided by applicable record retention requirements for CONTRACTOR's agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of AUTHORITY. This reporting requirement extends to all lower-tiers, both DBE and non-DBE.

AUTHORITY reserves the right, at its sole discretion, to demonstrate responsiveness to requirements of CFR 49 Part 26.37 by implementing the following method(s):

- a) Posting contractor payment data to a website, database, or other place accessible to subcontractors to assist them in determining when they should expect to receive payment.
- b) Requiring CONTRACTOR to use an automated reporting system, inclusive of, but not limited to, real time entry of payments made and received by CONTRACTOR and their lower-tiers.

V. DBE Eligibility and Commercially Useful Function Standards

A DBE must be certified at the time of bid/proposal submission:

1. A DBE must be a small business firm defined pursuant to 13 CFR Part 121 and be certified through the California Unified Certification Program ("CUCP") at the time of bid submission. A listing of DBEs certified by the CUCP is available at the following source:

The CUCP web site, which can be accessed at <http://www.dot.ca.gov/hq/bep>.

2. A DBE may participate as a prime contractor, subcontractor, joint venture partner, vendor of material or supplies, or as a trucking company.
3. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own work forces. The DBE joint venture partner must share in the capital contribution, control, management, risks, and profits of the joint venture commensurate with its ownership interest.
4. The use of joint-checks for DBE firms must be approved by AUTHORITY prior to execution, and a joint-check agreement must accompany the request to AUTHORITY.
5. A DBE must perform a commercially useful function in accordance with 49 CFR Part 26.55 (i.e. must be responsible for the execution of a distinct element of the work, and must carry out its responsibility by actually performing, managing, and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.

VI. DBE Crediting Provisions

- A. When a DBE is proposed to participate in the Agreement, at any tier, only the value of the work proposed to be performed by the DBE with its own work force may be counted towards DBE participation. If CONTRACTOR is a DBE joint venture participant, only the DBE proportionate interest in the joint venture must be counted.
 1. If a DBE intends to subcontract part of the work of its subcontract to a lower-tier subcontractor, the value of the subcontracted work may be counted toward DBE participation only if the subcontractor is a certified DBE and performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the CONTRACTOR's DBE attainment.
 2. CONTRACTOR is to calculate and credit participation by eligible DBE vendors of equipment, materials, and supplies toward DBE attainment as follows:
 - a) Sixty percent (60%) of expenditures for equipment, materials, and supplies

required under the Agreement obtained from a regular dealer; or

- b) One hundred percent (100%) of expenditures for equipment, materials, and supplies required under the Agreement obtained from a DBE manufacturer.
3. The following types of fees or commissions paid to DBE Subcontractors, Brokers, and Packagers may be credited toward CONTRACTOR's DBE attainment, provided that the fee or commission is reasonable and not excessive, as compared with fees or commissions customarily allowed for similar work including:
- a) Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Agreement;
 - b) Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves), when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 - c) Fees and commissions charged for providing any insurance specifically required in the performance of the Agreement.
4. CONTRACTOR may count the participation of DBE trucking companies toward DBE attainment, as follows:
- a) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
 - b) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
 - c) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
 - d) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - e) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by the DBE-owned trucks or leased trucks with DBE drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
 - f) The DBE may lease trucks without drivers from a non-DBE truck leasing

company and if the DBE uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

5. If the CONTRACTOR listed a non-certified, 1st tier Subcontractor to perform work on this Agreement, and the non-certified Subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subcontractor or Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward DBE participation on the Agreement. If a DBE contractor performs the installation of purchased materials and supplies, they are eligible for full credit of the cost of the materials.
6. CONTRACTOR is advised not to report the participation of DBE(s) toward the CONTRACTOR's DBE attainment until the amount being claimed has been paid to the DBE.

VII. DBE Substitution, Termination and On-Going Good Faith Efforts

AUTHORITY requires that CONTRACTOR not terminate a DBE without AUTHORITY's prior written consent. This includes, but is not limited to, instances in which CONTRACTOR seeks to perform work originally designated for a DBE with its own work force or those of an affiliate, a non-DBE firm, or with another DBE firm.

AUTHORITY will provide such written consent only if it agrees, for reasons stated in the concurrence document, that CONTRACTOR has good cause to terminate the DBE firm. For purposes of this section, good cause includes the following circumstances:

- A. The listed DBE subcontractor fails or refuses to execute a written contract;
- B. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of CONTRACTOR;
- C. The listed DBE subcontractor fails or refuses to meet CONTRACTOR's reasonable, nondiscriminatory bond requirements;
- D. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

- E. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 108, 215 and 1,200 or applicable state law;
- F. CONTRACTOR has determined that the listed DBE subcontractor is not a responsible contractor;
- G. The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
- H. The listed DBE is ineligible to receive DBE credit for the type of work required;
- I. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- J. Other documented good cause that you determine compels the termination of the DBE. Provided, that good cause does not exist if CONTRACTOR seeks to terminate a DBE it relied upon to obtain the Agreement so that CONTRACTOR can self-perform the work for which the DBE contractor was engaged or so that CONTRACTOR can substitute another DBE or non-DBE contractor after Agreement award.

Before transmitting to AUTHORITY its request to terminate and/or substitute a DBE subcontractor, CONTRACTOR must give notice in writing to the DBE, with a copy to AUTHORITY, of its intent to request to terminate and/or substitute, and the reason for the request.

CONTRACTOR must give the DBE five (5) days to respond to CONTRACTOR's notice and advise AUTHORITY and CONTRACTOR of the reasons, if any, why it objects to the proposed termination of its subcontract or purchase order and why AUTHORITY should not approve CONTRACTOR's action. If required in a particular case as a matter of public necessity (e.g. safety), CONTRACTOR may provide a response period shorter than five (5) days.

In the event of an approved DBE substitution, termination, or failure of a DBE to complete its work on the contract for any reason, the DBE must be substituted with another DBE or adequate good faith efforts must be documented by CONTRACTOR within five (5) days, to the extent needed to meet the contract-specific DBE goal. Note: The five (5) day period may be extended for an additional five (5) days if necessary, at the request of the CONTRACTOR.

The substitute DBE must be certified as a DBE at the time of request for substitution. CONTRACTOR shall not be entitled to any payment for work or materials unless it is performed or supplied by the listed DBE, unless the DBE is terminated in accordance with this section and is approved by AUTHORITY.

Should CONTRACTOR elect to submit a good faith effort documentation in lieu of proposing

additional DBE participation, AUTHORITY will review the documentation and provide a written determination to CONTRACTOR stating whether or not good faith efforts have been adequately demonstrated.

The substitute DBE cannot work on the Agreement until its work eligibility has been confirmed and required subcontracts, supplies, trucking commitments, or other services have been approved by AUTHORITY.

VIII. Additional DBE Subcontractors

In the event CONTRACTOR identifies additional DBE Subcontractors or suppliers not previously identified by CONTRACTOR for DBE participation under the Agreement, CONTRACTOR must notify AUTHORITY by submitting "Request for Additional DBE Firm," to enable AUTHORITY to verify the firm's eligibility, capacity, CUF and ensure there is not a scope conflict with another listed firm. Proposed firms cannot be applied towards CONTRACTOR's DBE participation until approved by AUTHORITY.

CONTRACTOR must also submit, for each DBE identified after contract execution, a written confirmation from the DBE acknowledging that it is participating in the contract for a specific value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

IX. DBE "Frauds" and "Fronts"

Only legitimate DBEs are eligible to participate as DBEs in the AUTHORITY's U.S. DOT-assisted contracts. CONTRACTOR is cautioned against knowingly and willfully using "fronts." The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Further, any indication of fraud, waste, abuse, or mismanagement of Federal funds should be immediately reported to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline: (800) 424-9071; or to the following: 245 Murray Drive, Building 410, Washington, DC 20223; Telephone: (202) 406-570.

X. Dispute Resolution

All contracts in excess of five-hundred thousand dollars (\$500,000) shall contain provisions or conditions which will allow for dispute resolution remedies in instances where contractors violate or breach DBE Program requirements, inclusive but not limited to, prompt payment and provide for such sanctions and penalties as may be appropriate.

CONTRACTOR shall incorporate this Section into each subcontract related to work arising under this Agreement and shall not incorporate by reference.

CONTRACTOR and subcontractor agree to notify AUTHORITY within five (5) business days of any prompt payment and/or DBE Program disputes which cannot be settled by discussions

between the parties involved.

CONTRACTOR and subcontractor further agree to proceed through informal meetings, mediation, or any combination thereof as further detailed below. Dispute submittals shall include the method(s) of dispute resolution selected, terms, timeframes, and a detailed summary of assistance being requested (as applicable).

I. INFORMAL MEETINGS:

AUTHORITY is available to assist CONTRACTOR with coordination of informal meeting requests to assist in the resolution of disputes between CONTRACTOR and subcontractor. AUTHORITY's DBELO or a designated DBE support representative will conduct the informal meetings with parties in dispute. Representatives from CONTRACTOR and subcontractor for the purpose of dispute resolution, must include individuals authorized to bind each interested party. All parties must agree to the procedure.

II. Mediation

The parties to a contract may agree to endeavor to settle a dispute through informal mediation under independent third-party organizations. AUTHORITY's DBELO and her designated support staff is considered an independent third party. Submission to informal mediation is voluntary; it is not binding and offers advisory opinions.

Performance During Dispute: Unless otherwise directed by AUTHORITY, CONTRACTOR and its sub tiers shall continue performance under the Agreement while matters in dispute are being resolved.

Flow Down Requirements: The dispute resolution provisions flow down to all tiers.

These provisions shall not apply to disputes between CONTRACTOR and AUTHORITY. These provisions do not alter in any way or waive compliance with other provisions in the Agreement.

XI. Administrative Remedies and Enforcement

CONTRACTOR must fully comply with the DBE contract requirements, including the Authority's DBE Program and Title 49 CFR, Part 26 "Participation of Disadvantaged Businesses in Department of Transportation Financial Assistance Programs," and ensure that all subcontractors, regardless of tier, are also fully compliant. Failure by CONTRACTOR to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement, or such other remedy as AUTHORITY deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;

2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying CONTRACTOR from future bidding/proposing as non-responsible.

In instances of identified non-compliance, a Cure Notice will be issued to CONTRACTOR identifying the DBE non-compliance matter(s) and specifying the required course of action for remedy.

CONTRACTOR must be given ten (10) working days from the date of the Cure Notice to remedy or to: (1) File a written appeal accompanied with supporting documentation; and/or (2) Request a hearing with AUTHORITY to reconsider AUTHORITY's DBE determination.

Failure to respond within the ten (10) working day period will constitute a waiver of CONTRACTOR's right to appeal. If CONTRACTOR files an appeal, AUTHORITY, must issue a written determination and/or set a hearing date within ten (10) working days of receipt of the written appeal, as applicable. A final Determination will be issued within ten (10) working days after the hearing, as applicable.

If after review of CONTRACTOR's appeal, AUTHORITY decides to uphold the decision to impose DBE administrative remedies on CONTRACTOR, the written determination must state the specific remedy(ies) to be imposed.

Failure to comply with the Cure Notice and/or to remedy the identified DBE non-compliance matter(s) is a material breach of the Agreement and is subject to administrative remedies including withholding at a minimum of two percent (2%) of the invoice amount due per month for every month that the identified non-compliance matter(s) is not remedied. Upon satisfactory compliance, AUTHORITY will release all withholdings.

In addition to administrative remedies defined in this section, AUTHORITY is not precluded from invoking other contractual and/or legal remedies available under federal, state or local laws.

SECTION VII: GENERAL PROVISIONS - EXHIBIT A

SECTION VII: GENERAL PROVISIONS

A. COST BREAKDOWN

Within fifteen (15) calendar days after "Notice to Proceed," the Contractor shall, upon request by the Authority, submit a cost breakdown of the lump sum Bid entered on the Bid Form for all construction work. This cost breakdown will form the basis for progress payments in accordance with these Specifications and shall show all of the major categories and subcategories of work and equipment requested by the Authority. Additionally, all costs shall be segregated between off-site and on-site costs. Mobilization costs shall not exceed ten percent (10%) of total construction costs. Bonds and insurance costs will be identified as a separate line item. Such cost breakdown shall not be required if the Authority, at its sole discretion, elects to pay the Contractor in lump sum within thirty (30) calendar days of receipt of proper invoice following the Contractor's satisfactory completion and the Authority's acceptance of all work.

B. PROGRESS PAYMENTS

1. The Authority, no later than the twenty-fifth (25th) day of each month, shall prepare a progress payment estimate based on the estimated percentage of completion of each Bid Item and on the Contractor's actually incurred allowable expenses on such Bid Items. The Authority will issue the progress payment, in the amount it deems appropriate, by approximately the fifteenth (15th) day of the following month.
2. For purposes of calculating the progress payments, Authority will use the cost breakdown submitted by the Contractor for each Bid Item at the start of this Agreement. In no event will the Authority make a progress payment that, when added to the prior progress payments, amounts to a sum more than the Contractor's actual aggregate incurred expenses, adjusted to include Contractor's overhead and profit as allocated to such incurred expenses.
3. The Authority will pay only ninety-five percent (95%) of each progress payment amount as determined above, retaining five percent (5%) as part security for the fulfillment of this Agreement by the Contractor, subject to Public Contract Code 22300.
4. The amount retained in accordance with paragraph B.3., hereinabove from the progress payments will be paid in full to the Contractor as part of the final payment upon Contractor's full completion of this Agreement, except that one half of one percent ($\frac{1}{2}$ of 1%) of this Agreement's total price shall be retained for one (1) year beyond the date of the Notice of Completion filed for this Agreement as partial security for fulfillment of the warranty obligations by the Contractor under this Agreement.
5. No progress payments will be made for materials not installed.

6. Progress payments made by Authority in no way shall be deemed or construed as acceptance by the Authority of work or waiver by the Authority of any rights hereunder.
7. The Contractor shall pay subcontractors, promptly upon receipt of each Authority progress payment; the respective amounts allowed the Contractor on account of the work performed by subcontractors, to the extent of each such subcontractor's interest therein. Such payments to subcontractors shall be based on estimates made pursuant to this Agreement. Any diversion by the Contractor of payments received for prosecution of a contract, or failure to reasonably account for the application or use of such payments, constitutes ground for termination of the Contractor's control over the work and for taking over the work, in addition to disciplinary action by the Contractor's State License Board. The subcontractor shall notify, in writing, the Contractor's State License Board and the Authority of any payment less than the amount or percentage approved for the class or item of work as set forth in this Agreement.
8. In addition to other amounts properly withheld under this Agreement, the Authority shall withhold all legally required sums for, but not necessarily limited to, stop notices, labor and tax liens, etc.

C. FINAL INSPECTION AND ACCEPTANCE

Promptly after Substantial Completion has occurred, Contractor shall perform all Punch List Work, if any, which was deferred for purposes of Project Completion, and shall satisfy all of its other contractual obligations under the contract documents.

When the Contractor determines that the work is fully completed, including satisfactory completion of all inspections, tests, and required documentation, Punch List and clean-up items, Contractor shall give the Authority a written request for Final Acceptance within ten (10) days thereafter, specifying that the work is completed and the date on which it was completed.

Within thirty (30) days after receipt of the request for Final Acceptance from Contractor, Authority will make a final inspection of the work and will either:

1. Reject the request for Final Acceptance, specifying the defective or uncompleted work; or
2. Issue a written Final Acceptance and record Notice of Completion with County Recorder.

Substantial Completion is defined herein as; In the opinion of the Authority, that work or portion thereof that is sufficiently complete and in accordance with the Contract, that it can be utilized by the Authority for the purpose for which it was intended. A determination of Substantial Completion does not waive, but may not

require the prior completion of minor items, which do not impair the Authority's ability to safely occupy and utilize the Work for its intended purpose.

D. CLAIMS

A "Claim" that falls within the definition of Public Contract Code Section 9204 (hereafter, "Section 9204"), as may be amended, means a separate demand by Contractor, sent by registered mail or certified mail with return receipt requested, for one or more of the following: (a) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by Authority; (b) payment by Authority of money or damages arising from work done by, or on behalf of, the Contractor and payment for which is not otherwise expressly provided or to which Contractor is not otherwise entitled; and/or (c) payment of an amount that is disputed by the Authority.

It is important that the Authority be promptly notified of any potential claims so that it can timely and reasonably investigate the merits of the Claim when the events giving rise to the Claim are current and, when appropriate, make timely adjustments in the work in response thereto. Contractor shall submit to Authority a Notice of Claim within fifteen (15) calendar days after receipt of or the discovery of information, or the occurrence of an event, or any actions of Authority or its agents, that Contractor believes may result in a Claim. The Notice of Claim shall state the reason(s) for the Claim and the nature of the additional costs or delay that Contractor believes it will incur. Such Notice shall be submitted prior to the submission of the Claim documentation described below. If a Notice of Claim is not submitted within the fifteen (15) day period, it shall be deemed waived.

The Authority and Contractor agree to attempt to informally resolve any disputes which may give rise to a Claim. The Authority and Contractor shall meet within twenty (20) calendar days, or any mutually agreeable extension thereof, from the date the Notice of Claim is received by Authority in a good faith effort to resolve the dispute. Contractor shall provide a representative at the meeting who has authority to resolve the claim on the Contractor's behalf. If a resolution is not reached and the Authority and Contractor have not, in writing, mutually agreed to continue with informal efforts at resolution, Contractor shall file a Claim within thirty (30) calendar days after the informal resolution process has concluded, or such Claim shall be deemed waived.

The Authority and the Contractor shall process the Claim in accordance with Section 9204 and the requirements set forth herein.

1. Claim Requirements.

- a. Any submittal intended by the Contractor to be evaluated by Authority as a Claim shall be entitled "Claim" and sent to Authority by registered mail or certified mail with return receipt requested. The Contractor may present a Claim on behalf of a subcontractor or a lower tier subcontractor meeting the requirements of Section 9204(d)(5).

- b. All Claims shall be submitted by the Contractor within thirty (30) calendar days after the conclusion of the informal resolution process discussed above; however, this timeframe may be extended unilaterally by Authority in writing. Any Claim not submitted within the specified thirty (30) calendar days, or as otherwise authorized by Authority, shall be deemed untimely and waived.
- c. All Claims shall include reasonable documentation in support, including a detailed factual statement that sets forth names, dates, and specific events that took place. In addition, supporting documents shall include a detailed analysis of a request for a time extension, if applicable, and a detailed breakdown of a request for additional compensation. A revised construction schedule shall also be included identifying the impact of the delays, including proposals to minimize any of the impacts.
- d. Claims filed by the Contractor shall be in sufficient detail to enable the Authority to ascertain the basis and amount of said Claims. The Authority will consider and determine the Contractor's Claims, and it will be the responsibility of the Contractor to furnish within a reasonable time such further information and details as may be required by the Authority to determine the facts or contentions involved in its Claims. Failure to submit sufficient information and details will be cause for Authority to deny the Claim and/or find the Claim untimely and, therefore, waived. If the Claim is silent regarding entitlement to extra time, the Contractor shall be entitled to no extra time in connection with the Claim. If the Claim is silent regarding additional compensation, the Contractor shall be entitled to no additional compensation in connection with the Claim.
- e. No Claims shall be filed later than the date of final payment.
- f. All Claims and any amendments thereto shall include the fully executed certification set forth below. Any Claim submitted without a fully executed certification shall be rejected by Authority and returned to the Contractor.

Certificate

Under the penalty of law for perjury or falsification with specific reference to the California False Claims Act, Government Code Section 12650 et. Seq., the undersigned,

(Name)

(Title)

(Company)

herby certifies that the claim for the additional compensation and time, if any, made herein for the work on this Contract is a true statement of the actual cost incurred and time sough, and is fully documented and supported under the Contract between the parties

Dated: _____

Signature: _____

Subscribed and sworn before this _____ day of _____, 20
_____ .

Notary Public

My Commission Expires: _____

2. Claim Review

Within forty-five (45) calendar days of receipt of the Claim, or any extension thereof agreed upon by the Authority and the Contractor, the Authority will conduct a reasonable review of the Claim and provide the Contractor with a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Payment of any undisputed portion of the Claim shall be made within sixty (60) calendar days after the Authority issues its written statement. If the Authority does not provide a written statement within the time specified, the Claim shall be deemed rejected.

3. Claim Settlement Conference

If the Contractor disputes the Authority's written statement or if the Claim is deemed rejected, the Contractor may demand in writing, by registered or certified

mail to the Authority, return receipt requested, an informal conference to meet and confer in an effort to settle the disputed portion of any Claim. Within thirty (30) calendar days of receipt of such written demand, the Authority shall schedule a meet and confer conference. Such conference shall be attended by an officer or principle of the Contractor who has the authority to resolve the Claim on the Contractors' behalf.

If any portion of the Claim remains in dispute after the conference, the Authority shall, within ten (10) business days of the conclusion of the conference, provide the Contractor with a written statement identifying any portion that remains in dispute and any portion that is undisputed. Payment of any undisputed portion shall be made within sixty (60) calendar days after the Authority issues its written statement.

Any remaining disputed portion shall be submitted to nonbinding mediation, unless the Contractor and Authority waive the mediation upon mutual written agreement. Mediation includes any nonbinding process, including, but not limited to, a neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. The Authority and the Contractor will share in the costs of mediation equally in accordance with Section 9204.

Within ten (10) business days after issuance of the Authority's written statement, the Authority and Contractor shall select a mutually-agreeable mediator. If the parties cannot agree to a mediator, the Authority and Contractor will each select a mediator who will then select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Authority and Contractor will each bear its own fees and costs for its respective mediator in connection with the selection of the neutral mediator.

Claims which are not resolved through this Claims settlement process shall be resolved in accordance with the laws of the State of California.

E. FINAL PAYMENT

1. After the filing of the Notice of Completion, (or acceptance of the Project), the Authority will make a proposed final estimate, in writing, of the total amount payable to the Contractor, including therein an itemization of said amount, segregated as to Contract item quantities, extra work and any other basis for payment, and shall also show therein all deductions made or to be made for prior payments and amounts to be kept or retained under the provisions of the contract. All prior estimates and payments shall be subject to correction in the proposed final estimate. Within fifteen (15) days after proposed final estimate has been submitted, Contractor shall submit to the Authority written approval of proposed final estimate and/or a written statement of all claims of the Contract. No claim will be considered that was not included in written statement of claims, nor will any claim be allowed unless the Contractor has previously complied with the notice and protest requirements.

2. On the Contractor's approval, or if he files no claim within stated period, Authority will issue a final written estimate, in accordance with the proposed final estimate submitted to the Contractor; and thirty-five (35) days after the date of filing the Notice of Completion (or acceptance) Authority will pay the entire sum found to be due. Such final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.
3. If the Contractor within said period of fifteen (15) days files claims, Authority will issue a semi-final estimate in lieu of the final estimate submitted to the Contractor; and thirty-five (35) days after the date of filing of the Notice of Completion, the Authority will pay the sum found to be due. Such semi-final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except insofar as affected by the claims filed within the time and in the manner required hereunder and except as otherwise provided.
4. Upon final determination of any outstanding claims, the Authority shall then make and issue a final estimate in writing and within thirty (30) days thereafter, the Authority will pay the entire sum, if any, found due. Such final estimate shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.

F. EXTRA WORK AND CHANGES

1. New and unforeseen work, which in the judgment of the Authority is found necessary or desirable for the satisfactory completion of the work, will be classified as extra work, as well as work specifically designated as such in the plans or specifications. The Contractor shall do such extra work and furnish material and equipment therefore as directed by the Engineer in writing by a Contract Change Order. No extra work will be paid for or allowed unless the same was done upon written Contract Change Order of the Engineer and after all legal requirements have been complied with. The Contractor agrees that he will accept as full compensation for extra work, so ordered, an amount to be determined by one of the following methods:
 - a. A price mutually agreed upon in writing by the Engineer and Contractor (hereafter Agreed Price).
 - b. Force Account as hereafter provided.
2. It is mutually agreed that on the agreed price, the Contractor and subcontractor(s) shall add not more than a total markup of twenty percent (20%) to be divided between the Contractor and subcontractor(s) as full

compensation for all other expenses including overhead, profit, bond, superintendence, insurance and small tools.

3. When extra work is to be paid for on a force account basis, compensation will be determined as follows:

a. Materials

A sum equal to the actual cost to the Contractor of the materials furnished by him, as shown by paid receipts, plus not more than fifteen percent (15%). Only installed materials shall be paid for.

b. Labor

1. The actual wages paid as shown on the certified copies of Contractor's payroll, for all labor directly engaged in the work and including the cost of any compensation insurance paid for by the Contractor, subsistence and travel allowance aid to such workmen as required by collective bargaining agreements plus not more than twenty percent (20%).
2. To the actual wages as described in Subsection 1 above will be added a labor surcharge of not more than seventeen percent (17%), and shall constitute full compensation for all other payments, including payments imposed by State and Federal laws.

c. Equipment

1. Equipment will be paid for as a rental charge whether owned by the Contractor or not, and said rental rates prevailing in the area for comparable equipment will be paid. To the direct costs of "Equipment Rental" will be added a not more than fifteen percent (15%) markup.
 2. All extra work at Force Account shall be adjusted daily upon report sheets prepared by the Engineer, furnished to the Contractor and signed by both parties. Said daily reports shall thereafter be considered the true record of all extra work done. The decision of the Engineer as to whether extra work has in fact been performed shall be conclusive and binding upon both parties to the contract.
4. A Contract Change Order approved by Authority may be issued to the Contractor at any time. Any such changes will be made using the Authority's Contract Change Order form, set forth in Exhibit H to the Contract. Should the Contractor disagree with any terms or conditions set forth in the Contract Change Order, the Contractor shall submit a written protest to the Authority within fifteen (15) days after the receipt of the Contract Change Order. The

protest shall state the points of disagreement and, if possible, the contract specification references, quantities and costs involved. If a written protest is not submitted within the above period, payment will be made as set forth in the approved Contract Change Order and such payment shall constitute full compensation for all work included therein or required thereby. Such unprotested approved Contract Change Orders will be considered as executed Contract Change Orders.

5. Contractor shall promptly notify the Authority in writing when it receives direction, instruction, interpretation or determination from any source other than the Authority or its designated representatives that may lead to or cause change in the work. Such written notification shall be given to the Authority before the Contractor acts on said direction, instruction, interpretation or determination.

G. EXTENDED FIELD OFFICE OVERHEAD COSTS

1. Within thirty (30) days after receipt of the Notice to Proceed, the Contractor shall submit a written statement to the Authority detailing its field office overhead costs which are time related. The Authority will review this cost submittal and reach a written agreement with the Contractor on a daily field office overhead cost rate which shall be issued as an agreed upon Change Order. The daily rate agreed to in this Change Order will be applicable throughout the duration of the Contract. No field office costs will be paid until such agreement is reached between the Authority and the Contractor and the Change Order concerning this daily rate is executed by both parties.
2. The individual cost components of the daily field office overhead rate shall represent costs which increase as a direct result of any time extension caused solely and exclusively by an act of the Authority. This listing may include such cost items as on-site project management, supervision, engineering and clerical salaries; on-site office utilities and rent; on-site company vehicles and their operating expenses; and site maintenance and security expenses. Field office overhead costs which are unaffected by increased time shall not be allowable costs in calculating the daily field office overhead rate. These non-time related costs include, but are not limited to, acquisition and installation of stationary equipment; temporary construction facilities; utilities and office furnishings (unless such items are rented or leased); the preparation of the site including clearing, grubbing, grading and fencing; mobilization and demobilization costs; and the costs of permits, bonds and insurance coverage for the project.
3. The individual wage cost components used to calculate the daily field office overhead rate shall be supported by actual employee payroll

records, not salary ranges or estimates. Hourly rates for management, supervisory, engineering and clerical employees shall be based upon 2,080 works hours per year and shall not include allowances for holidays, vacation or sick time.

4. The daily field office overhead rate shall be multiplied by the number of days the Contract is delayed or extended by Change Order and shall be added to the agreed upon Change Order cost. The days of delay shall be those caused solely by action of the Authority and documented by a time impact analysis prepared and submitted by the Contractor. In the event of a deductive Change Order is issued which reduces time under the Contract, the daily field office overhead rate shall be added to the deductive amount. No allowance for overhead costs and no profit allowance shall be added to the extended field office overhead cost.

H. ACCELERATION

1. Authority reserves the right to accelerate the work of the Contract at any time during its performance. In the event that the Authority directs acceleration, such directive will be given to the Contractor in writing. The Contractor shall keep cost and other Project records related to the acceleration directive separately from normal Project cost records and shall provide a written record of acceleration costs to the Authority on a daily basis.
2. In the event that the Contractor believes that some action or inaction on the part of the Authority constitutes an acceleration directive, the Contractor shall immediately notify the Authority in writing that the Contractor considers the actions or inactions an acceleration directive. This written notification shall detail the circumstances of the acceleration directive. The Contractor shall not accelerate their work efforts until the Authority responds to the written notification. If acceleration is then directed or required by the Authority, all cost records referred to in Subsection H.1 shall be maintained by the Contractor and provided to the Authority on a daily basis.
3. In order to recover additional costs due to acceleration, the Contractor must document that additional expenses were incurred and paid by the Contractor. Labor costs recoverable will only be overtime or shift premium costs or the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will only be the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

I. VALUE ENGINEERING

Authority encourages the Contractor to submit Value Engineering Proposals (VEP's) whenever it identifies areas and/or instances in which improvements can be made, in order to avail the Authority of potential cost savings. Contractor and the Authority will share any savings in the manner described below.

A VEP applies to a Contractor developed and documented VEP that:

1. Requires a change to the contract.
2. Reduces the total contract price without impairing essential functions or characteristics of the work.
3. Results in an estimated total net savings to the Authority equal to or greater than \$1,000.

At a minimum, a VEP should include the following information:

1. A description of the existing contract requirements that are involved in the proposed change.
2. A description of the proposed change, and all specifications and/or plans necessary for the complete evaluation of the proposed change. Include a discussion of the differences between existing requirements and the proposed change, together with advantages and disadvantages of each changed item. All relevant back up documentation needs to be included to support proposed changes.
3. Cost estimate for existing contract requirements correlated to the Contractors lump sum breakdown and the proposed changes in those requirements, including costs of development and implementation by the Contractor.

Contractor shall submit the VEP to the Authority. At its sole discretion, Authority may accept, in whole or in part and by Change Order, any VEP submitted pursuant to this section. Until a Change Order is issued on a VEP, Contractor shall remain obligated to perform in accordance with the Contract. The decision of the Authority as to the rejection or acceptance of a VEP shall be at the sole discretion of the Authority.

If a VEP, submitted by the Contractor pursuant to this section is accepted by the Authority, the total Contract price shall be adjusted based upon a sharing of the net savings by the Contractor and the Authority (50% Authority, 50% Contractor). Contractor's profit shall not be reduced by application of the VEP.

Net savings are defined as gross savings less the Contractor's costs and less the Authority's costs.

1. Contractors cost means reasonable costs incurred by the Contractor in preparing the VEP and making the change.
2. Authority's costs means reasonable costs incurred by the Authority for evaluating and implementing the VEP.
3. Contractor is not entitled to share in either concurrent, collateral or future

Contract savings. Collateral savings are those measurable net reductions in the Authority's costs of operation that result from the VEP. Concurrent savings cover the reductions in the cost of performance of other contracts.

Contractor shall include appropriate VEP provisions in all subcontracts greater than \$25,000.

J. STOP NOTICES

The Authority, at its sole discretion, may, at any time, retain out of any amounts due the Contractor, sums sufficient to cover claims filed pursuant to Section 9358 et seq. of the California Civil Code.

K. ORDER OF WORK

Contractor shall perform work hereunder at such places, and in such order or precedence, as may be determined necessary by the Engineer to expedite completion of the required work.

L. DAVIS-BACON LABOR PROVISIONS (2 CFR SECTION 5.5)

1. Prevailing Wages

Contractor shall comply with all applicable requirements of Division 2, Part 7, Chapter 1 of the California Labor Code. If this Agreement is funded, in whole or in part, by federal funds, Contractor shall comply with these Davis-Bacon Labor Provisions ("Labor Provisions") and all applicable federal requirements respecting prevailing wages, including, but not limited to, the Davis-Bacon Act, 40 U.S.C. Sections 3141-3144, and Sections 3146-3148, as supplemented by U.S. DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction."

If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the wage rates determined by the Director of the Department of Industrial Relations (DIR) for similar classifications of labor, the Contractor and subcontractors shall not pay less than the higher wage rate. The DIR will not accept lower state wage rates not specifically included in the Federal minimum wage determination.

2. Minimum Wages

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally, and not less often than once a week and without subsequent deduction or rebate on any account, the full amount of wages and bona fide fringe benefits (Or cash equivalents thereof) due at time of payment computed at wage rates not less than those specified in the General Wage Determinations referenced in this section regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics; and the wage determination

decision shall be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or cost reasonably anticipated under the Labor Code of the State of California on behalf of laborers or mechanics are considered wages paid by such Laborers or mechanics. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

- b. Authority shall require that any class of laborers or mechanics, including helpers, apprentices and trainees, which is not listed in the General Wage Determinations and which is to be employed under this Contract, shall be classified conformably to such wage determinations. The Authority will approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) the classification is utilized in the area by the construction industry; and (3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Authority agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Authority to the Administrator of the Wage and Hour Division, U.S. Department of Labor. The Administrator will approve, modify, or disapprove every additional classification action within thirty (30) days from receipt and so advise the Authority or will notify the Authority within the thirty (30)-day period that additional time is necessary.
- c. In the event the Authority does not concur in the Contractor's proposed classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question, accompanied by the recommendation of the Authority, shall be referred to the State Director of Industrial Relations for determination. The wage rate (including fringe benefits where appropriate) determined pursuant to this subsection shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.
- d. Authority shall require, whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon cash equivalent of the fringe benefit, the questions, accompanied by the

recommendation of the Authority, shall be referred to the State Director of Industrial Relations for determination.

- e. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon written request of Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under this plan or program.
- f. All disputes concerning the payment of wages or the classification of workers under this Agreement shall be promptly reported to the Authority.

3. Deductions

Authority may deduct from each progress payment and the Final Payment the following:

- a. Any Authority or third-party claims or losses for which Contractor is responsible hereunder or any Liquidated Damages which have accrued as of the date of the application for payment;
- b. If a notice to stop payment is filed with Authority, due to the Contractor's failure to pay for labor or materials used in the work, money due for such labor or materials, plus the 25% prescribed by law, will be withheld from payment to the Contractor. In accordance with Section 9358 of the Civil Code, Authority may accept a bond by a corporate surety in lieu of withholding payment;
- c. Any sums expended by or owing to Authority as a result of Contractor's failure to maintain the as-built drawings;
- d. Any sums expended by Authority in performing any of the Contractor's obligations under the Contract which Contractor has failed to perform; and
- e. Any other sums which Authority is entitled to recover from Contractor under the terms of the Contract.

- f. The amount of the accrued payments or advances as many be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

The failure by Authority to deduct any of these sums from a progress payment shall not constitute a waiver of Authority's right to such sums.

All amounts owing by Contractor to Authority under the Contract shall earn interest from the date on which such amount is owing at the lesser of (i) ten percent (10%) per annum or (ii) the maximum rate allowable under applicable Governmental Rules.

4. Payrolls and Basic Records

- a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name, address and social security number of each such worker, the correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the rations and wage rates prescribed in the applicable programs.
- b. Contractor will submit weekly a copy of all payrolls to the Authority as required in these "Labor Provisions." The copy shall be accompanied by a statement signed by the employer or its agent indicating that the payrolls

are correct and complete; that each laborer or mechanic (including helpers, apprentices, and trainees) have been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; that the wage rates contained therein are not less than those determined by the State Director of Industrial Relations and that the classifications as set forth for each laborer or mechanic conform to the work performed. A submission of the "Weekly Statement of Compliance," which is required under this Contract, shall satisfy this requirement. The prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor will make the records required under the labor standard clauses of the Contract available for the inspection by authorized representatives of the Authority, and will permit such representatives to interview employees during working hours on the job.

5. Apprentices and Trainees

- a. Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program as defined in Section 1777.5 of the Labor Code of the State of California. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate who is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the State Director of Industrial Relations for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish to the Authority or the State Director of Industrial Relations written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman's rate contained in the applicable wage determination).
- b. Trainees: Except as provided in 29 CFR Section 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to or individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall

be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage-Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- c. Equal Employment Opportunity: The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, 29 CFR part 30, and 41 CFR part 60.

6. Compliance with Copeland Regulations (29 CFR part 3)

The Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c). The Contractor shall also comply with the Copeland Regulations (29 CFR part 3), which are herein incorporated by reference.

7. Contract Termination; Debarment

A breach of Subsections 1 through 6 above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor provided in 29 CFR Section 5.12.

8. Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any work week in which he is employed on such work to work in excess of eight (8) hours a day or forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate

of pay for all hours worked in excess of eight (8) hours a day or forty (40) hours in such work week.

9. Violation; Liability for Unpaid Wages

Pursuant to Section 1775 of the Labor Code of the State of California, in the event that any workman employed on this public works project is paid less than the amount specified in the General Prevailing Wage Determinations or less than is required, relative to overtime, the Contractor and any subcontractor responsible therefore shall be liable to the affected workman for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the State of California or the Authority for liquidated damages. Such liquidated damages shall be computed with respect to each individual workman found to be underpaid and shall be in the amount of \$50 per calendar day that a workman was underpaid.

10. Withholding for Liquidated Damages

The Authority may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in this section.

11. Final Labor Summary

The Contractor and each subcontractor shall furnish to the Authority, upon the completion of the Contract, a summary of all employment, indicating for the completed project, the total hours worked and the total amount earned.

12. Final Certificate

Upon completion of the Contract, the Contractor shall submit to the Authority, with the voucher for a final payment for any work performed under the Contract, a certification concerning wages and classifications for laborers and mechanics, including apprentices and trainees employed on the project, in the following form:

The undersigned, Contractor on

(Contract No.)

hereby certifies that all laborers, mechanics, apprentices and trainees employed by the Contractor or by a subcontractor performing work under the contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the contract or training program provisions applicable to the wage rate paid.

Signature and Title

13. Notice to the Authority of Labor Dispute

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Authority.

14. Disputes Clause

- a. Disputes arising out of these Labor Provisions will be resolved in accordance with the procedures set forth in 29 CFR parts 5, 6, and 7, including disputes between the Authority, the Contractor (or any of its subcontractors), the U.S. Department of Labor, or the employees or their representatives. All disputes concerning the payment of prevailing wage rates or classifications shall be promptly reported to the Authority for its referral to DOT for decision or, at the option of the Authority, DOT referral to the Secretary of Labor. The decision of DOT or the Secretary of Labor, as the case may be, shall be final.
- b. All questions relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, the Davis-Bacon Act, or Section 13 of the Act shall be sent to the Federal Transit Administration (FTA) for referral to the Secretary of Labor for

ruling or interpretation, and such ruling or interpretation shall be final.

15. Compliance with Davis-Bacon and Related Act requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference.

16. Certification of Eligibility

By entering into this Agreement, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). No part of this Contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. Section 1001.

17. Insertion in Subcontracts

The Contractor shall set forth in all subcontracts Subsections 1 through 16 above so that all of the provisions of this section will be inserted in all construction subcontracts of any tier, and such other clauses as the Government may by appropriate instructions require.

18. Certified Payroll Records

- a. The Authority shall obtain from the Contractor and each subcontractor a certified copy of each weekly payroll within seven (7) days after the regular payroll date. Following a review by the Authority for compliance with State and Federal labor laws, the payroll copy shall be retained at the project site for later review by FTA.
- b. Contractor may use the Department of Labor Form WH-347, "Optional Payroll Form," which provides for all the necessary payroll information and certifications.
- c. If, on or before the twentieth (20th) of the month, the Contractor has not submitted satisfactory payrolls covering its work and the work of all subcontractors for all payroll periods ending on or before the sixty (6th) of that month, such payrolls will be considered to be delinquent. Regardless of the number of delinquent payrolls, an amount equal to ten percent (10%) (but not less than \$1,000 or more than \$10,000) shall be deducted from the estimate. Deductions will be made separately for each estimate period in which a new delinquency appears and will be continued until payrolls have been submitted.

- d. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the Authority that their employment is pursuant to an approved program and shall identify the program.

M. TIME EXTENSION/DELAYS

- a. Contractor may be granted an extension of time for any portion of a delay in completion of the work due to acts of God, the public enemy, wars, civil unrest, fires, quarantine restrictions, or weather more severe than normal, providing that (1) the aforesaid causes were not foreseeable and did not result from an act or omission by the Contractor, (2) Contractor has taken reasonable precautions to prevent further delays owing to such causes, and (3) Contractor notifies Authority in writing of the cause(s) for the delay within ten (10) days from the beginning of any such delay. No claims for additional compensation or damages for the foregoing delays shall be allowed to the Contractor, and the extension of time provided for herein shall be the sole remedy of the Contractor on account of any such delays.
- b. An extension of time will not be granted for a delay described in the above paragraph(s) caused by a shortage of materials, except if materials are furnished by Authority, unless the Contractor supplies the Authority with documented proof that every effort to obtain the materials from all known sources that (a) such materials could have been obtained only at exorbitant prices or (b) the prices were entirely inconsistent with current rates, taking into account the quantities; and (c) such facts could not have been known or anticipated at the time the Notice To Proceed was issued. Contractor shall also submit proof, that the inability to obtain such materials when originally planned, did in fact, cause a delay in completion of the work that could not be compensated for by revising the sequence of its operations. Only the physical shortage of material will be considered as a basis for an extension of time.
- c. An extension of time for weather more severe than normal shall be granted only to the extent the work is actually delayed as determined by the Authority. Normal is defined as the monthly average of the temperature and rainfall wherein the work was performed for the prior twenty (20) years before the execution of the Contract.
- d. In the event Contractor is actually and necessarily delayed by an act or omission on the part of the Authority, as determined by the Authority, the Contractor shall notify the Authority in writing within five (5) days from the beginning of any such delay. The time for completion of the work may be extended at the sole discretion of the Authority.
- e. Within thirty (30) days after the last day of delay, Contractor shall provide Authority with detailed information concerning the circumstances of the

delay, the number of days actually delayed, and the measures taken to minimize or prevent the delay. Failure to submit information shall be sufficient reason to deny the claim. Authority shall ascertain the facts and the extent of the delay; and provide the Contractor its written findings, which will be final and conclusive. Except for the additional compensation for herein and except as provided in Public Contract Code Section 7102, Contractor shall have no claim for damages or compensation for any delay or hindrance.

- f. No extension of time will be granted for any Authority caused delay or delay as defined in which (a) the performance of work would have been concurrently delayed by Contractor induced causes, including but not limited to an act or omission of the Contractor, or (b) remedies are included or excluded by any other Contract provision. Only the actual delay necessarily resulting from the causes specified in this Article shall be grounds for extension of time. Should the Contractor be delayed at any time for any period by two or more of the causes specified in this article, Contractor shall only be entitled to one time extension for the entire delay.
- g. Any time extension granted to Contractor shall not release the Contractor or surety from its obligations. Work shall continue and be carried on in accordance with the Contract provisions, unless formally suspended or terminated by the Authority.

N. AFFIRMATIVE ACTION

If this Agreement is funded in whole, or in part, by federal funds, Contractor and subcontractors holding a value of work of \$10,000 or more must submit a Monthly Employment Utilization Report (Form 257) to the Authority Engineer by the fifth (5th) of each month or sanctions shall be applied for late submittal, non-submittal and incomplete forms returned to the Contractor and resubmitted after the due date.

The reporting period shall be for each calendar month.

The report shall include the information requested for each Contractor's aggregate work force (for all workers on all projects within Orange County) and not just for workers on this project.

If the form is not received by the fifth (5th) of the month, a deduction of ten (10%) (with a minimum of \$1,000 and a maximum of \$10,000) will be withheld from the monthly estimate at the option of the Authority.

The Contractor shall designate an Equal Employment Officer for the project and notify the Authority in writing whom that person is prior to beginning of work. All workers shall also be informed who the EEO Officer is.

**O. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)**

If this Agreement is funded in whole, or in part, by federal funds, Contractor and subcontractors holding a value of work of \$10,000 or more shall comply with the Standard Federal Equal Employment Opportunity Construction Contract Specifications, set forth in 41 CFR Section 60-4.3, which are incorporated herein by this reference.

P. CONFLICT OF INTEREST

All Contractors responding to this Invitation For Bids must avoid organizational conflicts of interest which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships or contracts, a Contractor is unable, or potentially unable to render impartial assistance or advice to the Authority; a Contractor's objectivity in performing the work identified in the specifications is or might be otherwise impaired; or a Contractor has an unfair competitive advantage. Contractor is obligated to fully disclose to the Authority in writing any conflict of interest issues as soon as they are known. All disclosures must be disclosed at the time of bid submittal.

Q. CODE OF CONDUCT

Contractor agrees to comply with the Authority's Code of Conduct as it related to Third-Party contracts, which is hereby referenced and by this reference is incorporated herein. Contractor agrees to include these requirements in all of it's subcontracts.

R. GOVERNMENT INSPECTIONS

The Authority and Federal Government representatives shall have access to the construction site and shall have the right to inspect all project works.

S. LICENSING, PERMITS AND INSPECTION COSTS

1. The Contractor warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, the County of Orange, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintains these licenses and permits in effect for the duration of the Agreement. Further, Contractor warrants that its employees, agents, and Contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. Contractor further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. Contractor shall notify the Authority immediately and in writing of its employees', agents', Contractors' or subcontractors'

inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, and exemptions. Such inability shall be cause for termination of this Agreement.

2. Contractor shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

T. HAZARDOUS SUBSTANCES

1. CAL-OSHA Requirements

All flammable, corrosive, toxic, or reactive materials being bid must have a complete CAL-OSHA Safety Data Sheet (SDS) accompanying the submitted bid.

2. South Coast Air Quality Management District (SCAQMD)

All materials (paints, coatings, inks, solvents, and adhesives) shall comply with the volatile organic compounds (VOC) content requirements of the applicable SCAQMD rules.

3. Notice of Hazardous Substances

Title 8, California Code of Regulations, Section 5194 (e) (c), states that the employer must inform any Contractor employers with employees working in the employer's workplace of the hazardous substances to which their employees may be exposed while performing their work. In compliance with this requirement, the Authority hereby gives notice to all bidders that the following general categories of hazardous substances are present on the Authority's premises:

- Adhesives, sealant, patching, and coating products
- Antifreezes, coolants
- Cleaners, detergents
- Paints, thinners, solvents
- Pesticides, Petroleum products (diesel and unleaded fuel, oil products)
- Printing, photocopying materials
- Propane Welding materials/compressed gases (e.g., acetylene, oxygen, nitrogen)

More specific information may be obtained from the Authority's Safety and Benefits office at (714) 560-5854, and from Safety Data Sheets (SDS) for individual products.

4. Hazardous Waste Labels

Containers containing hazardous substances must be labeled with the following information:

- Identity of hazardous substance-chemical name, not manufacturer or trade name;
- Appropriate health warning relative to health and physical hazard; and
- Name and address of manufacturer or other responsible party.

All containers containing hazardous substances may be rejected unless containers are properly labeled. Containers of 55 gallons or larger must have either weather resistant labels or the information should be painted directly on the containers.

U. CHANGES IN LAWS AND REGULATIONS

CONTRACTOR shall at all times comply with all applicable state and local regulations, policies, procedures and directives, including without limitation those listed directly or by reference in this Agreement. CONTRACTOR's failure to so comply shall constitute a material breach of Contract.

V. MEDIA AND THE PUBLIC

Contractor shall immediately refer all inquiries from the news media or other public sources to the Authority's Project Manager, or designated representative, relating to this project.

W. COORDINATION AND ACCESS

Authority may undertake or award other contracts for additional work at the project site. Contractor is responsible for coordinating its work with the work of other Contractors as appropriate. The Contractor acknowledges that they do not have any exclusive access to the site or other work areas Authority may require that certain facilities and areas be used concurrently by the Contractors and others. Contractor shall cooperate fully with Authority Contractors/consultants that may be performing work in the construction area.

X. UTILITIES RELATED DELAYS

If, due to interruptions caused by the undocumented utilities, Contractor sustains loss which could not have been avoided by the judicious handling of forces, equipment and plant, there shall be paid to the Contractor that amount that the Authority may find to be a fair and reasonable compensation for the part of the Contractor's actual loss, that, in the opinion of Authority was unavoidable, determined as follow: Compensation for idle time of equipment will be determined in the same manner as determinations are made for equipment used in the performance of extra work paid for on a force account basis, as provided in Section F. Extra Work and Changes, Item 3,c. Equipment with the following exceptions:

1. The utility related delay factor for each classification of equipment shown in the Department of Transportation publication entitled Labor Surcharge And Equipment Rental Rates will be applied to that equipment rental rate.
2. The time for which the compensation will be paid will be the actual normal working time during which the delay condition exists, but in no case will exceed eight (8) hours in any one day.
3. The days for which compensation will be paid will be the calendar days, excluding Saturdays, Sundays and legal holidays, during the existence of the delay, except that when the rented equipment can be returned or used elsewhere on the project, then no payment will be made for utilities related delays.

Actual loss shall be understood to include no items of expense other than idle time of equipment and necessary payments for idle time of workers, and cost of extra moving of equipment. Compensation for idle time of equipment will be determined as provided in this section and compensation for idle time of workers will be determined as provided in Section F. Extra Work and Changes, Item 3, b. "Labor," and no markup will be added in either case for overhead and profit. The cost of extra moving of equipment will be paid for as extra work and changes as provided in Section F of General Provisions.

If performance of the Contractor's work is delayed as the result of the Utilities Related Delays, an extension of time determined pursuant to the provisions in Article 18. Termination for Default – Damages for Delay – Time Extensions will be granted.

Y. UTILITIES AND SUBSURFACE STRUCTURES

Contractor shall protect from damage utility and other subsurface structures that are to remain in place, be installed, relocated or otherwise rearranged (as used herein, rearranged includes installation, relocation, alteration or removal).

The right is reserved to the Authority, or their authorized agents, to enter upon the site for the purpose of making those changes that are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. Contractor shall cooperate with forces engaged in this work and shall conduct operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by the other forces. Wherever necessary, the work of Contractor shall be coordinated with the rearrangement of utility or other non-highway facilities, and Contractor shall make arrangements with the owner of those facilities for the coordination of the work.

Attention is directed to the possible existence of underground main or trunk line facilities not indicated on the plans or in the special provisions and to the possibility that underground main or trunk lines may be in a location different from that which is indicated on the plans or in the special provisions. Contractor shall ascertain

the exact location of underground main or trunk lines whose presence is indicated on the plans or in the special provisions, the location of their service laterals or other appurtenances, and of existing service lateral or appurtenances of any other underground facilities which can be inferred from the presence of visible facilities such as buildings, meters and junction boxes prior to doing work that may damage any of the facilities or interfere with their service.

If Contractor cannot locate an underground facility whose presence is indicated on the plans or in the special provisions, the Contractor shall so notify the Authority in writing. If the facility for which the notice is given is in a substantially different location from that indicated on the plans or in the special provisions, the additional cost of locating the facility will be paid for as extra work as provided in Section F.

If Contractor discovers underground main, trunk lines or other structures and utilities not indicated on the plans or in the special provisions, Contractor shall immediately give the Authority and the Utility Company written notification of the existence of those facilities. Such facilities shall be located and protected from damage as directed by the Authority, and the cost of that work will be paid for as extra work as provided in Section F. Contractor shall, if directed by the Authority repair any damage which may occur to the main or trunk lines. The cost of that repair work, not due to the failure of the Contractor to exercise reasonable care, will be paid for as extra work as provided in Section F. Damage due to Contractor's failure to exercise reasonable care shall be repaired at the Contractor's cost and expense.

Where it is determined by the Authority that the rearrangement of an underground facility is essential in order to accommodate the project work and the plans and specifications do not provide that the facility is to be rearranged, Authority will provide for the rearrangement of the facility by other forces or the rearrangement shall be performed by Contractor and will be paid for as extra work as provided in Section F.

When ordered by the Authority in writing, Contractor shall rearrange any utility or other subsurface structures necessary to be rearranged as a part of the project work and that work will be paid for as extra work as provided in Section F.

Should Contractor desire to have any rearrangement made in any utility facility, or other improvement, for the Contractor's convenience in order to facilitate the Contractor's construction operations, which rearrangement is in addition to, or different from, the rearrangements indicated on the plans or in the special provisions, the Contractor shall make whatever arrangements are necessary with the owners of the utility or other subsurface structure for the rearrangement and bear all expenses in connection therewith.

Contractor shall immediately notify the Authority of any delays to the Contractor's operations as a direct result of underground utilities or other structures which were not indicated on the plans or in the special provisions or were located in a position substantially different from that indicated on the plans or in the special provisions,

(other than delays in connection with rearrangements made to facilitate the Contractor's construction operations or delays due to a strike or labor dispute). These delays will be considered utilities related delays within the meaning of Section X. Utilities Related Delays and compensation for the delay will be determined in conformance with the provisions in Section M. Contractor shall be entitled to no other compensation for that delay.

Z. LOCATION OF UNDERGROUND FACILITIES (OFFSITE WORK ONLY)

Contractor is required to obtain digging permits prior to start of excavation by contacting the appropriate permitting agencies 15 calendar days in advance. For the Offsite work scan the construction site with electromagnetic or sonic equipment, and mark the surface of the ground where existing underground utilities are discovered. Verify the elevations of existing piping, utilities, and any type of underground obstruction not indicated or specified to be removed but indicated or discovered during scanning in locations to be traversed by piping, ducts, and other work to be installed. Verify elevations before installing new work closer than nearest manhole or other structure at which an adjustment in grade can be made. Perform potholing to confirm location of all the utilities along the construction alignment prior to start of the construction. The Contractor is responsible for all costs associated with these investigations including the cost of equipment, labor and materials required for any confined space entry.

AA. UNFORESEEN HAZARDOUS OR REGULATED MATERIALS

All known hazardous or regulated materials are indicated in the Contract documents. If material that is not indicated in the Contract documents is encountered that may be dangerous to human health upon disturbance during construction operations, stop that portion of work and notify Authority immediately. Intent is to identify materials such as PCB, lead paint, mercury, petroleum products, and friable and non-friable asbestos. Within 14 calendar days, the Authority will determine if the material is hazardous. If the material is not hazardous or poses no danger, the Authority will direct Contractor to proceed without change. If the material is hazardous and handling of the material is necessary to accomplish the work, Authority will contract with a qualified environmental remediation/hazardous materials removal Contractor for such remediation or removal as may be necessary. The remediation or removal will be performed in compliance with applicable State, Federal, and local environmental laws and regulations.

Contractor shall immediately notify the Authority of any delays to the Contractor's operations as a direct result of Unforeseen Hazardous and Regulated Materials. These delays will be considered utilities related delays within the meaning of Section Z. Utilities Related Delays and compensation for the delay will be determined in conformance with the provisions in Section M. Contractor shall be entitled to no other compensation for that delay.

BB. TRENCHING AND EXCAVATIONS

In the event the Contractor is required to dig any trench or excavation that extends deeper than four (4) feet below the surface in order to perform the work authorized under the Agreement, Contractor agrees to promptly notify the Authority in writing and before further disturbing the site, if any, of the conditions set forth below are discovered:

1. Materials that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.
2. Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.
3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Agreement.

The Authority will promptly investigate the conditions, and if it determines that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a Change Order under the procedures described in the Agreement.

In the event that a dispute arises between the Authority and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Agreement, but shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.