

REQUEST FOR PROPOSALS (RFP) 1-3298

**CONSULTANT SERVICES FOR THE PREPARATION OF
PLANS, SPECIFICATIONS, AND ESTIMATES FOR THE
STATE ROUTE 57 NORTHBOUND IMPROVEMENT
PROJECT BETWEEN ORANGEWOOD AVENUE
AND KATELLA AVENUE**



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

Key RFP Dates

Issue Date:	March 8, 2021
Pre-Proposal Conference Date:	March 16, 2021
Question Submittal Date:	March 19, 2021
Proposal Submittal Date:	April 5, 2021
Interview Date:	May 17, 2021

FEDERAL HIGHWAY ADMINISTRATION FUNDED PROJECT

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March 8, 2021

NOTICE OF REQUEST FOR PROPOSALS (RFP)

RFP 1-3298: “CONSULTANT SERVICES FOR THE PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATES FOR THE STATE ROUTE 57 NORTHBOUND IMPROVEMENT PROJECT BETWEEN ORANGEWOOD AVENUE AND KATELLA AVENUE”

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to prepare the plans, specifications, and estimates (PS&E) for the State Route 57 (SR-57) northbound improvement project between Orangewood Avenue and Katella Avenue.

To prevent potential conflicts of interest, the prime consultant and all subconsultants, (at any tier) awarded this contract for design consultant services to develop the PS&E for the State Route 57 Northbound Improvement Project between Orangewood Avenue and Katella Avenue will be ineligible to participate, in any tier in any of the separate procurements for the construction management services and construction services required to deliver the State Route 57 Northbound Improvement Project between Orangewood Avenue and Katella Avenue. Authority will evaluate all requests for conflict of interest on a case-by-case basis.

The Authority has made the following documents available on CAMM NET for review:

1. Final Environmental Document
2. Final Project Report

Proposals must be submitted, electronically, through the following URL link: <http://www.octa.net/Proposal Upload Link>, at or before 2:00 p.m. on April 5, 2021. Select “RFP 1-3298” from the drop-down menu and follow the instructions as prompted.

PLEASE NOTE:

Hard copy proposal submission will not be accepted for this RFP. Proposals must be submitted electronically at the link stated above and by the date and time as indicated.

Proposals and amendments to proposals received after the date and time specified above will not be accepted.

The Authority has set a 10% Disadvantaged Business Enterprise (DBE) participation goal for this project.

Offerors are advised that by signing their proposal, they are certifying that they and their subconsultants are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

Offerors are advised that all Consultant proposals and supporting documents for the project contract are subject to audit or review by the California Department of Transportation (Caltrans) or the Federal Highway Administration (FHWA). The Cost Proposal is subject to an audit or Certified Public Accountant (CPA) Indirect Cost (Overhead) Audit Workpaper Review. The Cost Proposal shall be adjusted by the Consultant and approved by the Authority's Contract Administrator to conform to the Workpaper Review recommendations or audit recommendations. The Consultant agrees that individual terms of cost identified in the audit report shall be incorporated into the agreement by this reference if directed by the Authority at its sole discretion. Refusal by the Consultant to incorporate the Workpaper Review recommendations or audit recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

In response to Caltrans' audit/review requirements, Offeror and all their subconsultants will be required to submit, after award of contract, Caltrans Exhibit 10-K entitled "Consultant Annual Certification of Indirect Costs and Financial Management System", a copy of which is attached to this RFP as Exhibit H. As part of this certification, the prime and all subconsultants must show their financial system's ability to segregate cost elements.

Firms interested in obtaining a copy of this Request for Proposals (RFP) may do so by downloading the RFP from CAMM NET at <https://cammnet.octa.net>.

All firms 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 RFP 1-3298, firms and subconsultants 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>
Professional Consulting	Architectural & Engineering Design Consulting Consultant Services - General Construction Consulting Environmental Consulting Traffic Planning Consulting
Professional Services	Architect Services, Professional Engineering - Architectural Engineering - Civil Engineering - Environmental Engineering - General Engineering - Mechanical Engineering - Right of Way Engineering - Structural Engineering - Traffic Engineering Drawings Environmental - Architectural Land Surveying Landscape Architectural

A pre-proposal conference will be held on **March 16, 2021** at **10:00 a.m.** via teleconference only.

IN-PERSON ATTENDANCE IS NOT AVAILABLE

This pre-proposal conference will be open for attendance via teleconference only. The specific call-in number for this conference is 1 (714) 560-5666 Conference ID: 800450. The conference will begin promptly at 10:00 a.m. Callers are requested to dial in and mute the call.

A copy of the presentation slides and a pre-proposal registration sheet will be issued via addendum prior to the date of the pre-proposal conference. All prospective Offerors are encouraged to attend the pre-proposal conference.

Offeror's are asked to submit written statements of technical qualifications and describe in detail their work plan for completing the work specified in the Request for Proposal. **No Cost Proposal or estimate of work hours is to be included in this phase of the RFP process.**

The Authority has established **May 17, 2021**, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code 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 basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. Offerors must use the current wage schedules applicable at the time the work is in progress.

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

All Offerors will be required to comply with all applicable equal opportunity laws and regulations.

The award of this contract is subject to receipt of federal, state and/or local funds adequate to carry out the provisions of the proposed agreement including the identified Scope of Work.

SECTION I: INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS**A. PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held on **March 16, 2021** at **10:00 a.m.** via teleconference only.

IN-PERSON ATTENDANCE IS NOT AVAILABLE

This pre-proposal conference will be open for attendance via teleconference only. The specific call-in number for this conference is 1 (714) 560-5666 Conference ID: 800450. The conference will begin promptly at 10:00 a.m. Callers are requested to dial in and mute the call.

A copy of the presentation slides and a pre-proposal registration sheet will be issued via addendum prior to the date of the pre-proposal conference. All prospective Offerors are encouraged to call-in to the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

By submitting a proposal, Offeror represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the Authority's objectives.

C. ADDENDA

The Authority reserves the right to revise the RFP documents. Any Authority changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP 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 RFP as the result of oral instructions. Offerors shall acknowledge receipt of addenda in their proposals. Failure to acknowledge receipt of Addenda may cause the proposal to be deemed non-responsive to this RFP and be rejected.

D. AUTHORITY CONTACT

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

Sonja Gettel, Senior Contract Administrator
Contracts Administration and Materials Management Department
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5562
Email: sgettel@octa.net

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

E. CLARIFICATIONS

1. Examination of Documents

Should an Offeror require clarifications of this RFP, the Offeror shall notify the Authority in writing in accordance with Section D.2. below. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter which will be sent to all firms registered on CAMM NET under the commodity codes specified in this RFP.

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and received by e-mail by sgettel@octa.net no later than 5:00 p.m., on **March 19, 2021**.
- b. Requests for clarifications, questions and comments must be clearly labeled, "RFP 1-3298 Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than **March 25, 2021**. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via U.S. Mail by emailing the request to Sonja Gettel, Senior Contract Administrator.

To receive email notification of Authority responses when they are posted on CAMM NET, firms and subconsultants 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> Professional Consulting	<u>Commodity:</u> Architectural & Engineering Design Consulting Consultant Services - General Construction Consulting Environmental Consulting Traffic Planning Consulting
Professional Services	Architect Services, Professional Engineering - Architectural Engineering - Civil Engineering - Environmental Engineering - General Engineering - Mechanical Engineering - Right of Way Engineering - Structural Engineering - Traffic Engineering Drawings Environmental - Architectural Land Surveying Landscape Architectural

Inquiries received after 5:00 p.m. on March 19, 2021, will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be submitted, electronically, through the following URL link: <http://www.octa.net/Proposal Upload Link>, at or before 2:00 p.m. on April 5, 2021. Select “RFP 1-3298” from the drop-down menu and follow the instructions as prompted.

PLEASE NOTE:

Hard copy proposal submission will not be accepted for this RFP. Proposals must be submitted electronically at the link stated above and by the date and time as indicated.

2. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.

- c. The Authority reserves the right to issue a new RFP for the project.
- d. The Authority reserves the right to postpone proposal openings for its own convenience.
- e. Each proposal will be received with the understanding that acceptance by the Authority of the proposal to provide the services described herein shall constitute a contract between the Offeror and Authority which shall bind the Offeror on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted proposal and specifications.
- f. The Authority reserves the right to investigate the qualifications of any Offeror, and/or require additional evidence of qualifications to perform the work.
- g. Submitted proposals are not to be copyrighted.

G. PRE-CONTRACTUAL EXPENSES

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

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

- 1. Preparing its proposal in response to this RFP;
- 2. Submitting that proposal to the Authority;
- 3. Negotiating with the Authority any matter related to this proposal; or
- 4. Any other expenses incurred by Offeror prior to date of award, if any, of the Agreement.

H. JOINT OFFERS

Where two or more firms desire to submit a single proposal in response to this RFP, 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

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

J. 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 protests filed by an Offeror in connection with this RFP must be submitted in accordance with the Authority's written procedures.

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a firm-fixed price contract specifying firm-fixed prices for individual tasks specified in the Scope of Work, included in this RFP as Exhibit A.

L. CONFLICT OF INTEREST

All Offerors responding to this RFP 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, an Offeror is unable, or potentially unable to render impartial assistance or advice to the Authority; an Offeror's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or an Offeror has an unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the Offeror's proposal.

All Offerors must disclose in their proposal and immediately throughout the course of the evaluation process if they have hired or retained an advocate to lobby Authority staff or the Board of Directors on their behalf.

Offerors hired to perform services for the Authority are prohibited from concurrently acting as an advocate for another firm who is competing for a contract with the Authority, either as a prime or subcontractor.

M. PREVAILING WAGES

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et.seq., and all applicable Federal requirements respecting prevailing wages.

It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. The proposer to whom a contract for the work is awarded by the Authority shall comply with the provision of the California Labor Code, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the work is to be performed in accordance with, without limitation, Sections 1773.1, 1774, 1775 and 1776 of the California Labor Code governing employment of apprentices.

Copies of the prevailing rates of per diem wages are on file at the Authority's principal office at 550 S. Main Street, Orange, CA 92868 and are available to any interested party on request.

N. CODE OF CONDUCT

All Offerors 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. All Offerors agree to include these requirements in all of its subcontracts.

O. DISADVANTAGED BUSINESS ENTERPRISE

The Authority has established a 10 percent (**10%**) Disadvantaged Business Enterprise (DBE) participation goal for the services required in this solicitation.

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

- Consultant Proposal DBE Commitment Form (10-O1)
- Letter of Acknowledgement and Commitment Form required from each proposed DBE firm listed on the "Consultant Proposal DBE Commitment Form (10-O1)."
- DBE Information – Good Faith Efforts (if sufficient participation to meet the DBE goal has not been proposed on the "Consultant Proposal DBE Commitment Form (10-O1)".
- Bidders List

P. PRIME AND LOWER TIER DEBARMENT

Offerors are advised that by signing their proposal, they are certifying that they and their subconsultants are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

Q. CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM

Offerors and all their subconsultants will be required to submit, after award of contract, Exhibit 10-K entitled "Consultant Annual Certification of Indirect Costs and Financial Management System", a copy of which is attached to this RFP. As part of this certification, the prime and all subconsultants must show their financial system's ability to segregate cost elements.

R. PROHIBITION

The following restrictions apply to this procurement:

The prime consultant and all subconsultants, (at any tier) awarded this contract for design consultant services to develop the PS&E for the State Route 57 Northbound Improvement Project between Orangewood Avenue and Katella Avenue will be ineligible to participate, in any tier in any of the separate procurements for the construction management services and construction services required to deliver the State Route 57 Northbound Improvement Project between Orangewood Avenue and Katella Avenue.

Furthermore, Offeror(s) are advised that evaluation of the team composition with regards to the conflicts of interest will be done on a case-by-case basis.

SECTION II: PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT

A. PROPOSAL FORMAT AND CONTENT

1. Format

Proposals should be typed with a standard 12-point font, double-spaced and submitted in 8 1/2" x 11" format. Charts and schedules may be included in 11"x17" format. Proposals should not include any unnecessarily elaborate or promotional materials. Proposals should not exceed fifty (50) pages in length, excluding any appendices, cover letters, resumes, or forms.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Sonja Gettel, Senior Contract Administrator and must, at a minimum, contain the following:

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, whether the firm is a Disadvantaged Business Enterprise (DBE), contact person's name and address, phone number and fax number, and email address; relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgement of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 180 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal

a. Qualifications, Related Experience and References of Offeror

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.
- (5) Identify all firms hired or retained to provide lobbying or advocating services on behalf of the Offeror by company name, address, contact person, telephone number and email address. This information is required to be provided by the Offeror immediately during the evaluation process, if a lobbyist or advocate is hired or retained.
- (6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

This section of the proposal should establish the method, which will be used by the Offeror to manage the project as well as identify key personnel assigned.

Offeror to:

- (1) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.
- (3) Indicate adequacy of labor resources utilizing a table projecting the resource-allocation to the project by individual task.
- (4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

Offeror should provide a narrative, which addresses the Scope of Work, and shows Offeror's understanding of Authority's needs and requirements.

Offeror to:

- (1) Describe the approach to completing the tasks specified in the Scope of Work. The approach to the work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who would perform them.

- (3) Furnish a project schedule for completing the tasks in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

State any technical and/or contractual exceptions and/or deviations from the requirements of this RFP, including the Authority's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit B), using the form entitled "Proposal Exceptions and/or Deviations" included in this RFP. This Proposal Exceptions and/or Deviations form must be included in the original proposal submitted by the Offeror. If no technical or contractual exceptions and/or deviations are submitted as part of the original proposal, Offerors are deemed to have accepted the Authority's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit B). Offerors will not be allowed to submit the Proposal Exceptions and/or Deviations form or any technical and/or contractual exceptions after the proposal submittal date identified in the RFP. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed by Authority.

All exceptions and/or deviations will be reviewed by the Authority and will be assigned a "pass" or "fail" status. Exceptions and deviations that "pass" do not mean that the Authority has accepted the change but that it is a potential negotiable issue. Exceptions and deviations that receive a "fail" status means that the requested change is not something that the Authority would consider a potential negotiable issue. Offerors that receive a "fail" status on their exceptions and/or deviations will be notified by the Authority and will be allowed to retract the exception and/or deviation and continue in the evaluation process. Any exceptions and/or deviation that receive a "fail" status and the Offeror cannot or does not retract the requested change may result in the firm being eliminated from further evaluation.

e. Public Records Act Indemnification

Proposals received by Authority are subject to the California Public Records Act, Government Code section 6250 et seq. (the "Act"), except as otherwise provided in the Act. Proposers should familiarize themselves and exceptions thereto. In no event shall the Authority or any of its agents, representatives, consultants, directors, officers, or employees be liable to a Proposer for the disclosure of any materials or information submitted in response to the RFP. Proposers must complete and sign the Exhibit J, Public Records Act Indemnification – Proposal Documents, and submit it with the proposal. Failure to complete Exhibit J may cause the proposal to be deemed non-responsive to this RFP and may no longer continue in the evaluation process.

If a California Public Records Act request is received by Authority for the release of information identified by Proposer as propriety, trade secret, or confidential, the request will be referred to Proposer for review and consideration. If Proposer requests that the information be withheld from release, Proposer shall provide such request in writing with the legal basis under the Act for each requested withholding. Failure to notify the Authority in writing of its desire to withhold the records within three business days and/or to timely provide a legal basis for the withholding of documents, regardless of any marking or designation of such documents, shall constitute a waiver of any claims Proposer may have had related to such disclosure.

Authority will review the request, determine if the disclosure of the records is required by law, and notify Proposer of such determination. If Authority determines that the disclosure of records is required by law, Authority will notify Proposer of such determination and provide Proposer the opportunity to seek a protective order or other appropriate legal relief to protect the records.

Proposer shall defend and hold harmless Authority from any legal action arising from such withholding, as further detailed in Exhibit K, Public Records Act Indemnification – Proposal Documents.

4. Cost and Price Proposal

Offerors are asked to submit only the technical qualifications as requested in the RFP. **No cost proposal or work hours are to be included in this phase of the RFP process.** Upon completion of the initial evaluations and interviews, if conducted, the highest ranked Offeror will be asked to submit

a detailed cost proposal and negotiations will commence based on both the cost and technical proposals.

5. Appendices

Information considered by Offeror to be pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Offerors are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials. Appendices should be relevant and brief.

B. FORMS

1. Campaign Contribution Disclosure Form

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Board of Directors, Offeror is required to complete and sign the Campaign Contribution Disclosure Form provided in this RFP and submit as part of the proposal.

This form **must** be completed regardless of whether a campaign contribution has been made or not and regardless of the amount of the contribution.

The prime contractor, subconsultants, lobbyists and agents are required to report all campaign contributions made from the proposal submittal date up to and until the Board of Directors makes a selection.

Offeror is required to submit only **one** copy of the completed form(s) as part of its proposal and it must be included in only the **original** proposal.

2. Status of Past and Present Contracts Form

Offeror shall complete and sign the form entitled "Status of Past and Present Contracts" provided in this RFP and submit as part of its proposal. Offeror 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. Offeror 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 Offeror's proposal.

A separate form must be completed for each identified contract. Each form must be signed by the Offeror confirming that the information provided is true and accurate. Offeror is required to submit one copy of the completed form(s) as part of its proposals and it should be included in only the original proposal.

3. Certification of Restrictions on Lobbying

This form requires the Offeror 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). The offeror is required to submit the Certification of Restrictions on Lobbying Form” and “Disclosure of Lobbying Activities Form”, in order for the offeror’s proposal to be responsive and to be considered for evaluation.

4. Disclosure of Lobbying Activities

This form requires the Offeror to disclose lobbying activities pursuant to the requirements of 31 U.S.C. Section 1352. If Offeror does not have any reportable activities to disclose, they shall check the box entitled “No Reportable Activities” on the attached Standard Form-LLL “Disclosure of Lobbying Activities” and complete Section 16 of the form in order for the offeror’s proposal to be responsive and to be considered for evaluation. The certifying official shall sign and date the form, print his/her name, title and telephone number.

5. Safety Specifications

Offerors shall comply with Safety Specifications Modified Level 1 and 3 as included in this RFP as Exhibit G, during the term of the awarded Agreement.

6. Disadvantaged Business Enterprise Solicitation Provisions – DBE Participation Listing Forms

Offerors must complete the following forms:

- Consultant Proposal DBE Commitment Form (10-O1) **Exhibit E-1**
- Letter of Acknowledgement and Commitment required from each proposed DBE firm listed on the “Consultant Proposal DBE Commitment Form (10-O1)”. **Exhibit E-2**
- DBE Information – Good Faith Efforts (if sufficient participation to meet the DBE goal has not been proposed on the “Consultant Proposal DBE Commitment Form (10-O1)”. **Exhibit E-3**
- Bidders List **Exhibit E-4**

**7. Certification of Contract Costs and Financial Management System
“Exhibit 10-K”**

This exhibit entitled “Exhibit 10-K Consultant Annual Certification of Indirect Costs and Financial Management System” (RFP Exhibit H) is to be completed by Offeror and all subconsultants after award of contract. As part of this certification, the prime and all subconsultants must show their financial system’s ability to segregate cost elements.

8. Proposal Exceptions and/or Deviations Form

Offerors shall complete the form entitled “Proposal Exceptions and/or Deviations” provided in this RFP and submit it as part of the original proposal. For each exception and/or deviation, a new form should be used, identifying the exception and/or deviation and the rationale for requesting the change. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed nor considered by the Authority.

9. Public Records Act Indemnification Form

Offerors shall complete and sign the form entitled “Public Records Act Indemnification” provided in this RFP and submit it as part of the original proposal. Proposers must complete and sign either Option 1 or Option 2 whichever applies.

SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

The Authority will evaluate the offers received based on the following criteria:

1. **Qualifications of the Firm** **20%**

 Technical experience in performing work of a closely similar nature; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.
2. **Staffing and Project Organization** **40%**

 Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.
3. **Work Plan** **40%**

 Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of resource allocation among the tasks; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.

B. EVALUATION PROCEDURE

An evaluation committee will be appointed to review all proposals received for this RFP. The committee is comprised of Authority staff and may include outside personnel. The committee members will evaluate the written proposals using criteria identified in Section III A. A list of top ranked proposals, firms within a competitive range, will be developed based upon the totals of each committee members' score for each proposal.

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **May 17, 2021**, as the date to conduct interviews. All prospective Offerors are asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further discussion. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

At the conclusion of the evaluation process, the evaluation committee will rank proposals and will recommend to the Regional Planning and Highways Committee, the Offeror(s) with the highest ranking. The Regional Planning and Highways Committee(s) will review the evaluation committee's recommendation and forward its recommendation to the Board of Directors for final action.

C. AWARD

The Evaluation Committee will select a firm to recommend to the Authority's Board of Directors. At the same time the recommended Offeror will be asked to submit a sealed price proposal. In conjunction with its action of selecting a firm, the Authority's Board of Directors will authorize staff to negotiate a contract price and other terms and conditions. The Board will also grant staff the ability to terminate negotiations with the selected Offeror if no satisfactory agreement can be reached and to begin negotiations with the next highest-ranked Offeror until a satisfactory agreement has been achieved.

The Authority reserves the right to award its total requirements to one Offeror or to apportion those requirements among several Offerors as the Authority may deem to be in its best interest. In addition, negotiations may or may not be conducted with Offerors; therefore, the proposal submitted should contain Offeror's most favorable terms and conditions, since the selection and award may be made without discussion with any Offeror.

The selected Offeror and subconsultants will be required to submit to an audit of its financial records to confirm its financial stability and the Offeror's accounting system. Additionally, the selected Offeror will be required to submit to the Authority's Accounting Department a current IRS W-9 Form prior to commencing work.

All Consultant proposals and supporting documents for the project contract are subject to audit or review by the California Department of Transportation (Caltrans) or the Federal Highway Administration (FHWA). The Cost Proposal is subject to an audit or Certified Public Accountant (CPA) Indirect Cost (Overhead) Audit Workpaper Review. The Cost Proposal shall be adjusted by the Consultant and approved by the Authority's Contract Administrator to conform to the Workpaper Review recommendations or audit recommendations. The Consultant agrees that individual terms of cost identified in the audit report shall be incorporated into the agreement by this reference if directed by the Authority at its sole discretion. Refusal by the Consultant to incorporate the Workpaper Review recommendations or audit recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit a proposal in response to this RFP shall be notified via CAMM NET of the contract award. Such notification shall be made within three (3) business days of the date the contract is awarded.

Offerors who were not awarded the contract may obtain a debriefing concerning the strengths and weaknesses of their proposal. Unsuccessful Offerors, who wish to be debriefed, must request the debriefing in writing or electronic mail and the Authority must receive it within three (3) business days of notification of the contract award.

EXHIBIT A: SCOPE OF WORK

Draft SCOPE OF WORK

PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATES (PS&E)

FOR

IMPROVEMENTS TO

NORTHBOUND STATE ROUTE 57 (SR-57)

BETWEEN

ORANGEWOOD AVENUE

AND

KATELLA AVENUE

SECTION 1

DESCRIPTION OF PROJECT

1.1 PROJECT DESCRIPTION

1.1-1 Background

The Orange County Transportation Authority (Authority) in cooperation with the California Department of Transportation (Caltrans), is issuing Request for Proposals (RFP) for professional and technical consultant services for development of Plans, Specifications, and Estimates (PS&E) for proposed improvements to the segment of State Route 57 (SR-57) in Orange County between Orangewood Avenue and Katella Avenue. In general, this project proposes the addition of a fifth general purpose lane on northbound (NB) SR-57 from Orangewood Avenue to Katella Avenue.

The project has completed the Project Approval/Environmental Document (PA/ED) phase. The Final Environmental Document was signed by Caltrans on March 31, 2019. Alternative 2 was selected as the preferred alternative and is the Alternative for which this RFP for Final Design services is being solicited.

Authority will be the implementing agency for plans, specifications, and estimates, and Right-of-Way Engineering for the project. Caltrans will be the Right-of-Way lead for appraisals and acquisitions for the project. Caltrans will be the implementing agency for the construction phase, and will be responsible for the advertisement, bid opening, award, approval, and administration of the construction contract.

1.1-2 General Project Description

The proposed project will provide northbound improvements along SR-57, from 0.3 miles south of Orangewood Avenue undercrossing (PM 11.5) to the Katella Avenue undercrossing (PM 12.5), in the cities of Anaheim and Orange in Orange County. Proposed improvements would include construction of the missing section of the fifth general purpose (GP) lane, extension of the existing auxiliary lane from the Orangewood Avenue off-ramp to the Katella Avenue off-ramp to improve weave movements between the two ramps, adding to the length of on-/offramps, and adding a second lane to the Katella Avenue off-ramp to provide additional storage capacity, and extension of the merge length between the existing freeway on-/off-ramps to improve weaving distance. Improvements along SR-57 would widen the SR-57 freeway

within existing Right-of-Way, although a revised highway easement would be required for widening the Stadium Overhead over the Metrolink tracks on Authority property. The proposed improvements for Build Alternative 2 described in the Project Report (EA 12-0M9700), dated March 29, 2019, shall be the basis of the work contained in this Scope of Work. The design of said improvements shall be in accordance with Caltrans and all other applicable standards. All pedestrian facilities, including curb ramps, within the project limits must be in accordance with current Americans with Disabilities Act standards.

1.1-3 Detailed Project Description

The detailed project description is for the northbound SR-57 Lane Addition Project.

Construct the missing section of the fifth GP lane between the Katella Avenue NB offramp and the bridge structure over Katella Avenue (Katella Avenue UC Bridge).

Widen and implement seismic retrofit by strengthening two SR-57 bridge structures: Orangewood Avenue UC Bridge (No. 55 0481) and the Santa Ana River Bridge (No. 55 0400).

Restripe the NB High Occupancy Vehicle (HOV) lane and the mainline GP lanes from about 640 feet south of the Orangewood Avenue eastbound (EB) loop on-ramp to 600 feet south of the Katella Avenue UC Bridge.

Modify the two existing eastbound Orangewood Avenue loop on-ramp turn lanes from free right turns to a newly configured 90-degree traffic controlled intersection located slightly east of the current location.

Construct a full intersection at Orangewood Avenue and the NB SR-57 ramps.

Increase the weave length between the Orangewood Avenue on-ramp(s) and the Katella Avenue off-ramp.

Coordinate with utility companies during final design as well as construction would be required to accommodate existing utilities and avoid conflicts.

Add a second lane to the Katella Avenue off-ramp.

Provide replacement landscaping and permanent irrigation under a separate contract with a three-year plant establishment period (PEP).

Improve bridge deck surfaces and spot locations through pavement rehabilitation.

Coordinate metered on-ramps and the traffic signals on Orangewood Avenue to control congestion.

At the Orangewood Avenue loop on-ramp, the existing single lane on-ramp would be modified to two lanes and these on-ramp lanes would be metered. On Orangewood Avenue, the single westbound right-turn lane on Orangewood Avenue would direct traffic to the widened two-lane on-ramp.

A continuous Auxiliary Lane would be provided between Orangewood Avenue and Katella Avenue.

1.1-4 Location and Limits

The project limits on SR-57 Northbound are from Post Mile 11.5 to Post Mile 12.5. The project is in the Cities of Anaheim and Orange.

1.1-5 Statement of Intent

It is the intent of Authority to award a professional services contract to provide engineering services including a supplemental environmental document as required, obtain environmental regulatory permits, and preparation of PS&E for the SR-57 Improvement Project.

1.2 STANDARDS

1.2-1 Latest Editions

Consultant shall perform all services under the Agreement in conformance and in compliance with the latest Caltrans editions of applicable design and environmental standards.

1.2-2 Conflicts

In case of conflict, ambiguities, discrepancies, errors or omissions among the reference materials obtained by Consultant from other agencies, Consultant shall submit the matter to OCTA for clarification. Any work affected by such conflicts, ambiguities, discrepancies, errors or omissions which is performed by Consultant prior to clarification by OCTA shall be at Consultant's risk.

1.2-3 Plans, Specifications, and Estimates (PS&E)

PS&E shall be prepared in English units and in conformance with the most recent versions of the Caltrans Guide for the Submittal of Plans, Specifications, Estimates, Standard Plans, and Standard Specifications. As part of the work involved in the preparation of the PS&E, Consultant shall prepare Special Provisions pertaining to items of work included in the plans that are not addressed in the latest Caltrans Standard Specifications and Caltrans approved Standard Special Provisions. Consultant shall furnish the Special Provisions to Caltrans. Non-standard Special Provisions shall be prepared by CONSULTANT and shall require approval by Caltrans. Reports and PS&E items related to structures shall be submitted through Caltrans Office of Special Funded

Projects (OSFP) as indicated in the OSFP Information and Procedures Guide and at the direction of the District 12 OSFP Liaison Engineer.

1.2-4 Roadway/Design

Roadway design shall be in performed in accordance with all applicable Federal, State and local laws, rules, regulations, policies, procedures, manuals, standard plans and specifications, roadway maintenance and structure maintenance reports, and other standards that State would normally follow. Design Standard Decision Documents for non-standard features shall require approvals from Caltrans.

1.2-5 Drafting

Roadway and related plans shall be prepared in conformance with the latest versions of the Caltrans "Drafting and Plans Manual" and "CADD Manual." CONSULTANT is required to furnish .dgn files either at PS&E or as-built stage in the Microstation version currently in use by Caltrans at the time of submittal. The size and clarity of lettering on plan sheets requires special attention, as final contract plans are half-size. Plans, which are illegible or otherwise difficult to read, are unacceptable.

1.2-6 Reference Material

Consultant shall utilize the following documents. Please note it is not Authority's intent to provide a comprehensive list of resources; therefore, Consultant shall make use of additional reference material as appropriate. Consultant shall also be responsible for ensuring they are using the most recent version of all reference material, including any addenda and errata.

- A Policy on Geometric Design of Highways and Streets (AASHTO)
- Southern California Regional Rail Authority Engineering Standards, Guidelines, and Standard Specifications
- American Railway Engineering and Maintenance of Way Association (AREMA) Standards
- Caltrans Highway Design Manual including updated Design Information Bulletins, and Design Memorandums
- Manual of Uniform Traffic Control Devices (MUTCD)
- California MUTCD
- Caltrans Division of Engineering Services Structures Manuals, including Information & Procedures Guide, Design Details, Aids, Practice and Memo to Designers Manuals
- Caltrans Project Development Procedures Manual
- Caltrans Environmental Guidelines & Manuals
- Caltrans Plans Preparation Manual
- Caltrans CADD User's Manual
- Caltrans Highway Planting and Irrigation Manual

- Caltrans Guide for Submittal of PS&E
- Caltrans Construction Contract Development (CCD) Guide
- Caltrans RTL Guide
- Caltrans Standard Plans and Standard Specifications
- Caltrans Storm Water Quality Handbooks
- Orange County Hydrology Manual
- Caltrans Right of Way Engineering Procedures Handbook and Manual
- Caltrans High Occupancy Vehicle Guidelines
- Caltrans Local Assistance Procedures Manual
- Caltrans Surveys Manual
- Caltrans District 12 Right of Way (R/W) Engineering Requirements for the Preparation of Documents and Maps
- Applicable Local Codes and Manuals
- Construction Best Management Practices (BMPs)
- Caltrans Signal and Lighting Guidelines, Changeable Message Sign Guidelines, Ramp Metering Guidelines, Communications Systems Guidelines and National Electrical Code.
- Applicable Caltrans District 12 Design Memorandum
- Caltrans District 12 Quality Control Review Checklists

1.3 DESIGN CRITERIA

The following is a general listing of specific design criteria which shall be adhered to. This list is by no means comprehensive and other standards may apply.

1.3-1 Roadway

Design speed shall follow Caltrans Highway Design Manual (HDM) guidelines as well as pertinent City of Anaheim and Orange standards.

1.3-2 Bridges and Retaining Walls

- Design: AASHTO LRFD Design Specifications 6th Edition and the California Amendments, Seismic Design Criteria (SDC) latest edition. Caltrans Bridge Design Memo to Designers, latest edition.

1.3-3 Surveys

Consultant shall conduct all surveys in conformance with the Land Surveyors Act and Caltrans Survey Manual for PS&E.

1.3-4 Materials Report

Consultant shall conform to the guidelines established by Caltrans Office of Materials Engineering and Testing Services (METS).

1.3-5 Drainage

- Q25 for Design on-site drainage
- Q100 for Design off-site drainage
- Q50 for Design for bridge Deck Drain

SECTION 2

GENERAL CONDITIONS AND REQUIREMENTS

2.1 SCOPE OF WORK GENERAL CONDITIONS AND REQUIREMENTS

- 2.1-1** CONSULTANT shall carry out the instructions as received from Authority Project Manager and shall cooperate with Caltrans, Cities of Anaheim and Orange, and any other consultants working on this project.
- 2.1-2** It is not the intent of the foregoing paragraph to relieve CONSULTANT of his professional responsibility during the performance of this contract. In those instances where CONSULTANT believes a better design or solution to a problem is possible, CONSULTANT shall promptly notify Authority/Caltrans Project Managers of these concerns, together with the reasons therefore.
- 2.1-3** CONSULTANT is responsible for the accuracy and completeness of data, reports, PS&E prepared for this project and shall check such material accordingly. While Caltrans will review the data and plans for conformity with Caltrans Design Standards, as well as conformance with CEQA requirements, the responsibility for accuracy and completeness lies with CONSULTANT.
- 2.1-4** Neither CONSULTANT nor its subcontractors shall incorporate materials, or equipment of single or sole source origin, other than those included in Caltrans Standards, into the design without the prior written approval of Caltrans.
- 2.1-5** The plans, specifications, designs, estimates, calculations, reports, studies, and other documents furnished under this Scope of Work shall be of a quality acceptable to Caltrans and Authority. The minimum criteria for acceptance shall be a product of neat appearance that is well organized, technically and grammatically correct, and thoroughly checked in accordance with the Caltrans QA/QC Procedures Manual. All work products shall clearly identify both the preparer and checker. The standards of appearance, organization, and contents of the reports and drawings shall meet or exceed those of similar documents produced by Caltrans.
- 2.1-6** The page identifying preparers of engineering reports, the title for specifications and each sheet of plans, shall bear the professional seal, certificate number and expiration date, registration classification, and the signature of the professional engineer(s) responsible for their preparation.

- 2.1-7** To ensure the progress towards contract objectives and requirements, CONSULTANT shall hold regular meetings with the Authority and Caltrans. If the original established schedule is insufficient, Consultant shall hold additional meetings as necessary. The primary purpose of these meetings is to discuss work objectives, Consultant's work schedule, the terms of the contract and other related issues. In addition, the meetings shall serve as a forum for resolving any issues related to the PR/ED and PS&E development.
- 2.1-8** Consultant may establish direct contact with governmental regulatory and resource agencies and others in order to obtain information, expertise, and assistance in developing baseline data and resource inventories. Consultant shall maintain a record of such contacts and shall transmit copies of those records to Caltrans and Authority on a regular basis. At a minimum, these records shall be transmitted monthly or more frequently, when the content or extent of the records so warrants.
- 2.1-9** Caltrans and Authority will retain responsibility for final consultation, both informal and formal, with state and federal agencies regarding project mitigation and compensation proposals.
- 2.1-10** Consultant shall comply with OSHA regulations regarding safety equipment and procedures, safety instructions issued by Caltrans, and the safety provisions included in the Caltrans Survey Manual. While working on the job site, Consultant's personnel shall wear white hard hats, rubber soled shoes, and appropriate safety vests. In the case of a discrepancy between the Caltrans and OSHA requirements, the more stringent regulation shall apply.
- 2.1-11** Consultant shall designate a Surveys Manager who will coordinate Consultant's surveying operations. The Surveys Manager shall be responsible for all matters related to Consultant's surveying operations, but shall coordinate with Consultant's Project Manager.
- 2.1-12** Surveys performed by Consultant shall conform to the requirements of the Land Surveyors' Act and the Caltrans Surveys Manual. In accordance with the Act, "responsible charge" for the work shall reside with a pre-January 1, 1982, Registered Civil Engineer or a Licensed Land Surveyor, in the State of California.
- 2.1-13** CONSULTANT shall designate a Construction Lead, who is a qualified Construction Management professional, to lead constructability and biddability reviews.

- 2.1-14** In the case of conflicts between the instructions contained in this Scope of Work and those found in the Bridge Memos to Designers, the instructions in this Scope of Work take precedence.
- 2.1-15** Where Consultant is required to prepare and submit studies, reports, plans, etc., to Caltrans and Authority, these materials shall be submitted in draft as scheduled, and the opportunity shall be provided for the Authority and Caltrans to request revisions, prior to final submission.
- 2.1-16** Throughout the design of this project, Consultant shall consider least cost alternatives analysis for major project components, where appropriate.
- 2.1-17** The CONSULTANT's team shall be responsible for supporting and assisting Authority staff in the Board of Directors (Board) approval process during the preparation of the PS&E. These may include but are not limited to: providing Project materials for Board packages, assisting and/or making Board presentations, researching/investigating of information requested by the Board, and attending additional meetings/workshops, as necessary. CONSULTANT's team shall also be responsible for supporting Authority with coordinating with local cities regarding various issues related to the Project.
- 2.1-18** Authority Project Manager will administer Consultant contract and provide general direction to CONSULTANT. Caltrans is responsible for providing Quality Assurance as well as final approval of the PS&E, required reports, and work product.
- 2.1-19** Following is material furnished by Caltrans/Authority (as available):
- Existing aerial photographs and negatives
 - Existing survey control data and site survey information (hard copy and electronic files) including survey control maps, coordinate control maps, existing right-of-way maps, existing monument maps, existing land-net information and any pertinent records of information
 - Existing Caltrans Detailed Seismic Revisions Data Sheets
 - Existing maintenance reports
 - Existing as-built Logs of Test Borings
 - Existing noise data
 - Existing Materials Data and Foundation Reports
 - Approved Project Report and approved Design Standards Decision Documents
 - Approved Environmental Documents
 - Pertinent correspondence

- Caltrans standard CADD cell library including bridge, geometric, landscape, project plans, right of way, and traffic/electrical (hard copy and electronic files)
- Caltrans District CADD cell library (hard copy and electronic files)
- Caltrans Headquarters/District font library
- Caltrans CADD plotting pen tables
- Caltrans CADD seed file
- Available aerial mapping for the entire project limits (hard copy and electronic files) in proper format
- Current Standard Special Provisions (hard copy and electronic files)
- Monument disks, plugs, tags, and marker posts
- Current Traffic Counts and Traffic Projections

2.1-20 Following is work which is to be performed by Caltrans:

- Coordinate and communication with the Federal Highway Administration
- Review and Process for approval of Design Standard Decision Documents (DSDDs)
- Process Exceptions to Policy
- Provide all Survey Controls
- Input Construction Cost Estimate into Basic Engineering Estimate System (BEES)
- Technical reviews of work and deliverables (technical and office engineers)
- Preparation and processing of request to the Caltrans Longitudinal Encroachment Committee for exceptions to policy, if needed
- Analysis and recommendations for rehabilitation work on existing ramps to be widened
- Perform Safety Review during design and construction
- Perform Constructability Review
- Perform Bidability Review
- Perform Quality Assurance/Quality Control (QA/QC) for all work and deliverables
- Attend project meetings

2.1-21 Encroachment Permit:

It is the responsibility of Consultant and its sub Consultants to obtain the proper permit(s) from Caltrans and/or local agencies prior to any field surveys.

**SECTION 3
STATEMENT OF WORK**

3.1 TASK 1 – PROJECT MANAGEMENT / COORDINATION / ADMINISTRATION

This task covers project management services including the requirements for meetings, schedules, progress reports, invoicing, and administration of CONSULTANT's work.

3.1-1 Coordination/Administration

3.1-1a Coordination and Meetings

Meetings with affected parties shall be held to discuss issues pertinent to analysis, design, and effects of the Project. During these meetings, Authority and Caltrans may provide direction for development of the PS&E.

CONSULTANT shall participate in the following meetings:

Project Development Team (PDT) Meetings with Authority and Caltrans shall be held on a monthly basis to discuss policy, procedural and freeway-specific issues. CONSULTANT shall bring progress plans and presentation materials as appropriate.

Design Refinement Workshop process. Consultant shall perform Design Refinement Workshop process for evaluating potential design refinements to the project. These workshops will include all relevant presentation materials and include development of Design Refinement Selection matrices.

Agency Coordination/Technical Workshop Meetings shall be held as needed to discuss technical issues with specific agencies. CONSULTANT shall bring progress plans and presentation materials as appropriate.

Right-of-Way Coordination Meetings shall be held before starting work between CONSULTANT and the Chief of Caltrans District 12 R/W Engineering (CHIEF). Thereafter monthly progress meetings shall take place between CONSULTANT and the CHIEF at District 12 headquarters. An emergency meeting may be called at any time to address pressing problems.

Constructability Workshop Meetings shall be held with Authority and Caltrans to present, discuss and resolve constructability issues to minimize construction change orders. CONSULTANT shall present progress plans and specifications prior to the 65% and 95% submittals. Provide special presentation materials as needed to convey and resolve constructability issues.

Safety Review Meeting shall be held with AUTHORITY and Caltrans at the 65% submittal.

Deliverables:

Following are the meeting materials which CONSULTANT will be responsible for preparing and providing:

- Notices
- Agendas
- Handouts
- Minutes
- Progress plans

- **3.1-1b Administration**

Following are administrative duties which shall be performed by CONSULTANT:

- Supervise subcontractors, coordinate, and monitor work for conformance with Caltrans standards and policies.
- Apply for and obtain Caltrans encroachment permits necessary for CONSULTANT to be on the jobsite.
- Apply for and obtain City approvals and permits as required.
- Prepare, circulate, and file correspondence and memoranda as appropriate.
- Prepare and update Project Risk Register, including Risk Register Certification Form.
- Maintain Project files using the Caltrans Uniform File System.
- Thirty days after Notice to Proceed, CONSULTANT shall submit the Project Master Schedule to Authority and Caltrans Project Managers. Section 3.1-2 contains description of the Master Schedule.

3.1-2 Schedules

CONSULTANT shall submit an initial Project Master Schedule. Following approval by Authority, this schedule will become the Project Schedule. The approved Project Schedule shall be displayed on the Project Master Schedule updates. The following elements must be included by CONSULTANT in the Schedule:

- Work items and deliverables identified in accordance with a Work Breakdown Structure (WBS) as developed by CONSULTANT and approved by Authority
- Work items of agencies and other third parties that may affect or be affected by CONSULTANT's activities
- Schedule shall provide adequate time for Authority and Caltrans review, based on standard practices

- Resource loading of work items in work hours to show the effort required to perform the work. Resource loading shall be used to develop plan and actual progress curves
- The Project Master Schedule shall include all data necessary to represent the total Project and the critical path shall be clearly identified
- The order, sequence, and interdependence of significant work items shall be reflected on the Project Master Schedule
- The following list of major tasks shall be used to develop the Project Master Schedule:

Task 1 – Project Management/Coordination/Administration

Task 2 – 35 Percent PS&E

Task 3 – Unchecked Details PS&E (65 Percent) Submittal

Task 4 – Initial PS&E (95 Percent) Submittal

Task 5 – Final PS&E (100 Percent) Submittal

Task 6 – Construction Bidding Phase

Task 7 – Construction Support Phase

Task 8 – Project Closeout

Major tasks should be broken down into subtasks as warranted. Decision dates will be included in the schedule.

CONSULTANT shall submit a copy of the Project Master Schedule to the Authority Project Manager for review and approval and a copy to Caltrans for information. Monthly schedule updates will be part of the Progress Report and will be in accordance with the requirements shown in Section 3.1-3.

Deliverables:

- Project Master Schedule

3.1-3 Progress Reports

At the end of each month, CONSULTANT shall report the progress of the work. Progress shall be based on physical percent complete such as number of drawings or deliverables completed or estimated progress toward completion. Progress payments will be based upon percent complete of the major tasks identified.

CONSULTANT shall submit one copy of a monthly Progress Report to the Authority Project Manager consisting of a written narrative and an updated bar-chart format of the Project Master Schedule. This report shall be received no later than the tenth (10th) calendar day of the month.

The narrative portion of the monthly Progress Report shall describe overall progress of

the work, discuss significant problems and present proposed corrective action and show the status of major changes.

All schedule tasks will be updated to reflect current percent complete. If the latest completion time for a significant work item does not fall within the time allowed by the original Project Master Schedule, the sequence of work and/or duration shall be revised by CONSULTANT through concurrent operations, additional staffing or overtime, until the resultant schedule indicates that all significant project completion dates shall be met. If during the course of the work, CONSULTANT falls behind in overall performance in accordance with the current schedule, a project management meeting will be called to determine the cause. If cause is found to be due to CONSULTANT performance, payment to CONSULTANT may be withheld pending the submittal of an action plan outlining the steps which will be taken to correct the identified delay(s). The initial Project Master Schedule, referenced in Section 3.1-2, as agreed to by Authority shall become the project.

The target schedule shall be displayed on the updated Project Master Schedule.

Deliverables:

- Monthly Progress Report

3.1-4 Design Quality Management Plan

CONSULTANT shall prepare, implement and maintain a Design Quality Management Plan (DQMP) throughout the services under this Agreement. The DQMP will establish Quality Assurance (QA) and Quality Control (QC) processes and procedures; describe how the quality of the work products will be managed to minimize or eliminate errors and omissions; ensure that all design reports, studies, plans, specifications, quantities, estimates and other design documents are complete, accurate, consistent, checked, and reviewed; and will be prepared to an acceptable quality of the Authority.

The Authority encourages a commitment to quality throughout the preparation of Plans, Specifications & Estimates (PS&E) for the project.

At a minimum, the DQMP shall address the following:

1. Quality Commitment: management commitment and message to achieve a quality culture and promote quality practices throughout the project delivery process.
2. Project Initiation and Early Activities: Ensure that the proper design criteria, guidelines, standards, specifications, directives, etc. are properly implemented throughout the entire Design Team at all times. Ensure that all field activities use equipment that is properly maintained and calibrated in accordance with the manufacturer's guidelines.

3. Constructability and Biddability: Commit a qualified Construction Management professional(s) to the project who will lead constructability and biddability reviews for the duration of the project including performing reviews at all milestone submittals.

4. QA Manager: Commit a QA Manager to the project who is qualified to implement the DQMP and oversee the DQMP compliance and conformance of the entire project team, conduct internal surveillances and audits of the entire design team, monitor quality performance, identify when and where corrective action is required, follow up on corrective action to ensure compliance, and actively engage in the Authority surveillances and audits. QA Manager shall identify critical reviews in the Project Master Schedule.

5. QC:

a. Provide the QC Processes for checking and reviewing design documents. A discipline review shall precede the inter-discipline review but the constructability review may be sequential with the inter-discipline review. Should design documents be reviewed using electronic commenting tools, they should identify the reviewer (person making comment), date/time of comment, and if possible, the resolution.

b. Provide QC Procedures for complete and independent checking, back checking, correction and verification of all types of calculations, drawings, reports, specifications, quantities and estimates. Establish an appropriate means to avoid conflicts and misalignments between existing facilities and proposed improvements. Provide checklists and ensure use when performing the quality control reviews.

c. Maintain a communication plan and a project organization chart to adequately and consistently interface with the internal development of the design within all disciplines of work and all external stakeholders.

d. Maintain a review comment tracking system that encourages complete resolution of all comments and prevents any review comment from not being resolved.

e. Maintain and Action Item Register from the beginning of the project throughout the completion of the approved final design.

f. Maintain a Risk Identification, assessment and mitigation log from the beginning of the project. Note all design assumptions as a risk on the log and consider each risk as part of the contingency planning.

6. QA:

a. Each deliverable shall be verified and certified by the QA Manager and Project Manager as being prepared and checked in accordance with the approved DQMP. A QA Certification shall accompany each submittal.

b. Identify critical path items and critical reviews in the Project Master Schedule.

c. The QA Manager shall demonstrate that he/she is qualified to implement the DQMP.

7. Document Control:

- a. Establish an electronic Document Management System that will be used to maintain and store project files and quality records. Define who will maintain the files and how subconsultants will have access, if they have access.
 - b. Drawing quality records shall be marked clearly as being checked, signifying that the preparation of the work products followed the DQMP established for the project.
 - c. Quality records and documentation shall be maintained and provided to Authority upon request. CONSULTANT shall provide an itemized list of submittal documents, a schedule of the quality control activities and a design change control log, when requested.
 - d. Maintain interface documentation, meeting notes and correspondence.
 - e. Establish a Resident Engineers file containing critical elements such as Survey files, Permitting information, Structures details, Cost Estimate backup, Right-of-Way and Utility agreements, etc.
8. Demonstrate how Project Management, production and Quality Management will cooperate with and participate in QA surveillances, audits and other monitoring performed by Authority. Provide documentation to Authority in advance of any planned QA surveillance or audit, as requested.
9. Implementation and Training: Ensure that CONSULTANT and subconsultant staff are trained to properly implement, execute and maintain the approved DQMP processes and procedures. Maintain a training log of materials and attendees.

Within 30 days of receiving the Notice to Proceed, CONSULTANT shall submit a complete DQMP for review and approval by the Authority and Caltrans. The DQMP should identify if Subconsultants have their own DQMP that they will follow for their work. The CONSULTANT DQMP must be approved prior to all submittals.

Deliverables:

- Hard copies and an electronic copy of the DQMP

3.1-5 Project Management Plan

CONSULTANT shall prepare a Project Management Plan. Within thirty (30) days of receiving Notice to Proceed, CONSULTANT shall prepare a Project Management Plan for this PS&E, including a Communication Plan and a Risk Management Plan.

Deliverables:

- Project Management Plan

3.2 TASK 2 – 35% PS&E

3.2-1 Data Collection

CONSULTANT will collect existing topographic maps, as-built drawings, reports, and other available materials. CONSULTANT will request data from the cities of Anaheim and Orange, Caltrans, the County, and other agencies, as appropriate.

Deliverables:

- As-built drawings, reports, and other records

3.2-2 Permit Applications

CONSULTANT will prepare permit applications and secure encroachment permits for surveying, geotechnical investigations, and construction. Possible permits required for this project include:

- City and State Encroachment Permits
- National Pollutant Discharge Elimination System (NPDES) General Construction Activity Stormwater Permit
- Environmental clearance permits for construction as needed per the Final Project Report and Environmental Document. Although this project will award two separate contracts for two different segments, only one permit application will be submitted to each permitting agency. The environmental permits will be prepared by the Segment 2 and coordinated amongst both segments.

Deliverables:

- Prepared Permit Applications
- Secure all required permits

3.2-3 Geometric Workshop

CONSULTANT will conduct a workshop with Caltrans District 12 staff, the Caltrans Safety Review Committee representatives, the geometric reviewer, Caltrans District 12 District Design Liaison and Caltrans Headquarters Project Development Coordinator (if needed) and City staff to present and obtain consensus on the geometrics for proposed project design for the assigned segment. CONSULTANT will identify and clarify any major non-standard features.

Overhead sign and message concepts will be evaluated in conjunction with the refined geometry and will be provided for review as part of geometric workshop.

Deliverables:

- Collateral Materials for Geometric Workshop

3.2-4 Supplemental Design Standard Decision Document

CONSULTANT will prepare supplemental Design Standard Decision Document for non-standard design features not included in Design Standard Decision Document approved in the PA/ED phase of this project.

Deliverables:

- Supplemental Design Standard Decision Document(s)
- Project Engineer's reasoning for all permissive non-standard design items

3.2-5 Design Surveys

CONSULTANT will perform design surveys during this phase. Authority may provide recent photogrammetric mapping in English units. New mapping is anticipated. CONSULTANT will obtain the necessary permits to perform aerial topographic mapping for the entire corridor that will be coordinated amongst both segments. The aerial topographic mapping will cover all areas of the proposed improvements and provide sufficient data to support preparation of the PS&E. Topographic mapping will be provided from aerial photogrammetry. Design-level topography will be compiled at a scale of 1"= 50' with two (2) foot interval contours in accordance with Caltrans Photogrammetric Mapping standards. In accordance with the Department's "Required Materials to Review Consultant Photogrammetric Mapping" document (available at the Department's district office), submittals to the District Photogrammetry Coordinator at the Caltrans District Office for review and approval shall include but not be limited to: flight planning, ground control, aerotriangulation, final map compilation and photo index map delivery. Mapping will meet the latest requirements in "ASPRS Accuracy Standards for Large Scale Maps" and will be provided in Microstation format including a digital terrain model (DTM), and color digital ortho-rectified imagery with 0.5' pixel resolution. Field quality control surveys will be run and analyzed to demonstrate surveying and mapping conformance to Caltrans accuracy standards and specifications. Said quality control surveys shall be provided to the District photogrammetry coordinator for review.

Caltrans shall designate the existing horizontal and vertical control monuments that are to be the basis of CONSULTANT performed surveys. Caltrans shall provide the California Coordinate System values and/or elevation values for these monuments. CONSULTANT shall adjust CONSULTANT performed surveys to the designated control monuments and their values. No other control shall be used by CONSULTANT.

The limits of topographic mapping assumed for this scope of work extend from Interstate 405 to just north of Yale Avenue, to a width of 300 feet from the R/W line in each direction. Similarly, topographic mapping will extend along the local streets and interchanges where improvements are included as depicted in the Project Report and Environmental Document for the project.

Upon receipt of the Survey Control Data from Caltrans, CONSULTANT shall verify the physical existence of the Monument Control Points and, if necessary, reestablish such Control Points.

CONSULTANT will perform detailed field surveys of existing street and drainage

features. The Surveys Manager will coordinate with the Design Engineer to establish limits of work. Cross sections and tie-in surveys will ensure accurate design fit and smooth transitions from existing roadway and infrastructure features. CONSULTANT will verify survey results and then transmit them in MicroStation 3D DGN and DTM formats, along with ASCII point and station-offset files of all field survey ties. All work and files will be based on project coordinate control and in accordance with Caltrans Surveys and Right-of-Way Manuals, and Caltrans District 12 R/W Engineering Requirements for the Preparation of Documents and Maps.

CONSULTANT will survey Geotechnical Boring locations to verify these locations (see Task 3.2-6 Geotechnical Exploration Plan).

CONSULTANT will survey locations of utility test holes (see Task 3.2-11 Utilities) and overhead utility lines that cross the improvements or near any pile construction locations.

Deliverables:

- Aerial Topographic Mapping Base File
- Design surveys

3.2-6 Geotechnical Exploration

CONSULTANT will prepare and submit a geotechnical review and exploration plan for the Authority and Caltrans review. CONSULTANT will obtain permits-to-enter prior to exploration. CONSULTANT will conduct subsurface investigation and evaluate the results in accordance with Caltrans testing criteria. CONSULTANT will analyze the results and present them in the geotechnical report (see Task 3.3-9a Geotechnical Design Report).

A Water Pollution Control Plan will be prepared by CONSULTANT to accompany the Caltrans encroachment permit.

Deliverables:

- Geotechnical Exploration Plan
- Permits-to-enter
- Water Pollution Control Plan

3.2-7 Roadway Plans

CONSULTANT will prepare 35 percent level layouts, profiles, superelevation diagrams, typical sections, and R/W requirements for the assigned segment. All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- 35% Roadway Plans – 10 sets
- Sign and lighting Concept strip map

3.2-8 Preliminary Foundation Report

To assist in Structure Type Selection, CONSULTANT will prepare a Preliminary Foundation Report, in accordance with Caltrans Office of Structural Foundations requirements. This report shall include a summary of the exploration program, description of the site geotechnical issues, and recommendations for foundation design and construction including retaining walls, if appropriate.

Deliverables:

- Preliminary Foundation Report

3.2-9 Structure Type Selection

CONSULTANT will prepare the Structure Type Selection documents for bridges and special design retaining walls. Structure General Plans to comply with the most current Caltrans guidelines.

The Type Selection Report will include a discussion of foundation and falsework requirements, seismic and aesthetic considerations, traffic handling requirements and alternatives, and construction cost and staging. In addition, CONSULTANT will develop an order-of-magnitude construction cost estimate. Anticipated construction methods will be identified in the Type Selection process and coordinated with the project geometry.

CONSULTANT will submit Type Selection documents to the Caltrans Office of Special Funded Projects (OSFP) for review and approval.

Deliverables:

- Bridge Type Selection Reports
- Special Design Retaining Walls

3.2-10 Structure Type Selection Meeting and Approval

CONSULTANT will attend a Type Selection review meeting at Caltrans Headquarters in Sacramento to finalize structure type, foundations, seismic design, aesthetics, and traffic handling plans.

CONSULTANT will summarize and submit meeting proceedings to the liaison engineer within one week for written Type Selection approval. The meeting summary may update or supplement the Type Selection Report.

Deliverables:

- Type Selection Meeting Minutes

3.2-11 Utilities

CONSULTANT will coordinate and work closely with the public agencies and utility companies to determine the need to relocate impacted facilities, using Caltrans policy for high- and low-risk utilities. It is assumed the utility companies will perform relocation design for their own facilities and the CONSULTANT will coordinate with the utility companies to ensure the latest proposed utility relocation design is correctly identified on the plans and specifications, as needed. CONSULTANT will perform test holes of existing high- and low-risk utilities that are within fifty (50) feet of the proposed improvements or cross the improvements, and prepare and distribute utility base maps to affected utility owners for confirmation and determination of any needs for relocations.

If necessary, CONSULTANT will conduct a utility relocation feasibility study to evaluate existing systems and optimize relocations. CONSULTANT is responsible for coordinating electrical service points of connection with the electrical utility company. A test hole location map will be prepared summarizing the planned test hole locations. Any required agency encroachment permits and traffic control plans will be prepared by the CONSULTANT.

If utilities are required to be relocated, the Authority's R/W Utility Coordinator will provide the prior rights determination and prepare the utility relocation documents (Relocation Claim Letters, Reports of Investigation, Notice to Owners, Utility Agreements, Joint Use Agreements, Consent to Common Use Agreements). The R/W Utility Coordinator will also be responsible for all coordination with the utility companies for cost liability and relocation schedules.

CONSULTANT shall prepare Independent Cost Estimate (ICE) to support utility relocations required for the PROJECT.

Deliverables:

- Utility base maps
- Utility conflict maps with test hole information
- Utility conflict matrix
- Utility plan sheets
- Independent Cost Estimates

3.2-12 Hazardous Waste

CONSULTANT shall address hazardous soil contaminants (aerially deposited lead [ADL]) and structural materials (polychlorinated biphenyls [PCBs], mercury, lead-based paint [LBP]) that may be encountered during project construction. Asbestos containing materials (ACM) related to buildings and private properties will be addressed by the Authority's right-of-way consultant. In addition, there is a potential that gasoline-impacted soil could be encountered during excavation activities near or at several properties throughout the project limits. Following the

completion of Preliminary Site Investigations at these properties in the PA/ED phase, it is possible that Detailed Site Investigations will be required during the PS&E phase.

Deliverables:

- Work plan, report, plans and specification for handling of ADL soil
- Work plan, report, and specifications for survey of PCB at transformers
- Specification for the handling of potential contamination of PCB at transformers
- Work plan, report, and specification for handling asbestos, LBP, and PCB/mercury/chlorofluorocarbon (CFC) containing equipment on building structures that are located within parcels that will be acquitted
- Work plan, report, and specification for Detailed Site investigation at properties with potentially contaminated soil (if needed)
- Hazardous Materials Disclosure Document – Acquisition (Env-0001-A) Form for each parcel and Request for Acquisition of Contaminated Property (Env-002) Form (if needed)

3.2-13 Conceptual Landscape and Structure Aesthetics Plan

CONSULTANT will prepare conceptual aesthetic treatment plan for retaining walls, structures, and any soundwalls.

CONSULTANT will prepare a concept landscape plan at a scale of 1"=50' depicting planned replacement planting disturbed by the grading and construction limits. Planting will be based on the Authority's Master Plan of Freeway and Transit Corridor Enhancements. This task will also include research and investigation of existing features, field review, attendance at landscape concept coordination meetings, and preliminary cost estimate preparation. The primary purpose of this task will be to establish general landscape parameters for purposes of designing the backbone irrigation system to be constructed by the Highway contract. The Highway Planting and Irrigation System to be constructed by the Highway Planting contract will be a separate PS&E package as described in Section 3.3-7 in this scope of work.

Deliverables:

- Conceptual Aesthetics Treatment Plan
- Concept Landscape Plan

3.2-14 Lighting Concept Strip Maps

CONSULTANT will prepare Lighting Concept Strip Maps at a scale of 1"=50' depicting locations for all lighting that are part of the project. This task will also

include research and investigation of existing lighting, field review, attendance at lighting concept coordination meetings, and preliminary cost estimate preparation. The primary purpose of this task will be to establish general lighting parameters for purposes of designing the lighting system to be constructed by the Highway contract.

Deliverables:

- Conceptual Lighting Concept Strip Maps

3.3 TASK 3 – DRAFT PS&E (65%) SUBMITTAL

3.3-1 Roadway Plans

CONSULTANT will incorporate all reviewing agency comments from the 35% submittal into the roadway plans and estimates. Where it is not possible or desirable to incorporate certain comments, CONSULTANT will provide an explanation. Electronic copies will be included with the 65% submittal. Material with Aerially Deposited Lead (Existing and Placement) will be prepared as part of the Construction Details plan sheets as required by the Aerially Deposited Lead Report.

CONSULTANT will also submit final plans for Caltrans Safety Review and participate in the safety review/disposition meeting. CONSULTANT will provide status of incorporation of plan and specification features in accordance with the Environmental Commitments Record.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Title Sheet – 10 sets
- Typical Cross Sections - 10 sets
- Key Map and Line Index - 10 sets
- Layout Plans – 10 sets
- Profiles and Superelevation Diagrams – 10 sets
- Construction Details – 10 sets
- Contour Grading – 10 sets
- Summary of Quantities - 10 sets

3.3-2 Drainage Plans

CONSULTANT will prepare a drainage report to address the existing drainage condition and the proposed mitigation and design. This report shall consider both

onsite and offsite systems. CONSULTANT will prepare drainage plans, profiles, and quantities based on the drainage report. To address storm water quality (NPDES & Caltrans) requirements, consultant shall prepare a Storm Water Data Report (SWDR). The drainage, SWDR, temporary water pollution control, and erosion control plans will be prepared in accordance with Caltrans Standard Drainage Plans and Quality Sheets guidance. CONSULTANT shall also prepare temporary drainage plans where needed.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Drainage Report – 10 copies
- Drainage Plans, Profiles, Details, and Quantities – 10 sets
- Storm Water Data Report -10 copies
- Water Pollution Control Plans – 10 sets
- Temporary Drainage Plans – 10 sets
- Erosion Control Plans – 10 sets

3.3-3 Stage Construction, Traffic Handling, Detour, and Construction Area Sign Plans, and Management Plan (TMP)

The objective of the TMP is to provide continuous traffic circulation and access, with adequate space for safe and efficient construction.

The CONSULTANT will develop a traffic management plan (TMP) that includes elements specific to the segment being designed and coordinated amongst both segments for consistency. The TMP addresses traffic detours and traffic operations during the construction phase. The TMP will be coordinated with the impacted cities, Caltrans, and other stakeholders, including the California Highway Patrol. Stage Construction and Detour Plans will include construction detour routes. Traffic studies conducted as part of the final environmental document process should be reviewed in advance of developing the TMP to ensure that any specified mitigation is incorporated.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Transportation Management Plan – 10 copies
- Stage construction and traffic handling/detour plans, profiles, details, and quantities – 10 sets

- Detour layouts, profiles, and super elevation diagrams – 10 sets, as required
- Construction area signs – 10 sets

3.3-4 Pavement Delineation Plans

CONSULTANT will prepare pavement delineation plans to identify locations of painted and thermoplastic stripes and markings, pavement markers, and delineators.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Pavement Delineation Plans, Details, and Quantities – 10 sets

3.3-5 Sign Plans

CONSULTANT will prepare Sign Plans to show existing and proposed new signs. The plans will include sign details and quantity sheets. Overhead sign structures shall be designed based on the locations shown on the 35% Sign Concept Strip Maps.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Sign Plans, Details, and Quantities – 10 sets

3.3-6 Electrical Lighting, Traffic Signal, Ramp Metering, Traffic Monitoring, and Communication System Plans

CONSULTANT will prepare plans for safety lighting (Caltrans and City), traffic signal, ramp metering, traffic monitoring stations, CCTV and communication systems. CONSULTANT will coordinate with Caltrans to ensure that ramp meter and electrical designs will accommodate future traffic monitoring features within the project limits. Freeway Lighting shall be designed based on the locations shown on the 35% Lighting Concept Strip Maps.

CONSULTANT will identify and prepare plans for temporary highway lighting and temporary/staged electrical/communication systems (e.g. ramp metering, traffic monitoring stations, CCTV, changeable message signs and fiber optic communication) that maintain existing highway safety lighting and maintain the communication of traffic information to the Traffic Management Center throughout all stages of construction. Temporary traffic signal plans will be prepared if the

stage construction/traffic handling significantly affects the traffic movements through the intersection, of if a temporary detour route warrants a temporary traffic signal.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Lighting Plans and Details – 10 sets
- Ramp Metering Plans and Details – 10 sets
- Traffic Signal Plans and Details -10 sets
- Traffic Monitoring System – 10 sets
- CCTV and Communication System – 10 sets
- Changeable Message Sign System – 10 sets
- Electrical Services (Irrigation) System – 10 sets
- Temporary Electrical Plans – 10 sets

3.3-7 Planting and Irrigation Plans

CONSULTANT will prepare planting and irrigation plans to include replacement planting and irrigation in those landscaped areas disturbed by construction. Specimen trees will replace any mature trees that are removed by the project. The determination of the size and quantity of the replacement trees will be by the District 12 Landscape Architect. If it is determined that the cost for highway planting and irrigation will exceed \$200,000, a separate highway planting contract for construction will be required. The contract documents will include all that is needed for a standalone PS&E for Caltrans to bid the highway planting as a separate contract.

CONSULTANT will prepare Erosion Control and Maintain Existing Highway Planting Plans, and Irrigation Plans for the appropriate permanent backbone irrigation system and temporary irrigation systems for the Highway construction contract.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Highway Planting and Irrigation Plans and Details – 10 sets
- Erosion Control and Maintain Existing Highway Planting Plans, and Irrigation Plans (Highway contract) – 10 sets

3.3-8 R/W Engineering Services

R/W Engineering Services will be required as described in the sections below.

3.3-8a Location

Establishment of the existing R/W for I-5 as defined by the project limits. All boundary establishment shall be documented on a Before Condition Record of Survey per section 3.3-8c-4 below.

Various Partial Fee, Permanent Easements and Temporary Construction Easements will be needed throughout the entire length of the project limits. All acquisitions - shall be documented on R/W Maps per section 3.3-8c-6 below.

3.3-8b References

- Ref 1. Caltrans R/W Manual (with special attention to Chapter 6 - R/W Engineering)
- Ref 2. Caltrans Surveys Manual
- Ref 3. Caltrans Plans Preparation Manual, Chapter 4 – Right of Way Engineering
- Ref 4. Caltrans District 12 R/W Engineering Requirements for the Preparation of Documents and Maps
- Ref 5. Caltrans District 12 R/W Engineering CADD Standards
- In the event of conflict between Ref 1, 2, 3 and Ref 4, 5 - the latter shall prevail.

3.3-8c Activities

In compliance with the above references and as project needs dictate, CONSULTANT shall perform the following:

3.3-8c-1 Perform Record Data Search

Search ownership of impacted properties, analyze ownership deeds, field notes, and survey maps contained in State, County, and City files.

3.3-8c-2 Obtain Title Reports

Obtain title reports for all parcels impacted by proposed R/W requirements. Obtain updated title reports prior to the approval of the R/W Appraisal mapping.

3.3-8c-3 Perform Land Net Recovery and Field Ties

Field and related survey effort necessary to search, recover, describe, and tie-in controlling land survey monuments. (See "State R/W Boundary Establishment" Ref 4)

3.3-8c-4 Prepare Land Net Map - "Before Condition" Record of Survey

This activity is required by the Professional Land Surveyors Act and involves the production and filing of the "Before Condition" Record of Survey. (See "Records of Survey" Ref 4)

3.3-8c-5 Perform Monument Perpetuation Surveys

This activity is required by the Professional Land Surveyors Act and includes:

- Preparation of lists of monuments threatened with destruction.
- Referencing threatened monuments with tie-outs for perpetuation through construction.
- Setting replacement monuments after construction to effect said perpetuation.

All reset replacement monuments shall meet the requirements described below under the activity "Final Monuments".

The "Before Condition" Record of Survey (See "Records of Survey" Ref 4) shall be the instrument on which tie-outs are documented prior to construction. In the cases where swing ties or tangent over ties are the method of tie-out, each monument tied out using these methods shall clearly be shown as a separate "Detail" on the "Before Condition" Record of Survey.

3.3-8c-6 Prepare Right of Way Maps

Prepare various types of R/W Maps (See Ref 1 and Ref 3) as dictated by project need. (Also see "R/W Maps" Ref 4). Various types of R/W Maps may include but are not limited to:

- R/W Requirements Maps (PD-26 Maps)
- Appraisal Maps
- R/W Record Maps

3.3-8c-7 Prepare Acquisition Documents

Prepare property acquisition documents (See "Legal Descriptions &

Exhibits" Ref 4). The documents include deeds (deed jackets, legal descriptions, and plat maps) for permanent rights and temporary construction easements.

Prepare deeds for the conveyance of R/W to Caltrans, public entities and utility companies for the closeout of the project.

3.3-8c-8 Prepare Parcel Files

For each impacted property, prepare a parcel file. (See "Parcel Files" Ref 4).

3.3-8c-9 Right of Way Design Support

To support acquisition of R/W requirements, CONSULTANT shall prepare R/W exhibit ("cut-sheets") per impacted parcel that displays the R/W needs on both aerial photo and design topography, Cover Letters that describe the TCE needs in detail, and coordinate with Caltrans Design on the preparation of PD-26 packages for R/W Appraisal Maps. CONSULTANT shall participate in R/W workshops with the AUTHORITY.

Perform field staking of R/W requirements on properties upon request. CONSULTANT shall coordinate with Caltrans Right of Way Engineering for the review of R/W appraisal mapping and legal descriptions for approval.

Deliverables:

- Record of Survey
- Title Reports
- PD-26 R/W Requirement Maps
- R/W exhibits (Cut Sheets)
- Appraisal Maps
- Cover Letters
- Parcel Files
- Deeds

3.3-9 Geotechnical and Foundation Reports

3.3-9a Geotechnical Design Report (GDR)

CONSULTANT will prepare a report discussing the geotechnical design basis of the project and recommendations for design and construction of standard earth retaining structures, cut, and fill slopes, pavement, and drainage facilities. This report will be submitted to Caltrans for review. CONSULTANT will address any comments stemming from this review and prepare a final draft. All calculations supporting the design

recommendations will be included as an appendix to the GDR. The report will include infiltration testing for any potential BMP infiltration basins.

Deliverables:

- Draft/Final Geotechnical Design Reports

3.3-9b Foundation Reports for Structures

CONSULTANT will prepare a Foundation Report based upon Type Selection comments and additional information from the GDR analyses. Logs of test borings will be included as 11-inch by 17-inch plans. A Foundation Report will be prepared for bridges, special design retaining walls, and stand-alone overhead sign structures and traffic signals.

Deliverables:

- Draft/Final Foundation Reports

3.3-9c Materials Report

CONSULTANT shall prepare a report discussing the pavement structure recommendations and/or pavement studies for the project. This report shall be submitted to Caltrans for review. CONSULTANT shall address any comments stemming from this review and prepare a final draft. All calculations supporting the recommendations shall be included as an appendix to the Materials Report.

Deliverables:

- Draft/Final Materials Reports

3.3-10 Bridge and Special Design Retaining Wall Plans (Unchecked Details)

CONSULTANT will prepare bridge and retaining wall layout plans, profiles and structural details for modifications of bridges and special design retaining walls specified along the project route. Plans will incorporate aesthetic details consistent with the Conceptual Aesthetics Treatment Plan.

Bridge design will be in accordance with Caltrans Seismic Design Criteria, Bridge Design Specifications, Memos to Designers and Bridge Design Details Manual. Details and construction specifications will be prepared in accordance with Caltrans Standard Plans, Standard Specifications, and Standard Special Provisions.

CONSULTANT will Update the bridge General Plans estimate to verify its ongoing validity.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Unchecked Structure Plans – 10 reduced sets
- Electronic copy of Unchecked Structures Plans
- Updated Structures Cost Estimate

3.3-11 Retaining Wall Plans

CONSULTANT will prepare retaining wall layout plans, profiles and structural details for the walls specified along the project route. Plans will incorporate aesthetic details consistent with the Conceptual Aesthetics Treatment Plan. CONSULTANT will prepare draft technical special provisions for the soundwalls. All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Retaining Wall Plans, Details and Quantities – 10 reduced sets

3.3-12 Soundwall Plans

CONSULTANT will prepare soundwall plans and details for proposed soundwalls (if any) specified in the assigned segment. Coordination with the adjacent segment is required. CONSULTANT will prepare draft technical special provisions for the soundwalls.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Soundwall Plans, Details and Quantities – 10 reduced sets

3.3-13 Utility Plans

CONSULTANT will prepare and update the utility conflict maps as a result of the coordination, reviews and potholing done during the 35% PS&E. Again, it is assumed the utility companies will perform relocation design for their own facilities. CONSULTANT shall review relocation plans prepared by utility owners to verify compatibility with the project, as well as other utility plans. CONSULTANT shall respond in writing to Authority either confirming approval or non-approval of the relocation plans to the project and reasons therefore. CONSULTANT shall update the utility plan sheets to show the disposition of each utility on the project. Disposition shall include the utility company name, facility type, original location and proposed location for each utility.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Updated Utility conflict maps with test hole information
- Updated Utility Conflict Matrix for all utilities within project limits
- Updated Utility Plan Sheets

3.4 TASK 4- INITIAL PS&E (95%) SUBMITTAL

3.4-1 Update Roadway Plans

This submittal will include comments, reviews, coordination efforts, and updated information. CONSULTANT will update all Roadway Plans and will provide Quantity Sheets with updated Special Provisions and BEES estimate. Any Revised and/or New Standard Plans developed by Caltrans shall be included with CONSULTANT's Roadway Plan submittal. Response and resolution of all review comments for each deliverable from 65% submittal will take place prior to 95% submittal. All roadway quantities shall be independently checked, and all issues raised by independent quantity checker(s) will be resolved prior to the submittal. The estimate will reflect checked and resolved quantities.

CONSULTANT shall review unit price cost assumptions which comprise project cost estimate with Authority. Any discrepancies in unit price costs between Authority and CONSULTANT shall be resolved through a joint review meeting. All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- 95 percent Roadway PS&E – 10 sets
- 95 Percent Quantities and Independent Check Calculations – 2 sets

3.4-2 Bridge and Special Design Retaining Wall Plans

CONSULTANT will independently review the unchecked plans, draft special provisions, quantities, and construction cost estimate for bridges and special design retaining walls. CONSULTANT's independent review team will analyze the structures, verify member capacities, review the special provisions, and prepare independent quantity calculations. All issues raised by the checkers will be resolved with the structural designers. The final design will reflect agreement among the designers and independent checkers.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Checked structure plans, reduced size – 10 sets
- Edited structures special provisions – 2 copies
- Design calculations – 1 set
- Design Independent check calculations – 1 set
- Quantities and check calculations – 2 sets

3.4-3 Construction Schedule

CONSULTANT will prepare a Critical Path Method (CPM) construction schedule in consultation with the Authority Construction Manager and Caltrans based on the estimated required working days for project construction.

Deliverables:

- CPM Schedule Printout and electronic copy
- 3.4-4 Utility and R/W Update

CONSULTANT will verify and update utility and R/W engineering data.

Deliverables:

- Report containing all updated utility and R/W engineering data with changes clearly identified

3.4-5 Update SWDR

CONSULTANT will update the Storm Water Data Report (SWDR) and water pollution control plans based on comments received from Caltrans.

Deliverables:

- Final SWDR – 10 copies
- Updated Water Pollution Control Plans – 10 sets

3.4-6 Update Planting and Irrigation Plans

CONSULTANT shall update planting and irrigation plans to include replacement planting and irrigation in those landscaped areas disturbed by construction. Specimen trees will replace any mature trees that are removed by the project. The determination of the size and quantity of the replacement trees will be by the District 12 Landscape Architect.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Separate Highway Planting and Irrigation PS&E – 10 sets

3.4-7 Environmental Commitment Record (ECR)

CONSULTANT shall update the ECR based on changes during final design provided by the project engineer and ensure that all measures are incorporated in the final PS&E package. If there are any changes to the project design, appropriate environmental revalidation shall be prepared pursuant to NEPA and CEQA requirements.

Deliverables:

- Environmental Revalidation
- Environmental commitment tracking system
- Updated ECR
- Draft and Final report on project compliance

3.4-8 Update TMP

CONSULTANT will update the TMP based on comments received from Caltrans.

Deliverables:

- Transportation Management Plan – 10 copies

3.4-9 Railroad Coordination / C&M Agreement or Service Contract

CONSULTANT will assist in the coordination of the following agreements with Southern California Regional Rail Authority (SCRRA):

- Railroad Construction and Maintenance (C&M) Agreement:

CONSULTANT will assist in the coordination of the C&M agreement between the Authority and SCRRA including review and comment on the project scope, schedule, costs, easements and exhibits.

- SCRRA Right-of-Entry Coordination:

CONSULTANT will coordinate with SCRRA to obtain the right-of-entry agreements for the survey and design work. This will include obtaining agreements from SCRRA, coordinating flagging, and coordinating site access.

Deliverables:

- Assist in coordination of C&M Agreement or Service Contract

3.5 TASK 5 – FINAL PS&E (100 PERCENT) SUBMITTAL

3.5-1 Roadway Plans, Structure Plans, Special Provisions, Cost Estimates, and Working Day Schedules

CONSULTANT will submit the Final PS&E package to Caltrans District Office Engineer and Office of Special Funded Projects (OSFP) for final approval. CONSULTANT will also submit final plans for Caltrans Safety Review and participate in the safety review/disposition meeting. CONSULTANT will provide status of incorporation of plan specifications features in accordance with the Environmental Commitments Record. The submittal will incorporate review comments from all involved agencies and include all completed forms in the Construction Contract Development (CCD) Guide.

All plans, specifications, estimates and reports should be in electronic format for review. The Authority reserves the right to request hard copies of any document for review or approval.

Deliverables:

- Final Roadway PS&E – 10 sets and 2 electronic files
- Final Quantities and Independent Check Calculations – 2 sets
- Full-size reproducible final structure plans – 1 set
- Final structures special provisions – 4 sets
- Prints of final structure plans – 4 sets; Cost estimates – 2 copies
- Working day schedules – 2 copies
- Original/checked quantity calculations – 2 copies

Deliverables to Office of Special Funded Projects (OSFP):

- Full-size reproducible final structure plans – 1 set
 - Final structures special provisions – 4 sets
 - Prints of final structure plans, reduced size – 4 sets
- In addition, CONSULTANT will provide electronic version of all plans, special provisions, estimates and schedules. The final BEES will be provided as a Microsoft Excel file

3.5-2 Resident Engineer File

CONSULTANT will meet with the Resident Engineer (RE) and functional units and provide the following information for the RE file. This list is not comprehensive and CONSULTANT shall provide additional information as appropriate:

- Permits
- Surveying Notes
- Geotechnical (GDR) and Foundation (FDR) Reports
- Hydrology/Hydraulics Report and calculations
- Relevant correspondence and memoranda
- Engineering calculations (horizontal and vertical alignments, earthwork quantities, etc.)
- Environmental Agreements and Reports
- Summary and discussion of Environmental issues
- Transportation Management Plan and supplements
- Material Handouts
- Storm Water Data Report
- Right-of-Way Maps and Agreements
- Utility Relocation Plans and Agreements
- Safety Review Report
- List of Project Personnel

- Cooperative Agreements
- Working Cross Sections
- Bridge four-scale plans – 3 sets

CONSULTANT will provide an electronic version of all RE file information.

Deliverables:

- Resident Engineer (RE) file

3.5-3 Survey File

CONSULTANT will prepare materials and compile documentation to be included in a Survey File for use by the lead surveyor assigned to this project prior to construction. The following documentation will be included in the Survey File as prescribed by the Project Development Procedures Manual (PDPM) Appendix QQ – Preparation Guidelines for Survey Files, but not limited to:

- Contact List
- Datum Listing
- Project Reference List
- Additional Instructions
- Contract Plans
- Project Control
- Topography & Base Maps
- Horizontal & Vertical Alignments
- Profiles
- Cross Sections – Roadway cross-sections at 50' intervals. The cross sections will depict only the finished surface, pavement subgrade and original ground generated from the DTM files and will be identified by station interval. Additive information such as elevation callouts, curbs, dikes, wall cross-sections, right of way lines, ditch cross-sections, etc. will not be shown on the cross-sections.
- Slope Staking Notes/Grid Grades
- Right of Way Appraisal Maps
- Right of Way Coordinate Geometry
- Right of Way Monument Perpetuation Documentation
- Structural Systems (Walls)
- Structural Systems (Bridges)
- Drainage Systems
- Digital Design Model

CONSULTANT will submit the Survey File electronically to the Caltrans District Office Engineer.

Deliverables:

- Survey File

3.5-4 Materials Handouts

CONSULTANT will prepare materials handout information per Caltrans HDM, Section 111.3 Materials Information Furnished to Prospective Bidders.

Deliverables:

- Material Handouts

3.5-5 Paleontological Mitigation Plan (PMP)

CONSULTANT will prepare a Paleontological Mitigation Plan consistent with Caltrans and County requirements. The PMP will be implemented during excavation activities.

Deliverables:

Paleontological Mitigation Plan (PMP)

3.6 TASK 6 – CONSTRUCTION BIDDING PHASE

Bidding procedures will be the responsibility of Caltrans. In addition, Caltrans will:

- Advise the CONSULTANT of listing dates.
- Inform CONSULTANT of all issues and inquiries list and responses.
- Provide CONSULTANT with bid results and summary sheets for their review.

During bid advertisement of the project, CONSULTANT will refer all questions concerning the intent to Caltrans for resolution. In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, CONSULTANT will inform Caltrans. Caltrans will advise CONSULTANT regarding the proper procedure required for analysis of said items. Any necessary corrective action will either be in the form of an addendum prepared by CONSULTANT and issued by Caltrans, or via a covering change order after the award of the construction contract.

3.6-1 Pre-Bid Meeting

CONSULTANT will attend the pre-bid meeting.

3.6-2 Respond to Inquiries

CONSULTANT will draft responses to bidders' inquiries as requested by the District Office Engineer. All such responses will be routed through the District Engineer.

Deliverables:

- Draft Bidder Inquiry Responses (hard copy and electronic in MS Word)

3.6-3 Addenda

CONSULTANT will prepare addenda as requested by District Oversight Engineer, Office Engineer and/or Project Manager.

Deliverables:

- Copies of Addenda

3.7 TASK 7 – CONSTRUCTION SUPPORT PHASE

Construction of the project will be the responsibility of Caltrans. During the construction phase, CONSULTANT shall work closely with Resident Engineer (RE) within the budget allotted to assist and advise the RE in order to minimize construction conflicts and to expedite project completion.

3.7-1 Pre-Construction Meeting

CONSULTANT will attend the pre-construction meeting.

3.7-2 Partnering Workshop

CONSULTANT will attend a partnering workshop as requested by Caltrans.

3.7-3 Additional Drawings Due to CONSULTANT Error, Omission, or Revision

In the case of errors and/or omissions, CONSULTANT shall furnish additional and/or revised drawings necessary for corrections and change orders. Caltrans will provide a written request for such drawings and CONSULTANT will provide said drawings at no additional cost to Caltrans or Authority. CONSULTANT will also provide the original tracings of the drawings and contract wording for related change orders to Caltrans at no additional cost.

3.7-4 Shop Drawing and Submittal Review

CONSULTANT will review submittals and shop drawings. The review of shop drawings shall include structures working drawing submittals, construction contractor's submittals for substitutions, construction contractor's alternative construction approval, steel layout for structures, independent check of construction contractor submittals and others as requested by the Resident Engineer.

3.7-5 Additional Drawings at Caltrans Request

If requested by Caltrans, CONSULTANT will prepare additional drawings and change order-supporting documents. Any such additional drawings constitute extra work; therefore, prior approval from Authority is required. Any such additional engineering services, drawings, or change order documentation prepared prior to receiving the required approval will be at CONSULTANT's risk and expense.

3.7-6 Site Visits

CONSULTANT will visit the job site as requested by Authority.

3.7-7 Respond to Inquiries/RFIs

CONSULTANT will draft responses to contractor inquiries and RFIs as requested by the Resident Engineer.

3.7-8 Change Order Preparation and Review, Cost Reduction Incentive Proposal (CRIP) Reviews

CONSULTANT will review proposed change orders, draft change order language and make recommendations as requested by Resident Engineer. If said changes are necessary as a direct result of design errors and omissions, CONSULTANT shall prepare and/or review contract change orders at no additional cost.

Caltrans Responsibility

- Provide advice on any issues raised and inquiries made by Resident Engineer
- Inform Design Consultants of all field changes and Contract Change Orders (CCOs)
- Prepare and maintain as-built mark-ups in the field

3.7-9 As-Builts

CONSULTANT will be responsible for preparing as-builts plans, signed and stamped by CONSULTANT and submitted to Caltrans. Resident Engineer will provide CONSULTANT with as-built plan markups.

Deliverables:

- As-Built plans, hard copy and electronic DGN format – 1 set

3.8 TASK 8 – PROJECT CLOSEOUT

After construction, CONSULTANT will provide all final construction project records in accordance with Section 5-104 of the Caltrans Construction Manual and all other Caltrans requirements. Records shall include, but not necessarily be limited to design survey records, including legible hard copies and electronic files, recorded monumentations, and post audits. CONSULTANT shall maintain all project records in accordance with the Caltrans Uniform Filing System.

3.8-1 Develop Final Record Drawing Plans

While Caltrans is responsible for maintaining field as-built plans, CONSULTANT shall keep a similar set of plans, noting any variation between the plans and the actual construction. These marked up plans will form the basis for the development of the Final record drawing PS&E. In developing the Final record drawing PS&E, CONSULTANT shall follow all requirements specified in Sections 5-104D (1) and (2) of the Caltrans Construction Manual and submit to Caltrans no later than 60 days after construction contract acceptance by Caltrans.

3.8-2 Deliver Project Files

CONSULTANT will provide all pertinent project records to Caltrans. Documents shall be organized in accordance with the Caltrans Uniform Filing System.

3.8-3 Post Audits

CONSULTANT will assist Caltrans with the post audits, as required and requested by Caltrans.

EXHIBIT B: PROPOSED AGREEMENT

1 **PROPOSED AGREEMENT NO. C-1-3298**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5
6 **THIS AGREEMENT** is effective this _____ day of _____, 20__ ("Effective Date"),
7 by and between the Orange County Transportation Authority, 550 South Main Street, PO Box 14184,
8 Orange, CA 92863-1584, a public corporation of the State of California (hereinafter referred to as
9 "AUTHORITY"), and , , , , (hereinafter referred to as "CONSULTANT").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT to provide design and
12 construction support services for the preparation of Plans, Specifications, and Estimates for the
13 State Route 57 Northbound Improvement Project between Orangewood Avenue and Katella Avenue;
14 and

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

16 **WHEREAS**, CONSULTANT has represented that it has the requisite personnel and experience,
17 and is capable of performing such services; and

18 **WHEREAS**, CONSULTANT wishes to perform these services; and

19 **WHEREAS**, the AUTHORITY's Board of Directors authorized this Agreement on
20 _____, 20__.

21 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and CONSULTANT
22 as follows:

23 **ARTICLE 1. COMPLETE AGREEMENT**

24 A. This Agreement, including all exhibits and documents incorporated herein and made
25 applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of
26 the agreement between AUTHORITY and CONSULTANT and it supersedes all prior representations,

1 understandings and communications. The invalidity in whole or in part of any term or condition of this
2 Agreement shall not affect the validity of other terms or conditions.

3 B. AUTHORITY's failure to insist in any one or more instances upon CONSULTANT's
4 performance of any terms or conditions of this Agreement shall not be construed as a waiver or
5 relinquishment of AUTHORITY's right to such performance or to future performance of such terms or
6 conditions and CONSULTANT's obligation in respect thereto shall continue in full force and effect.
7 Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when
8 specifically confirmed in writing by an authorized representative of the AUTHORITY by way of a written
9 amendment to this Agreement and issued in accordance with the provisions of this Agreement.
10 CONSULTANT shall only commence work covered by an amendment after the amendment is executed
11 and notification to proceed has been provided by AUTHORITY.

12 **ARTICLE 2. AUTHORITY DESIGNEE**

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

15 **ARTICLE 3. SCOPE OF WORK**

16 A. CONSULTANT shall perform the work necessary to complete in a manner satisfactory
17 to AUTHORITY, the services set forth in Exhibit A, entitled "Scope of Work," which is attached to, and by
18 this reference, incorporated in and made a part of this Agreement. All services shall be provided at the
19 times and places designated by AUTHORITY.

20 B. CONSULTANT shall provide the personnel listed below to perform the above-specified
21 services, which persons are hereby designated as key personnel under this Agreement.

<u>Names</u>	<u>Functions</u>

1 C. No person named in paragraph B of this Article, or his/her successor approved by
2 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or
3 level of commitment hereunder be changed, without the prior written consent of AUTHORITY's Contract
4 Administrator.

5 D. Should the services of any key person become no longer available to CONSULTANT,
6 the resume and qualifications of the proposed replacement shall be submitted to AUTHORITY for
7 approval as soon as possible, but in no event later than seven (7) calendar days prior to the departure of
8 the incumbent key person, unless CONSULTANT is not provided with such notice by the departing
9 employee. AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt
10 of these qualifications concerning acceptance of the candidate for replacement.

11 **ARTICLE 4. TERM OF AGREEMENT**

12 A. This Agreement shall go into effect on _____, contingent upon approval by
13 AUTHORITY, and CONSULTANT shall commence after notification to proceed by AUTHORITY's
14 Contract Administrator. This Agreement shall end on _____, unless extended by amendment to
15 the Agreement, or terminated as provided hereunder.

16 B. CONSULTANT is advised that any recommendation for contract award is not binding on
17 AUTHORITY until the Agreement is fully executed and approved by AUTHORITY.

18 **ARTICLE 5. ALLOWABLE COSTS AND PAYMENT**

19 A. For CONSULTANT's full and complete performance of its obligations under this
20 Agreement and subject to the maximum cumulative payment obligation provision set forth in Article 7
21 "Maximum Obligation" AUTHORITY shall pay CONSULTANT on a firm fixed price (lump sum) basis in
22 accordance with the following provisions.

23 B. The following schedule shall establish the firm fixed payment to CONSULTANT by
24 AUTHORITY for each task set forth in the Scope of Work.

25 /

26 /

<u>Task</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1	Project Management/Coordination/Administration	\$0.00
2	35 Percent PS&E	\$0.00
3	Draft PS&E (65 Percent) Submittal	\$0.00
4	Initial PS&E (95 Percent) Submittal	\$0.00
5	Final PS&E (100 Percent) Submittal	\$0.00
6	Construction Bidding Phase	\$0.00
7	Construction Support Phase	\$0.00
8	Project Closeout	\$0.00
TOTAL FIRM FIXED PRICE (LUMP SUM) PAYMENT		\$0.00

C. The method of payment for this Agreement is based on lump sum. The total lump sum price paid CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Exhibit A entitled "Scope of Work" to this agreement. No additional compensation will be paid to CONSULTANT unless there is a change in the Scope of Work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and AUTHORITY. Adjustment in the total lump sum compensation will not be effective until authorized by amendment to this Agreement that is approved by AUTHORITY. The total firm fixed price (lump sum) as specified in Paragraph B of this Article shall not be exceeded, unless authorized by an amendment to this Agreement.

D. The overhead rate established for this Agreement is extended through the term of this specific Agreement. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds AUTHORITY's approved overhead rate set forth in this Agreement.

E. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

F. Progress payments will be made monthly in arrears based on the percentage of work completed by the CONSULTANT. If CONSULTANT fails to submit the required deliverable items

1 according to the schedule set forth in the Scope of Work, AUTHORITY shall have the right to delay
2 payment or terminate this Agreement in accordance with the provisions of Article 14 entitled
3 "Termination."

4 G. CONSULTANT shall not commence performance of work or services until this Agreement
5 has been approved by AUTHORITY and notification to proceed has been issued by AUTHORITY. No
6 payment will be made prior to approval of any work, or for any work performed prior to approval of this
7 Agreement.

8 H. For personnel subject to prevailing wage rates as described in the California Labor Code,
9 all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

10 I. CONSULTANT will be reimbursed, less any retention amount withheld, as promptly as
11 fiscal procedures will permit upon receipt by the AUTHORITY's Accounts Payable office of itemized
12 invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the
13 performance of the work for which the CONSULTANT is billing. Invoices shall detail the work performed
14 on each task/milestone, on each project as applicable. Invoices shall follow the format stipulated for the
15 approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must
16 contain the final cost and all credits due the AUTHORITY that include any equipment purchased under
17 the provisions of Article 47 entitled "Equipment Purchase" of this Agreement. The final invoice should be
18 submitted to AUTHORITY within sixty (60) calendar days after completion of CONSULTANT's work.

19 J. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments
20 corresponding to the work actually completed by CONSULTANT. Percentage of work completed shall
21 be documented in a monthly progress report prepared by CONSULTANT, which shall accompany each
22 invoice submitted by CONSULTANT. The report should be sufficiently detailed for the AUTHORITY to
23 determine, if CONSULTANT is performing to expectations, or is on schedule; or to provide
24 communication of interim findings, and to sufficiently address any difficulties or special problems
25 encountered, so remedies can be developed. CONSULTANT shall also furnish such other information
26 as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion,

1 AUTHORITY may decline to make full payment for any task listed in Paragraph B of this Article until such
2 time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully
3 completed all work required under the task. AUTHORITY's payment in full for any task completed shall
4 not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task.

5 K. As partial security against CONSULTANT's failure to satisfactorily fulfill all its obligations
6 under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice
7 submitted for payment by CONSULTANT, and shall make prompt and regular incremental acceptances
8 of portions/milestones/tasks, as determined by AUTHORITY, of the Agreement work, and pay retainage
9 to CONSULTANT based on these acceptances. The CONSULTANT, or subconsultant, shall return all
10 monies withheld in retention from a subconsultant within fifteen (15) calendar days after receiving
11 payment for work satisfactorily completed and accepted including incremental acceptances of
12 portions/milestones/tasks of the Agreement work by the AUTHORITY. CONSULTANT shall invoice
13 AUTHORITY for the release of the retention in accordance with this Article.

14 L. The prime consultant, or subconsultant, shall return all monies withheld in retention from
15 a subconsultant within fifteen (15) days after receiving payment for work satisfactorily completed and
16 accepted. Any subcontract entered into as a result of this Agreement shall contain all of the provisions
17 of this section. Federal law, CFR Title 49, Part 26.29, requires that any delay or postponement of payment
18 over fifteen (15) days may take place only for good cause and with the AUTHORITY's prior written
19 approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to
20 the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions
21 Code. These requirements shall not be construed to limit or impair any contractual, administrative, or
22 judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute
23 involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or
24 noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT
25 and subconsultants.

26 /

1 M. All retained funds shall be released by AUTHORITY and shall be paid to CONSULTANT
2 within sixty (60) calendar days of payment of final invoice, unless AUTHORITY elects to audit
3 CONSULTANT's records in accordance with Article 17 entitled "Audit and Inspection of Records", of this
4 Agreement. If AUTHORITY elects to audit, retained funds shall be paid to CONSULTANT within thirty
5 (30) calendar days of completion of such audit in an amount reflecting any adjustment required by such
6 audit. During the term of the Agreement, at its sole discretion, AUTHORITY reserves the right to release
7 all or a portion of the retained amount based on CONSULTANT's satisfactory completion of certain
8 portions/milestones/tasks. CONSULTANT shall invoice AUTHORITY for the release of the retention in
9 accordance with this Article.

10 N. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted
11 in duplicate to AUTHORITY's Accounts Payable office or may be emailed to VendorInvoices@octa.net.
12 Each invoice shall be accompanied by the monthly progress report specified in paragraph G of this Article.
13 Invoices shall be submitted no later than 30-calendar days after the performance of work for which
14 CONSULTANT is billing. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt
15 and approval of each invoice. Each invoice shall include the following information:

- 16 1. Agreement No. C-1-3298;
- 17 2. Specific task number for which payment is being requested;
- 18 3. The time period covered by the invoice;
- 19 4. Total monthly invoice by task (including project to-date cumulative invoice amount);
20 and retention amount;
- 21 5. Monthly Progress Report;
- 22 6. Weekly certified payroll for personnel subject to prevailing wage requirements;
- 23 7. Certificate signed by the CONSULTANT or his/her designated alternate that a) The
24 invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup
25 information included with the invoice is true, complete and correct in all material respects; c) All payments
26 due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to

1 subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The
2 invoice does not include any amount which CONSULTANT intends to withhold or retain from a
3 subcontractor or supplier unless so identified on the invoice.

4 8. Any other information as agreed or otherwise requested by AUTHORITY to
5 substantiate the validity of an invoice.

6 O. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this
7 Agreement number and project title. Invoices shall include all reimbursable costs/expenditures to satisfy
8 Caltrans' Local Assistance Procedures Manual (LAPM), Chapter 5 Accounting/Invoices.

9 P. CONSULTANT shall not commence performance of work or services until this Agreement
10 has been approved by the AUTHORITY. No payment will be made prior to approval of any work, or for
11 any work performed prior to approval of this Agreement.

12 **ARTICLE 6. PROMPT PAYMENT CLAUSE**

13 A. AUTHORITY has adopted a prompt payment provision on all U.S. DOT-assisted
14 contracts to facilitate timely payment to all subconsultants in accordance with regulatory mandates.
15 Pursuant to Title 49 of the Code of Federal Regulations (CFR) Part 26.29:

16 B. "CONSULTANT agrees to pay each subconsultant under this Agreement for satisfactory
17 performance of its Agreement no later than fifteen (15) days from the receipt of each payment
18 CONSULTANT receives from AUTHORITY. CONSULTANT agrees further to return retainage payments
19 to each subconsultant within fifteen (15) days after receiving payment for work satisfactorily completed
20 and accepted including incremental acceptances of portions of the Agreement work by AUTHORITY. Any
21 delay or postponement of payment from the above referenced time frame may take place only for good
22 cause and with AUTHORITY's prior written approval." CONSULTANT shall incorporate this clause
23 verbatim, set forth above, in all subcontract, broker, dealer, vendor, supplier, purchase order or other
24 source agreements issued to both DBE and non-DBE firms.

25 C. Any violation of the provisions listed above shall subject the violating CONSULTANT to
26 the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and

1 Professions Code and Section 3321 of the California Civil Code for consultant contracts. This requirement
2 shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise
3 available to CONSULTANT or subconsultant in the event of a dispute involving late payment or
4 nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a
5 subconsultant.

6 D. Failure to comply with this provision, and/or other DBE Program requirements, without
7 prior approval from AUTHORITY will constitute noncompliance. Noncompliance may result in the
8 application of appropriate administrative sanctions, including, but not limited to, a penalty of two percent
9 (2%) of the invoice amount due per month, for every month that full payment is not made.

10 **ARTICLE 7. MAXIMUM OBLIGATION**

11 Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and
12 CONSULTANT mutually agree that AUTHORITY's maximum cumulative payment obligation (including
13 obligation for CONSULTANT's profit) shall be _____ Dollars (\$_____.00) which shall include all
14 amounts payable to CONSULTANT for its subcontracts, leases, materials and costs arising from, or due
15 to termination of, this Agreement.

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ARTICLE 8. 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:

TO CONSULTANT:		TO AUTHORITY:	
		Orange County Transportation Authority	
		550 South Main Street	
		P.O. Box 14184	
		Orange, CA 92863-1584	
ATTENTION:		ATTENTION:	Sonja Gettel
Title:		Title: Senior Contract Administrator	
Tel:		Tel: (714) 560-5562	
E-Mail:		E-Mail: sgettel@octa.net	
		cc: Niall Barrett	
		Program Manager	
		Tel: (714) 560-5879	
		E-mail: nbarrett@octa.net	

ARTICLE 9. INDEPENDENT CONTRACTOR

A. CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AUTHORITY. CONSULTANT 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.

1 B. Should CONSULTANT's personnel or a state or federal agency allege claims against
2 AUTHORITY involving the status of AUTHORITY as employer, joint or otherwise, of said personnel, or
3 allegations involving any other independent contractor misclassification issues, CONSULTANT shall
4 defend and indemnify AUTHORITY in relation to any allegations made.

5 **ARTICLE 10. INSURANCE**

6 A. CONSULTANT shall procure and maintain insurance coverage during the entire term of
7 this Agreement. Coverage shall be full coverage and not subject to self-insurance provisions.
8 CONSULTANT shall provide the following insurance coverage:

9 1. Commercial General Liability, to include Products/Completed Operations,
10 Independent Contractors', Contractual Liability, and Personal Injury Liability, and Property Damage with
11 a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate;

12 2. Automobile Liability Insurance to include owned, hired and non-owned autos with a
13 combined single limit of \$1,000,000.00 each accident;

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

16 4. Employers' Liability with minimum limits of \$1,000,000.00 per accident, \$1,000,000.00
17 policy limit-disease, and \$1,000,000 policy limit employee-disease; and

18 5. Professional Liability with minimum limits of \$1,000,000.00 per claim.

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

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

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

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

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

5 D. The Certificate of Insurance shall reference Agreement Number C-1-3298; and, the
6 Contract Administrator's Name, Sonja Gettel, Senior Contract Administrator.

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

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

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

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

17 **ARTICLE 11. ORDER OF PRECEDENCE**

18 To the extent there are any conflicts or inconsistency arising between any provisions or
19 documents incorporated in this Agreement, the order of precedence for conflict resolution in descending
20 order shall be as follows: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of
21 RFP 1-3298; (3) CONSULTANT's technical proposal dated _____, CONSULTANT's cost proposal
22 dated _____ and final cost proposal dated _____, and (4) all other documents, if any, cited herein or
23 incorporated by reference.

24 **ARTICLE 12. CHANGES**

25 A. By written notice or order, AUTHORITY may, from time to time, order work suspension
26 and/or make changes in the general scope of this Agreement, including, but not limited to, the services

1 furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work
2 suspension or change causes an increase or decrease in the price of this Agreement or in the time
3 required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its
4 claim for adjustment within ten (10) days after the change or work suspension is ordered, and an equitable
5 adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT from
6 proceeding immediately with the Agreement as changed.

7 B. This Agreement may be amended or modified only by mutual written agreement of the
8 parties.

9 C. CONSULTANT shall only commence work covered by an amendment after the
10 amendment is executed and notification to proceed has been provided by AUTHORITY's Contract
11 Administrator.

12 **ARTICLE 13. DISPUTES**

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

19 B. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with
20 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
21 CAMM. Nothing in this Agreement, however, shall be construed as making final the decision of any
22 AUTHORITY official or representative on a question of law, which questions shall be settled in
23 accordance with the laws of the State of California.

24 **ARTICLE 14. TERMINATION**

25 C. AUTHORITY reserves the right to terminate this Agreement upon thirty (30) calendar
26 days written notice to CONSULTANT of intent to terminate, with effective date of termination and the

1 reasons for termination stated in the notice, in accordance with the provisions of the FAR referenced
2 above and Article 8 "Notices", herein. Upon receipt of said notification, CONSULTANT agrees to comply
3 with all applicable provisions of the FAR pertaining to termination for convenience.

4 D. Upon termination, AUTHORITY shall be entitled to all work, including but not limited to,
5 reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed
6 to that date, whether completed or not.

7 C. AUTHORITY may temporarily suspend this Agreement, at no additional cost to
8 AUTHORITY, provided that CONSULTANT is given written notice of temporary suspension. If
9 AUTHORITY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its
10 activities under this Agreement. A temporary suspension may be issued concurrent with the notice of
11 termination

12 D. AUTHORITY may terminate this Agreement with CONSULTANT should CONSULTANT
13 fail to perform the covenants herein contained at the time and in the manner herein provided. In the event
14 of such termination, AUTHORITY may proceed with the work in any manner deemed proper by
15 AUTHORITY. If AUTHORITY terminates this Agreement with CONSULTANT, AUTHORITY shall pay
16 CONSULTANT the sum due to CONSULTANT under this Agreement prior to termination, unless the cost
17 of completion to AUTHORITY exceeds the funds remaining in the Agreement, in which case the overage
18 shall be deducted from any sum due CONSULTANT under this Agreement and the balance, if any, shall
19 be paid to CONSULTANT upon demand. Said termination shall be construed in accordance with the
20 provisions of the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 49, of the Federal
21 Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination
22 for convenience.

23 E. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or
24 state proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT
25 makes an assignment for the benefit of creditors, or for cause if CONSULTANT fails to perform in
26 accordance with the scope of work or breaches any term(s) or violates any provision(s) of this Agreement

1 and does not cure such breach or violation within ten (10) calendar days after written notice thereof by
2 AUTHORITY. CONSULTANT shall be liable for any and all reasonable costs incurred by AUTHORITY
3 as a result of such default or breach including, but not limited to, reprocurement costs of the same or
4 similar services defaulted by CONSULTANT under this Agreement. Such termination shall comply with
5 CFR Title 48, Chapter 1, Part 49, of the FAR.

6 **ARTICLE 15. INDEMNIFICATION**

7 CONSULTANT shall indemnify, defend, and hold harmless AUTHORITY, its officers, directors,
8 employees and agents from and against any and all claims (including attorneys' fees and reasonable
9 expenses for litigation or settlement) for any loss, costs, penalties, fines, damages, bodily injuries,
10 including death, damage to or loss of use of property, arising out of, resulting from, or in connection with
11 the performance of CONSULTANT, its officers, directors, employees, agents, subconsultants or suppliers
12 under the Agreement. Notwithstanding the foregoing, such obligation to defend, hold harmless, and
13 indemnify AUTHORITY, its officers, directors, employees and agents shall not apply to such claims or
14 liabilities arising from the sole or active negligence or willful misconduct of AUTHORITY. Notwithstanding
15 the foregoing, to the extent that Contractor's duty to indemnify arises out of a claim to which Civil Code
16 section 2782.8 would apply, Contractor shall indemnify and defend the indemnitees to the maximum
17 extent permitted by Civil Code section 2782.8.

18 **ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS**

19 A. Nothing contained in this Agreement or otherwise, shall create any contractual relation
20 between AUTHORITY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its
21 responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to
22 AUTHORITY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly
23 employed by any of them as it is for the acts and omissions of persons directly employed by
24 CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from
25 AUTHORITY's obligation to make payments to the CONSULTANT.

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1 B. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by
2 CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be
3 subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by
4 AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all terms
5 and conditions of this Agreement.

6 C. The CONSULTANT shall perform the work contemplated with resources available within
7 its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without
8 written authorization by AUTHORITY's Contract Administrator, except that, which is expressly identified
9 in the approved Cost Proposal.

10 D. CONSULTANT shall pay its subconsultants within seven (7) calendar days from receipt
11 of each payment made to CONSULTANT by AUTHORITY.

12 E. All subcontracts entered into as a result of this Agreement, shall contain all of the
13 provisions stipulated in this entire Agreement to be applicable to subconsultants unless otherwise noted.

14 F. Any substitution or addition of subconsultant(s) must be approved in writing by the
15 AUTHORITY's Contract Administrator, in advance of assigning work to a substitute subconsultant(s).

16 G. AUTHORITY hereby consents to CONSULTANT's subcontracting of portions of the
17 Scope of Work to the parties identified below for the functions described below. CONSULTANT shall
18 include in the subcontract agreement the stipulation that CONSULTANT, not AUTHORITY, is solely
19 responsible for payment to the subcontractor for the amounts owing and that the subcontractor shall have
20 no claim, and shall take no action, against AUTHORITY, its officers, directors, employees or sureties for
21 nonpayment by CONSULTANT.

<u>Subcontractor Name/Address</u>	<u>Subcontractor Amounts</u>

1 **ARTICLE 17. AUDIT AND INSPECTION OF RECORDS**

2 A. CONSULTANT and any subconsultant shall permit AUTHORITY, the State, and the
3 FHWA if federal participating funds are used in this Agreement, to review and inspect the project activities
4 and files at all reasonable times during the performance period of this Agreement.

5 B. For the purpose of determining compliance with the Public Contract Code 10115, et seq.
6 and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other
7 matters connected with the performance of the contract pursuant to Government Code 8546.7;
8 CONSULTANT, subconsultants, and AUTHORITY shall maintain and make available for inspection all
9 books, documents, papers, accounting records, Independent certified public accountant (CPA) Audited
10 Cost Rate workpapers, and other evidence pertaining to the performance of the Agreement, including but
11 not limited to, the costs of administering the Agreement. All parties, including the CONSULTANT and
12 Independent CPA, shall make such workpapers and materials available at their respective offices at all
13 reasonable times during the Agreement period and for four (4) years from the date of final payment under
14 the Agreement. AUTHORITY, or other agents of AUTHORITY, Caltrans Auditor, FHWA, or any duly
15 authorized representative of the Federal government having jurisdiction under Federal laws or regulations
16 (including the basis of Federal funding in whole or in part) shall have access to any books, records, payroll
17 documents, facilities and documents of CONSULTANT, subconsultants, and the CONSULTANT's
18 Independent (CPA), that are pertinent to the Agreement for audits, examinations, workpaper review,
19 excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

20 C. CONSULTANT shall maintain such books, records, data and documents in accordance
21 with generally accepted accounting principles and the CFR, Title 48, Chapter 1, Part 31 of the Federal
22 Acquisition Regulation System (FAR) and shall clearly identify and make such items readily accessible
23 to such parties during CONSULTANT's performance hereunder.

24 D. AUTHORITY's right to audit books and records directly related to this Agreement shall
25 also extend to all first-tier subcontractors performing work identified in Article 16 "Assignments and
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1 Subcontracts” of this Agreement, and such language must be included in CONSULTANT’s agreements
2 with its subcontractors.

3 **ARTICLE 18. AUDIT REVIEW PROCEDURES**

4 A. Any dispute concerning a question of fact arising under an interim or post audit of this
5 Agreement that is not disposed of by agreement, shall be reviewed by AUTHORITY’s Internal Audit.

6 B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request
7 a review by AUTHORITY’s Internal Audit of unresolved audit issues. The request for review will be
8 submitted in writing.

9 C. Neither the pendency of a dispute nor its consideration by AUTHORITY will excuse
10 CONSULTANT from full and timely performance, in accordance with the terms of this Agreement.

11 D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are
12 subject to audits or reviews such as, but not limited to, an Agreement audit, an incurred cost audit, an
13 ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost
14 proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with
15 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper
16 review it is CONSULTANT’s responsibility to ensure federal, state, or local government officials are
17 allowed full access to the CPA’s work papers including making copies as necessary. The Agreement,
18 cost proposal, and ICR shall be adjusted by CONSULTANT and approved by AUTHORITY’s Contract
19 Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual
20 terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if
21 directed by AUTHORITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review
22 recommendations, or to ensure that the federal, state or local governments have access to CPA work
23 papers, will be considered a breach of Agreement terms and cause for termination of the Agreement and
24 disallowance of prior reimbursed costs.

25 E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by The
26 California Department of Transportation’s Independent office of Audit and Investigation (IOAI). IOAI, at

1 its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal
2 shall be adjusted by the CONSULTANT and approved by the AUTHORITY's Contract Administrator to
3 conform to the Work Paper Review recommendations included in the management letter or audit
4 recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work
5 Paper Review recommendations included in the management letter or audit recommendations included
6 in the audit report will be considered a breach of the Agreement terms and cause for termination of the
7 Agreement and disallowance of prior reimbursed costs.

8 1. During IOAI review of the ICR audit work papers created by the CONSULTANT's
9 independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that
10 arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely
11 manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval
12 letter, AUTHORITY will reimburse the CONSULTANT at a provisional ICR until a FAR compliant ICR
13 {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting
14 Standards), if applicable; in accordance with procedures and guidelines of the American Association
15 of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures
16 and guidelines} is received and approved by A&I. Provisional rates will be as follows:

17 a. If the proposed rate is less than 150% - the provisional rate reimbursed will be
18 90% of the proposed rate.

19 b. If the proposed rate is between 150% and 200% - the provisional rate will be 85%
20 of the proposed rate.

21 c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the
22 proposed rate.

23 2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require
24 CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3)
25 months of the effective date of the management letter. IOAI will then have up to six (6) months to review
26 the CONSULTANT's and/or the independent CPA's revisions.

1 3. If the CONSULTANT fails to comply with the provisions of this Section E, or if IOAI is still
2 unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted,
3 overhead cost reimbursement will be limited to the accepted ICR that was established upon initial
4 rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this
5 accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

6 4. CONSULTANT may submit to AUTHORITY final invoice only when all of the following
7 items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA-audited ICR;
8 (2) all work under this Agreement has been completed to the satisfaction of AUTHORITY; and, (3) IOAI
9 has issued its final ICR review letter. The Consultant must submit its final invoice to the AUTHORITY, no
10 later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply
11 to this Agreement and all other Agreements executed between AUTHORITY and the CONSULTANT,
12 either as a prime or subconsultant, with the same fiscal period ICR.

13 **ARTICLE 19. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

14 A. CONSULTANT agrees that the CFR, Title 48, Chapter 1, Part 31, Contract Cost Principles
15 and Procedures, shall be used to determine the cost allowability of individual terms of costs.

16 B. CONSULTANT also agrees to comply with Federal procedures in accordance with
17 CFR, Title 2, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements
18 for Federal Awards.

19 C. Any costs for which payment has been made to CONSULTANT that are determined by
20 subsequent audit to be unallowable under CFR Title 48, Part 31 or CFR Title 2, Part 200, are subject to
21 repayment by CONSULTANT to AUTHORITY.

22 D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of
23 Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements,
24 Cost Principles, and Audit Requirements for Federal Awards shall apply.

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ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS

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

ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY

In connection with its performance under this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. CONSULTANT 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.

ARTICLE 22. PROHIBITED INTERESTS

A. CONSULTANT covenants that, for the term of this Agreement, no director, member, officer or employee of AUTHORITY during his/her tenure in office/employment 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 delegate to the Congress of the United States shall have any interest, direct or indirect, in this Agreement or to the benefits thereof.

ARTICLE 23. 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, and CONSULTANT shall have no property right therein whatsoever. Copies may be made for CONSULTANT's records but shall not be furnished to others without written authorization from AUTHORITY. Immediately upon termination, AUTHORITY shall be entitled to, and CONSULTANT shall deliver to AUTHORITY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have

1 been prepared or accumulated to date by CONSULTANT in performing this Agreement which is not
2 CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information,
3 along with all other property belonging exclusively to City which is in CONSULTANT's possession.
4 Publication of the information derived from work performed or data obtained in connection with services
5 rendered under this Agreement must be approved in writing by AUTHORITY.

6 B. Additionally, it is agreed that such deliverables shall be deemed works made for hire.
7 CONSULTANT acknowledges and agrees that the work (and all rights therein, including without limitation,
8 copyright) belongs to and shall be the sole and exclusive property of AUTHORITY without restriction or
9 limitation upon its use or dissemination by AUTHORITY.

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

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

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1 E. Applicable patent rights provisions regarding rights to inventions shall be included in the
2 Agreements as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for
3 federal-aid contracts).

4 F. AUTHORITY may permit copyrighting reports or other agreement products. If copyrights
5 are permitted, the Agreement shall provide that the FHWA shall have the royalty-free nonexclusive and
6 irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for
7 government purposes.

8 **ARTICLE 24. PATENT AND COPYRIGHT INFRINGEMENT**

9 A. In lieu of any other warranty by CONSULTANT against patent or copyright infringement,
10 statutory or otherwise, it is agreed that CONSULTANT shall defend, at its expense, any claim or suit
11 against AUTHORITY on account of any allegation that any item furnished under this Agreement or the
12 normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently
13 existing U.S. letters patent or copyright and CONSULTANT shall pay all costs and damages finally
14 awarded in any such suit or claim, provided that CONSULTANT is promptly notified in writing of the suit
15 or claim and given authority, information and assistance at CONSULTANT's expense for the defense of
16 same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim results from:
17 (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form infringes upon
18 any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with
19 other material not provided by CONSULTANT when such use in combination infringes upon an existing
20 U.S. letters patent or copyright.

21 B. CONSULTANT shall have sole control of the defense of any such claim or suit and all
22 negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY
23 under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to
24 cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at
25 CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim,
26 CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell

1 said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and
2 copyright indemnity thereto.

3 **ARTICLE 25. DESIGN WITHIN FUNDING LIMITATIONS**

4 A. In order to ensure the accuracy of the construction budget for the benefit of the public
5 works bidders and AUTHORITY's budget process, CONSULTANT shall accomplish the design services
6 required under this Agreement so as to permit the award of a contract, for the construction of the facilities
7 designed at a price that does not exceed the estimated construction contract price as set forth by
8 AUTHORITY. When bids or proposals for the construction contract are received that exceed the
9 estimated price, CONSULTANT shall perform such redesign and other services as are necessary to
10 permit contract award within the funding limitation. These additional services shall be performed at no
11 increase in the price for which the services were specified. However, CONSULTANT shall not be required
12 to perform such additional services at no cost to AUTHORITY if the unfavorable bids or proposals are the
13 result of conditions beyond its reasonable control.

14 B. CONSULTANT will promptly advise AUTHORITY if it finds that the project being designed
15 will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within
16 these limitations. Upon receipt of such information, AUTHORITY will review CONSULTANT's revised
17 estimate of construction cost. AUTHORITY may, if it determines that the estimated construction contract
18 price is so low that award of a construction contract not in excess of such estimate is improbable,
19 authorize a change in scope or materials as required to reduce the estimated construction cost to an
20 amount within the estimated construction contract price set forth by AUTHORITY, or AUTHORITY may
21 adjust such estimated construction contract price. When bids or proposals are not solicited or are
22 unreasonably delayed, AUTHORITY shall prepare an estimate of constructing the design submitted and
23 such estimate shall be used in lieu of bids or proposals to determine compliance within the funding
24 limitation.

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1 **ARTICLE 26. REQUIREMENTS FOR REGISTRATION OF DESIGNERS**

2 All design and engineering work furnished by CONSULTANT shall be performed by or under the
3 supervision of persons licensed to practice architecture, engineering or surveying (as applicable) in the
4 State of California, by personnel who are careful, skilled, experienced and competent in their respective
5 trades or professions, who are professionally qualified to perform the work in accordance with the
6 Agreement documents and who shall assume professional responsibility for the accuracy and
7 completeness of the design documents and construction documents prepared or checked by them.

8 **ARTICLE 27. FINISHED AND PRELIMINARY DATA**

9 A. Upon completion of all work under this Agreement, ownership and title to all reports,
10 documents, plans, specifications, and estimates, including, but not limited to, illustrations, photographs,
11 tapes, software, software design documents, including without limitation source code, binary code, all
12 media, technical documentation and user documentation, photoprints and other graphic information
13 required to be furnished under this Agreement, will automatically be vested in AUTHORITY and no further
14 agreement will be necessary to transfer ownership to AUTHORITY.

15 B. It is understood and agreed that all calculations, drawings and specifications, whether in
16 hard copy or machine-readable form, are intended for one-time use in the construction of the project for
17 which this Agreement has been entered into.

18 C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with
19 the modification, or misuse by AUTHORITY of the machine-readable information and data provided by
20 CONSULTANT under this Agreement. Further, CONSULTANT is not liable for claims, liabilities, or losses
21 arising out of, or connected with any use by AUTHORITY of the project documentation on other projects,
22 or for the completion of this project by others, except only as such use as may be authorized in writing by
23 CONSULTANT.

24 D. It is expressly understood that any title to preliminary technical data is not passed to
25 AUTHORITY, but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,
26 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the

1 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given
2 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to
3 AUTHORITY, if CONSULTANT causes AUTHORITY to exercise Article 14 "Termination", and a price
4 shall be negotiated for all preliminary data.

5 E. All subcontracts entered into as a result of this Agreement shall contain all of the
6 provisions of this Article.

7 **ARTICLE 28. STATE PREVAILING WAGE RATES**

8 A. CONSULTANT shall comply with the State of California's General Prevailing Wage
9 Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State,
10 and local laws and ordinances applicable to the work.

11 B. When prevailing wages apply to the services described in the scope of work,
12 transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department
13 of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See
14 <http://www.dir.ca.gov>.

15 C. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons,
16 craftspersons or apprentices employed by CONSULTANT or subconsultant at any tier for any work
17 hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent
18 deduction or rebate on any account (except such payroll deductions as are permitted or required by
19 federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed
20 at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates
21 and rates of payments, contributions or costs for any fringe benefits contained in the current general
22 prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial
23 Relations of the State of California, (as set forth in the Labor Code, commencing at Section 1770 et. seq.),
24 or as established by the Secretary of Labor (as set forth in the Davis-Bacon Act, 40 U.S.C. 267a, et. seq.),
25 regardless of any contractual relationship which may be alleged to exist between CONSULTANT or
26 subconsultant and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or

1 apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on
2 file at AUTHORITY's offices and will be made available to CONSULTANT upon request. CONSULTANT
3 shall post a copy thereof at each job site at which work hereunder is performed.

4 D. In addition to the foregoing, CONSULTANT agrees to comply with all other provisions of
5 the California Labor Code, which is incorporated herein by reference, pertaining to workers performing
6 work hereunder including, but not limited to, those provisions for work hours, payroll records and
7 apprenticeship employment and regulation program.

8 E. Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for
9 public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of
10 public works, shall contain all of the provisions of this Article. CONSULTANT agrees to insert or cause to
11 be inserted the preceding clause in all subcontracts which provide for workers to perform work hereunder
12 regardless of the subcontractor tier.

13 **ARTICLE 29. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

14 During the performance of this Agreement, CONSULTANT, for itself, its assignees and
15 successors in interest agree as follows:

16 A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under
17 penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt,
18 complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title
19 2, California Code of Regulations, Section 8103.

20 B. Nondiscrimination: During the performance of this Agreement, Consultant and its
21 subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or
22 applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical
23 disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40),
24 marital status, and denial of family care leave. Consultant and subconsultants shall insure that the
25 evaluation and treatment of their employees and applicants for employment are free from such
26 discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the

1 Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations
2 promulgated there under (California Code of Regulations, Title 2, Section 8100-8504 et seq.). The
3 applicable regulations of the Fair Employment and Housing Commission implementing Government
4 Code Section 12990 (a-f), are incorporated into this Agreement by reference and made a part hereof as
5 if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this
6 clause to labor organizations with which they have a collective bargaining or other Agreement.

7 C. Compliance with Regulations: The Consultant shall comply with regulations relative to
8 Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49
9 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI
10 provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination
11 in which no person in the State of California shall, on the basis of race, color, national origin, religion, sex,
12 age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under
13 any program or activity by the recipients of federal assistance or their assignees and successors in
14 interest.

15 D. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: The
16 Consultant, with regard to the work performed by it during the Agreement shall act in accordance with
17 Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin,
18 religion, sex, age, or disability in the selection and retention of subconsultants, including procurement of
19 materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the
20 discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices
21 when the Agreement covers a program whose goal is employment.

22 E. Information and Reports: CONSULTANT shall provide all information and reports
23 required by the Regulations or directives issued pursuant thereto, and shall permit access to its books,
24 records, accounts, other sources of information, and its facilities as may be determined by AUTHORITY
25 to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any
26 information required of CONSULTANT is in the exclusive possession of another who fails or refuses to

1 furnish this information, CONSULTANT shall so certify to AUTHORITY as appropriate, and shall set forth
2 what efforts it has made to obtain the information.

3 F. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with
4 nondiscrimination provisions of this Agreement, AUTHORITY shall impose sanctions as it may determine
5 to be appropriate, including, but not limited to:

6 1. Withholding of payments to CONSULTANT under the Agreement until
7 CONSULTANT complies; and/or

8 2. Cancellation, termination, or suspension of the Agreement, in whole or in part.

9 G. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections
10 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in all programs,
11 activities, and services of public entities, as well as imposes specific requirements on public and private
12 providers of transportation.

13 H. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs
14 (A) through (G) in every lower-tier subcontract, which exceeds \$100,000, including procurements of
15 materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant
16 thereto, and that all such sub recipients shall certify and disclose accordingly. CONSULTANT shall take
17 such action with respect to any subcontract or procurement as AUTHORITY may direct as a means of
18 enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event
19 CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as
20 a result of such direction, the CONSULTANT may request AUTHORITY to enter into such litigation to
21 protect the interests of AUTHORITY, and, in addition, CONSULTANT may request the United States to
22 enter into such litigation to protect the interests of the United States.

23 **ARTICLE 30. RACE-CONSCIOUS DBE CONTRACT PROVISIONS FOR DOT-ASSISTED**
24 **CONSULTANT CONTRACTS**

25 A. AUTHORITY or CONSULTANT shall not discriminate on the basis of race, color, national
26 origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable

1 requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure
2 by the CONSULTANT to carry out these requirements is a material breach of this Agreement, which may
3 result in the termination of this Agreement or such other remedy as the AUTHORITY deems appropriate,
4 which may include, but is not limited to:

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

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

10 B. In conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business
11 Enterprises in Department of Transportation Financial Assistance Programs," AUTHORITY has
12 established a ten (10%) percent Disadvantaged Business Enterprise (DBE) participation goal for the
13 services required in this Agreement.

14 C. At the time of contract execution, the CONSULTANT committed to utilize one or more
15 Disadvantaged Business Enterprise (DBE) Firms in the performance of this DOT-assisted contract.
16 CONSULTANT agrees to enter into agreements with the DBE subconsultants listed on Attachment
17 "Consultant Contract DBE Commitment Caltrans Exhibit 10-O2" and ensure they perform work and/or
18 supply materials in accordance with original commitments. No changes to CONSULTANT's DBE
19 commitment shall be made until proper review and approval by AUTHORITY is rendered in writing.

20 D. CONSULTANT must take appropriate actions to ensure that it will satisfy good faith efforts
21 to attain the DBE goal and/or the DBE commitment made at award (whichever is higher), when change
22 orders or other modifications alter the dollar amount of the Agreement or the distribution of work.
23 CONSULTANT must apply and report its DBE goal commitment against the total current Agreement
24 value, including any change orders and/or amendments.

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1 E. If there is a DBE goal and/or DBE commitment on the Agreement, CONSULTANT must
2 complete and submit within the specified timelines, DBE documentation electronically through the
3 AUTHORITY's electronic reporting system.

4 F. CONSULTANT shall comply with all the requirements set forth in Attachment A titled,
5 "DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT PROVISIONS FOR U.S.
6 DOT-ASSISTED CONTRACTS", which is attached to and, by this reference, incorporated in and made
7 a part of this Agreement.

8 **ARTICLE 31. PRIVACY ACT**

9 A. CONSULTANT shall comply with, and assures the compliance of its employees with,
10 the information restrictions and other applicable requirements of the Privacy Act of 1974,
11 5 U.S.C. §552a. Among other things, CONSULTANT agrees to obtain the express consent of the
12 Federal Government before the CONSULTANT or its employees operate a system of records on
13 behalf of the Federal Government. CONSULTANT understands that the requirements of the Privacy
14 Act, including the civil and criminal penalties for violation of that Act, apply to those individuals
15 involved, and that failure to comply with the terms of the Privacy Act may result in termination of the
16 underlying Agreement.

17 B. CONSULTANT agrees to include this requirement in all its subcontracts at any tier.

18 **ARTICLE 32. CONFLICT OF INTEREST**

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

ARTICLE 33. CODE OF CONDUCT

A. CONSULTANT agrees 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.

B. CONSULTANT agrees to include these requirements in all of its subcontracts.

ARTICLE 34. PROHIBITION ON PROVIDING ADVOCACY SERVICES

CONSULTANT and all subconsultants performing work under this Agreement, shall be prohibited from concurrently representing or lobbying for any other party competing for a contract with AUTHORITY, either as a prime consultant or subconsultant. Failure to refrain from such representation may result in termination of this Agreement.

ARTICLE 35. INCORPORATION OF FEDERAL TERMS

All contractual provisions required by United States Department of Transportation (USDOT), including the Federal Highway Administration (FHWA), whether or not expressly set forth in this document, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all federally mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause AUTHORITY to be in violation of the USDOT or FHWA terms and conditions.

ARTICLE 36. FEDERAL CHANGES

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

ARTICLE 37. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

A. AUTHORITY and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying

1 Agreement, absent the express written consent by the Federal Government, the Federal Government is
2 not a party to this Agreement and shall not be subject to any obligations or liabilities to the AUTHORITY,
3 CONSULTANT, or any other party (whether or not a party to this Agreement) pertaining to any matter
4 resulting from the underlying Agreement.

5 B. CONSULTANT agrees to include these requirements in all of its subcontracts.

6 **ARTICLE 38. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND**
7 **RELATED ACTS**

8 A. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies
9 Act of 1986, as amended, 31 U.S.C. §§3801 et seq., and USDOT regulations, "Program Fraud Civil
10 Remedies," CFR, Title 49, Part 31, apply to its actions pertaining to this project. Accordingly, by signing
11 this Agreement, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has
12 made, it makes, it may make, or may cause to be made, pertaining to the underlying Agreement or the
13 FTA assisted project for which this Agreement's work is being performed. CONSULTANT also
14 acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement,
15 submission, or certification, the Federal Government reserves the right to impose penalties set forth in
16 the Program Fraud Civil Remedies Act of 1986 against the CONSULTANT to the extent the Federal
17 Government deems appropriate.

18 B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false,
19 fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an
20 agreement connected with a project that is financed in whole or part with Federal assistance awarded by
21 FTA, under the authority of 49 U.S.C. §5307 et seq., the Government reserves the right to impose the
22 penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. against the CONSULTANT, to the extent
23 the Federal Government deems appropriate.

24 C. CONSULTANT agrees to include this requirement in all of its subcontracts.

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1 **ARTICLE 39. RECYCLED PRODUCTS**

2 A. CONSULTANT shall comply with all the requirements of Section 6002 of the Resource
3 Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the
4 regulatory provisions of CFR, Title 40, Part 247, and Executive Order 12873, as they apply to the
5 procurement of the items designated in subpart B of CFR, Title 40, Part 247.

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

7 **ARTICLE 40. ENERGY CONSERVATION REQUIREMENTS**

8 If the maximum cumulative payment obligation of this Agreement exceeds \$150,000,
9 CONSULTANT shall comply with mandatory standards and policies relating to energy efficiency, which
10 are contained in the state energy conservation plan issued in compliance with the Energy Policy
11 Conservation Act.

12 **ARTICLE 41. CLEAN AIR**

13 A. CONSULTANT shall comply with all applicable standards, orders or regulations issued
14 pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each
15 violation to AUTHORITY, who will in turn, report each violation as required to assure notification to
16 USDOT and the appropriate Environmental Protection Agency (EPA) Regional Office.

17 B. CONSULTANT agrees to include this requirement in each subcontract exceeding
18 \$150,000.

19 **ARTICLE 42. CLEAN WATER REQUIREMENTS**

20 A. If the maximum cumulative payment obligation of this Agreement exceeds \$150,000,
21 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the
22 Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq. CONSULTANT shall
23 report any violations of use of prohibited facilities to the USDOT and US EPA.

24 B. CONSULTANT agrees to include this requirement in each subcontract exceeding
25 \$150,000.

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1 **ARTICLE 43. CONTINGENT FEE**

2 CONSULTANT warrants, by execution of this Agreement that no person or selling agency has
3 been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding,
4 for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona
5 fide established commercial or selling agencies maintained by CONSULTANT for the purpose of
6 securing business. For breach or violation of this warranty, AUTHORITY has the right to annul this
7 Agreement without liability; pay only for the value of the work actually performed, or in its discretion to
8 deduct from the contract price or consideration, or otherwise recover the full amount of such
9 commission, percentage, brokerage, or contingent fee.

10 **ARTICLE 44. DEBARMENT AND SUSPENSION CERTIFICATION**

11 A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of
12 perjury under the laws of the State of California, that CONSULTANT or any person associated therewith
13 in the capacity of owner, partner, director, officer or manager:

14 1. Is not currently under suspension, debarment, voluntary exclusion, or
15 determination of ineligibility by any federal agency;

16 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible
17 by any federal agency within the past three (3) years;

18 3. Does not have a proposed debarment pending; and

19 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a
20 court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3)
21 years.

22 B. Any exceptions to this certification must be disclosed in writing to the AUTHORITY.
23 Exceptions will not necessarily result in denial of recommendation for award, but will be considered in
24 determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating
25 agency, and the dates of agency action.

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1 C. Exceptions to the Federal Government Excluded Parties List System maintained by the
2 General Services Administration are to be determined by the Federal Highway Administration.

3 **ARTICLE 45. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL**
4 **FUNDS FOR LOBBYING**

5 A. CONSULTANT certifies to the best of his or her knowledge and belief that:

6 1. No state, federal or local agency appropriated funds have been paid, or will be
7 paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer
8 or employee of any local, State or Federal agency; a Member of the State Legislature or United States
9 Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the
10 Legislature or Congress, in connection with the awarding or making of this Agreement, or with the
11 extension, continuation, renewal, amendment, or modification of this Agreement.

12 2. If any funds other than Federal appropriated funds have been paid, or will be paid
13 to any person for influencing or attempting to influence an officer or employee of any agency, a Member
14 of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection
15 with this Agreement, CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to
16 Report Lobbying", in accordance with its instructions.

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

22 C. CONSULTANT also agrees by signing this document that he or she shall require that the
23 language of this certification be included in all lower-tier subcontracts, which exceed one hundred
24 thousand (\$100,000) dollars, and that all such sub recipients shall certify and disclose accordingly.

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1 **ARTICLE 46. FUNDING REQUIREMENTS**

2 A. It is mutually understood between the parties that this Agreement may have been written
3 before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties,
4 in order to avoid program and fiscal delays that would occur if the Agreement were executed after that
5 determination was made.

6 B. This Agreement is valid and enforceable only if sufficient funds are made available to
7 AUTHORITY for the purpose of this Agreement. In addition, this Agreement is subject to any additional
8 restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or
9 AUTHORITY governing board that may affect the provisions, terms, or funding of this Agreement in any
10 manner.

11 C. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be
12 amended to reflect any reduction in funds.

13 D. AUTHORITY has the option to terminate the Agreement pursuant to Article 14
14 Termination, or by mutual agreement to amend the Agreement to reflect any reduction of funds.

15 **ARTICLE 47. EQUIPMENT PURCHASE**

16 A. Prior authorization, in writing, by AUTHORITY's Project Manager shall be required
17 before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five
18 thousand (\$5,000.00) Dollars for supplies, equipment or CONSULTANT services. CONSULTANT
19 shall provide an evaluation of the necessity or desirability of incurring such costs.

20 B. For purchase of any item, service or consulting work not covered in CONSULTANT's
21 Cost Proposal and exceeding five thousand (\$5,000.00) Dollars prior authorization by AUTHORITY's
22 Project Manager; three (3) competitive quotations must be submitted with the request, or the absence
23 of bidding must be adequately justified.

24 C. Any equipment purchased as a result of this Agreement is subject to the following:

25 1. "CONSULTANT shall maintain an inventory of all nonexpendable property.
26 Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost

1 of \$5,000.00 or more. If the purchased equipment needs replacement and is sold or traded in,
2 AUTHORITY shall receive a proper refund or credit at the conclusion of this Agreement, or if the
3 Agreement is terminated, CONSULTANT may either keep the equipment and credit AUTHORITY in
4 an amount equal to the its fair market value, or sell such equipment at the best price obtainable at a
5 public or private sale, in accordance with established AUTHORITY procedures; and credit
6 AUTHORITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment,
7 fair market value shall be determined at CONSULTANT's expense, on the basis of a competent
8 independent appraisal of such equipment. Appraisals shall be obtained from an appraiser agreeable
9 to both AUTHORITY and CONSULTANT. If it is determined to sell the equipment, the terms and
10 conditions of such sale must be approved in advance by AUTHORITY.

11 2. Regulation CFR, Title 2, Part 200 requires a credit to Federal funds when
12 participating equipment with a fair market value greater than five thousand (\$5,000.00) Dollars is
13 credited to the project.

14 **ARTICLE 48. HEALTH AND SAFETY REQUIREMENTS**

15 A. CONSULTANT shall comply with all the requirements set forth in Exhibit G, Modified
16 Level 1 and 3 Safety Specifications. As used therein, "Contractor" shall mean "Consultant" and
17 Subcontractor" shall mean "Sub-consultant."

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

19 **ARTICLE 49. CONFIDENTIALITY OF DATA**

20 A. All financial, statistical, personal, technical, or other data and information relative to the
21 AUTHORITY's operations, which are designated confidential by the AUTHORITY and made available to
22 the CONSULTANT in order to carry out this Agreement, shall be protected by the CONSULTANT from
23 unauthorized use and disclosure.

24 B. Permission to disclose information on one occasion, or public meeting held by the
25 AUTHORITY relating to the Agreement, shall not authorize the CONSULTANT to further disclose such
26 information or disseminate the same on any other occasion.

1 C. CONSULTANT shall not comment publicly to the press or any other media regarding the
2 Agreement or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff,
3 CONSULTANT's own personnel involved in the performance of this Agreement, at public hearings, or in
4 response to questions from a Legislative committee.

5 D. CONSULTANT shall not issue any news release or public relations item of any nature,
6 whatsoever, regarding work performed or to be performed under this Agreement without prior review of
7 the contents thereof by the AUTHORITY, and receipt of the AUTHORITY's written permission.

8 **ARTICLE 50. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

9 CONSULTANT warrants that this Agreement was not obtained or secured through rebates,
10 kickbacks or other unlawful consideration, either promised or paid to any AUTHORITY employee. For
11 breach or violation of this warranty, AUTHORITY shall have the right in its discretion, to terminate the
12 Agreement without liability, to pay only for the value of the work actually performed, or to deduct from the
13 Agreement price, or otherwise recover the full amount of such rebate, kickback or other unlawful
14 consideration.

15 **ARTICLE 51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

16 In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under
17 penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court
18 has been issued against CONSULTANT within the immediately preceding two-year period because of
19 CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply
20 with an order of the National Labor Relations Board.

21 **ARTICLE 52. EVALUATION OF CONSULTANT**

22 CONSULTANT's performance will be evaluated by AUTHORITY. A copy of the evaluation will be
23 sent to CONSULTANT for comments. The evaluation together with any comments shall be retained as
24 part of the Agreement record.

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1 **ARTICLE 53. PROHIBITION**

2 To prevent potential conflicts of interest the prime consultant and all subconsultants, (at any tier)
3 awarded this contract for design consultant services to develop the PS&E for the State Route 57
4 Northbound Improvement Project between Orangewood Avenue and Katella Avenue, will be ineligible to
5 participate, in any tier in any of the separate procurements for the construction management services and
6 construction services required to deliver the State Route 57 Northbound Improvement Project between
7 Orangewood Avenue and Katella Avenue.

8 **ARTICLE 54. FORCE MAJEURE**

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

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

I. DBE Participation

It is the CONSULTANT'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 there is a DBE goal and/or DBE commitment within the Agreement, CONSULTANT must complete and submit, within the specified timelines, the DBE documentation in Section IV. of this Attachment, through the AUTHORITY'S electronic reporting system. CONSULTANT'S submitted "DBE Participation Commitment Form," executed subcontracts and/or purchase orders, as well as on-going DBE documentation will be utilized to monitor CONSULTANT'S DBE commitment. Unless otherwise directed and/or approved by AUTHORITY prior, CONSULTANT must not effectuate any changes to its DBE participation commitment.

CONSULTANT 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 CONSULTANT'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, CONSULTANT 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. CONSULTANT 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.

CONSULTANT must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subconsultant. 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 CONSULTANT.
 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, CONSULTANT must complete and submit within the specified timelines, the following DBE documentation, electronically through the AUTHORITY's electronic reporting system:

- A. "Monthly DBE Commitment and Attainment Summary and Subconsultant Prompt Payment Verification Report"

A primary purpose of this report is to ensure CONSULTANT's 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 report further serves to monitor prompt payment to both DBE and non-DBE firms, and collect DBE utilization data as required under 49 CFR, Part 26.

The CONSULTANT is required to complete and submit this report through the AUTHORITY's electronic reporting system by the 10th of each month until completion of the Agreement. CONSULTANT must submit the first report following the first month of Agreement activity. Even if no DBE participation will be reported within a period, CONSULTANT must complete and submit the report.

The Monthly DBE Commitment and Attainment Summary and Subconsultant Prompt Pay Verification Report must include the following information:

- a) Original Agreement Amount
 - b) Running Total of Change Order Amount
 - c) Current Agreement Amount
 - d) Amount Paid to CONSULTANT during Month
 - e) DBE Contract Goal
 - f) Total Dollar Amount of DBE Commitment
 - g) DBE Commitment as Percentage of Current Agreement Amount
 - h) Amount Paid to Subconsultants during Month
1. Listed and Proposed CONSULTANT/Subconsultant Information – For All DBE participation being claimed either race-neutrally or race-consciously, regardless of tier:
- a) DBE Firm Name and DBE Capacity Type
 - b) DBE Firm Contract Value Information:
Original Contract Amount, running total of change order amount, Current Contract Amount, Amount Paid to CONSULTANT or Subconsultant(s) During Month and Amount Paid to CONSULTANT or Subconsultant(s) to date.
2. CONSULTANT Prompt Pay Verification Summary

The Monthly DBE Commitment and Attainment Summary and Subconsultant Prompt Pay Verification Report process requires the CONSULTANT to submit pertinent payment details for any firm (DBE and Non-DBE) that they have reported a payment to within the reporting period. CONSULTANT is advised not to report the participation of DBE(s) toward the CONSULTANT's DBE attainment until the amount being claimed has been paid to the DBE.

Pertinent payment details include:

- a) Invoice Number
- b) Invoice Amount
- c) Payment Amount
- d) Invoice Date
- e) Check Number
- f) Date of Payment
- g) Corresponding Prime Invoice (associated to subconsultants' invoice)
- h) Retention
- i) Disputed or Withheld invoice amounts

Firms will receive a notification from the AUTHORITY's electronic reporting system when a payment is reported to them and they will be required to log-in to the system to verify the payment information provided by CONSULTANT. A reported payment to a lower-tier DBE firm will not be credited until the DBE firm has validated the payment through the AUTHORITY's electronic system. All payments to lower-tier firms must be validated prior to the 10th of each month following the reporting period.

Electronic submission of the Monthly DBE Commitment and Attainment Summary and Subconsultant Prompt Pay Verification Report includes a certification under penalty of perjury of the prompt payment assurance statement of compliance, providing assurance that timely payments have been issued to all subconsultants in accordance with regulatory mandates and as required by 49 CFR Part 26.29.

B. DBE Subcontract Agreements

CONSULTANT must electronically 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. CONSULTANT 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.

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

Upon completion of the project, CONSULTANT must electronically designate their last Monthly DBE Commitment and Attainment Summary and Subconsultant Prompt Pay Verification Report to facilitate reporting and capturing DBE attainments and prompt payment release of retention to all subconsultants at conclusion of the project. Additionally, the CONSULTANT must submit an Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprise (DBE) and First-Tier Subcontractors (F-PDF). 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.

D. Disadvantaged Business Enterprises (DBE) Certification Status Change

If a DBE Subconsultant is decertified during the life of the project, the decertified Subconsultant must notify the CONSULTANT in writing with the date of decertification. If a Subconsultant becomes a certified DBE during the life of the project, the Subconsultant must notify CONSULTANT in writing with the date of certification (Attach DBE certification/decertification letter). CONSULTANT must electronically furnish the written documentation to AUTHORITY within ten (10) days of receipt. Upon completion of the project, Exhibit 17-O: Disadvantaged Business Enterprises (DBE) Certification Status Change must be signed and certified correct by the CONSULTANT 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 CONSULTANT 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 CONSULTANT'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 CONSULTANT payment data to a website, database, or other place accessible to Subconsultants to assist them in determining when they should expect to receive payment.
- b) Requiring CONSULTANT to use an automated reporting system, inclusive of, but not limited to, real time entry of payments made and received by CONSULTANT 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:

<https://ucp.dot.ca.gov/licenseForm.htm>

2. A DBE may participate as a prime CONSULTANT, Subconsultant, 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 CONSULTANT 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 Subconsultant, the value of the subcontracted work may be counted toward DBE participation only if the Subconsultant 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 CONSULTANT'S DBE attainment.
 2. CONSULTANT 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 Subconsultants, Brokers, and Packagers may be credited toward CONSULTANT'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. If the CONSULTANT listed a non-certified, 1st tier Subconsultant to perform work on this Agreement, and the non-certified Subconsultant subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subconsultant 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 CONSULTANT performs the installation of purchased materials and supplies, they are eligible for full credit of the cost of the materials.
5. CONSULTANT is advised not to report the participation of DBE(s) toward the CONSULTANT'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 CONSULTANT not terminate a DBE without AUTHORITY's prior written consent. This includes, but is not limited to, instances in which CONSULTANT 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 CONSULTANT has good cause to terminate the DBE firm. For purposes of this section, good cause includes the following circumstances:

- A. The listed DBE subconsultant fails or refuses to execute a written contract;
- B. The listed DBE subconsultant 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 Subconsultant to perform its work on the subcontract results from the bad faith or discriminatory action of CONSULTANT;
- C. The listed DBE subconsultant fails or refuses to meet CONSULTANT'S reasonable, nondiscriminatory bond requirements;
- D. The listed DBE subconsultant becomes bankrupt, insolvent, or exhibits credit unworthiness;
- E. The listed DBE subconsultant 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. CONSULTANT has determined that the listed DBE subconsultant is not a responsible CONSULTANT;
- G. The listed DBE subconsultant 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 CONSULTANT 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 CONSULTANT seeks to terminate a DBE it relied upon to obtain the Agreement so that CONSULTANT can self-perform the work for which the DBE CONSULTANT was engaged or so that CONSULTANT can substitute another DBE or non-DBE CONSULTANT after Agreement award.

To submit a request to terminate and/or substitute a DBE subconsultant, CONSULTANT will be required to submit a DBE Commitment Change Request through AUTHORITY's electronic system. The DBE Commitment Change Request includes options to increase, decrease, substitute or terminate a DBE commitment.

If decrease, substitute or terminate is selected, CONSULTANT must give notice in writing to the DBE, with a copy to AUTHORITY, of its intent to decrease, substitute and/or terminate, and the reason for the request. This documentation will be required by the AUTHORITY's electronic system when submitting the DBE Commitment Change Request.

CONSULTANT must give the DBE five (5) days to respond to CONSULTANT'S notice and advise AUTHORITY and CONSULTANT of the reasons, if any, why it objects to the proposed termination of its subcontract or purchase order and why AUTHORITY should not approve CONSULTANT'S action. If required in a particular case as a matter of public necessity (e.g. safety), CONSULTANT 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 CONSULTANT 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 CONSULTANT. The substitute DBE must be certified as a DBE at the time of request for substitution.

CONSULTANT 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. This includes partial terminations.

Should CONSULTANT elect to submit a good faith effort documentation in lieu of proposing additional DBE participation, AUTHORITY will review the documentation and provide a determination through AUTHORITY's electronic system to CONSULTANT 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 Subconsultants

In the event CONSULTANT identifies additional DBE Subconsultants or suppliers not previously identified by CONSULTANT for DBE participation under the Agreement, CONSULTANT must notify AUTHORITY by submitting a "Request to Add," through the AUTHORITY's electronic system. This will enable AUTHORITY to verify the firm's eligibility, capacity, CUF and ensure there is not a scope conflict with another previously listed firm. Proposed firms will not be applied towards CONSULTANT'S DBE participation until approved by AUTHORITY.

CONSULTANT 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). This supporting documentation will be required by the AUTHORITY'S electronic system when submitting a Request to Add.

IX. DBE "Frauds" and "Fronts"

Only legitimate DBEs are eligible to participate as DBEs in the AUTHORITY'S U.S. DOT-assisted contracts. CONSULTANT 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 CONSULTANTs violate or breach DBE Program requirements, inclusive but not limited to, prompt payment and provide for such sanctions and penalties as may be appropriate.

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

CONSULTANT and subconsultant 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.

CONSULTANT and subconsultant 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 CONSULTANT with coordination of informal meeting requests to assist in the resolution of disputes between CONSULTANT and subconsultant. AUTHORITY's DBELO or a designated DBE support representative will conduct the informal meetings with parties in dispute. Representatives from CONSULTANT and subconsultant 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, CONSULTANT 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 CONSULTANT and AUTHORITY. These provisions do not alter in any way or waive compliance with other provisions in the Agreement.

XI. Administrative Remedies and Enforcement

CONSULTANT 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 subconsultants, regardless of tier, are also fully compliant. Failure by CONSULTANT 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 CONSULTANT from future bidding/proposing as non-responsible.

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

CONSULTANT 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 CONSULTANT'S right to appeal. If CONSULTANT 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 CONSULTANT'S appeal, AUTHORITY decides to uphold the decision to impose DBE administrative remedies on CONSULTANT, 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.

EXHIBIT C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Information Sheet

ORANGE COUNTY TRANSPORTATION AUTHORITY

The attached Campaign Contribution Disclosure Form must be completed by applicants for, or persons who are the subject of, any proceeding involving a license, permit, or other entitlement for use pending before the Board of Directors of the OCTA or any of its affiliated agencies. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any board member or his or her alternate during the 12-month period preceding the filing of the application or the initiation of the proceeding.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the application or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Campaign Contribution Disclosure Form should be completed and filed with your proposal, or with the first written document you file or submit after the proceeding commences.

1. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.
2. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are "agents."
3. To determine whether a campaign contribution of more than \$250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.
4. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and California Code of Regulations, Title 2 Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: _____ RFP Title: _____

Was a campaign contribution made to any OCTA Board Member within the preceding 12 months, regardless of dollar amount of the contribution by either the proposing firm, proposed subconsultants and/or agent/lobbyist? Yes ____ No ____

If no, please sign and date below.

If yes, please provide the following information:

Prime Contractor Firm Name: _____

Contributor or Contributor Firm's Name: _____

Contributor or Contributor Firm's Address: _____

Is Contributor:

- The Prime Contractor Yes ____ No ____
- Subconsultant Yes ____ No ____
- Agent/Lobbyist hired by Prime to represent the Prime in this RFP Yes ____ No ____

Note: Under the State of California Government Code section 84308 and California Code of Regulations, Title 2, Section 18438, campaign contributions made by the Prime Contractor and the Prime Contractor's agent/lobbyist who is representing the Prime Contractor in this RFP must be aggregated together to determine the total campaign contribution made by the Prime Contractor.

Identify the Board Member(s) to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions, the name of the contributor, the dates of contribution(s) in the preceding 12 months and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Date: _____

Signature of Contributor

Print Firm Name

Print Name of Contributor

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Andrew Do, Chairman

Mark A. Murphy, Vice Chairman

Lisa A. Bartlett, Director

Doug Chaffee, Director

Barbara Delgleize, Director

Brian Goodell, Director

Patrick Harper, Director

Michael Hennessey, Director

Gene Hernandez, Director

Steve Jones, Director

Joseph Muller, Director

Vicente Sarmiento, Director

Tim Shaw, Director

Harry S. Sidhu, Director

Donald P. Wagner, Director

EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS

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

EXHIBIT E: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
REQUIREMENTS AND FORMS

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
REQUIREMENTS**

1.0 DBE Goal

To assist proposers 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 **10%**.

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 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 U.S. DOT-assisted contracts.
- 2.2 Create a level playing field on which DBEs can compete fairly for the Authority’s U.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.

Proposers 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 goal.

Race-neutral measures include, but are not limited to, conducting outreach, training, providing other resource assistance and assessing proposal delivery schedules to ensure that DBEs interested in proposing for U.S. DOT-assisted solicitations are provided 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 consultants to subcontract portions of work that they might, otherwise, perform with their own work 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, proposers 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 of which 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, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri 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 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 Proposal Submission Requirements

Proposer must complete and submit the following DBE Exhibit (form) with their proposal:

- DBE Participation Commitment Form
- Letter of Acknowledgement and Commitment (required from each proposed DBE firm listed on the DBE Participation Commitment Form)

Proposer 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 proposal 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
Consultant Proposal DBE Commitment Form (10-O1)	Required at time of proposal
Letter of Acknowledgement and Commitment (required from each proposed DBE firm listed on the DBE Participation Commitment Form (10-O1))	Required at time of proposal
DBE Information – Good Faith Efforts	Required no later than 4:00 p.m. on the 2 nd business day after the proposal due date
Bidders List	Required no later than 4:00 p.m. on the 2 nd business day after the proposal due date

4.1 “Consultant Proposal DBE Commitment Form - Caltrans Form 10-O1” (Exhibit E-1) required at time of Proposal. The Proposer 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 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);
- 4.1.6 The proposer shall also submit, for each DBE to perform under this Agreement, a Letter of Acknowledgement and Commitment (**Exhibit E-2**) signed and dated from each DBE listed, acknowledging that the DBE is participating in the contract for the specified dollar value(s) and scope of work listed on the DBE Participation Commitment Form. The Letter of Acknowledgement and Commitment and the amount(s) and scope

reflected in the quote/proposal, and the amount and scope reflected on the DBE Participation Commitment Form must match identically.

4.2 “DBE Information - Good Faith Efforts” (Exhibit E-3)

To be a responsible and responsive proposer, the proposer must make good faith efforts to meet the goal. The proposer can meet this requirement in two ways. (i) the proposer can meet the goal by documenting commitments for participation by DBE firms sufficient for this purpose; or (ii) the proposer 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 proposer did not meet or obtain enough DBE participation to meet the DBE goal, the proposer must complete and submit the “DBE Information – Good Faith Efforts,” form demonstrating that the proposer made adequate good faith efforts to meet the goal.

If the proposer has met the DBE goal based on the participation of DBEs listed on the proposer’s “DBE Participation Commitment Form,” it is at the proposer’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 proposer’s eligibility for award of the contract if the Authority determines that the proposer failed to meet the goal for various reasons (e.g. a DBE firm was not certified at proposal submission or the proposer 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 proposer 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 proposal due date.

For further guidance, refer to instructions on Exhibit E-3 “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-Proposal Power Point.

4.3 “Bidders List” (Exhibit E-4)

The Authority is required by Regulations to create and maintain a “Bidders List,” of all firms proposing or quoting on the Authority’s U.S. DOT-assisted contracts for use in calculating the Authority’s DBE goal(s). Proposers 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 proposer.

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

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ 20. Consultant's Ranking after Evaluation: _____	IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. _____ 12. Preparer's Signature 13. Date _____ 14. Preparer's Name 15. Phone _____ 16. Preparer's Title		
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. _____ _____ _____			

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT**CONSULTANT SECTION**

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Location** - Enter the project location as it appears on the project advertisement.
- 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
- 20. Consultant's Ranking after Evaluation** - Enter consultant's ranking after all submittals/consultants are evaluated. Use this as a quick comparison for evaluating most qualified consultant.
- 21. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 22. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 23. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 24. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 25. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

DBE LETTER OF ACKNOWLEDGMENT AND COMMITMENT

1. RFP NO.: _____

2. Project Name/Description: _____

3. Offeror: _____

4. DBE Commitment Information

(A) Description of work to be performed by DBE firm (include bid item number on the DBE Participation Commitment Form as applicable):

(B) Percentage of work to be performed _____ (For Architectural & Engineering Services Proposals)

OR

Dollar value of work to be performed \$ _____ (For Professional Services Proposals)

5. DBE ACKNOWLEDGMENT*

I acknowledge that my firm has been listed by the Offeror named above, and is committed, to perform the scope and portion of work (A and B) stated above.

DBE Firm's Name: _____

Name: _____

Signature: _____

Title: _____

Telephone: _____

*If the offeror does not receive award of the prime contract, any and all representations in this letter of Acknowledgment and Commitment shall be null and void.

This form may be used to fulfill the DBE Participation Commitment Letter requirement as stated in the RFP instructing that the "the offeror is required to submit with the proposal a DBE Letter of Acknowledgement and Commitment signed and dated from each DBE acknowledging that the DBE is participating in the contract for the specified value and scope of work.

INSTRUCTIONS - DBE LETTER OF ACKNOWLEDGEMENT AND COMMITMENT

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

1. **RFP No.** - Enter the RFP Number.
2. **Project Name/Description** - Enter the name and/or description of the project.
3. **Offeror Name** - Enter the offeror's firm name.
- 4A. **Description of work** - Scope of work to be performed that will be credited towards DBE participation. To include bid item number on the DBE Participation Commitment Form as applicable.
- 4B. **Value** - Enter the percentage or total dollar value of participation for the DBE firm.
5. **DBE Acknowledgement** – DBE to provide firm name, authorized person's name, signature, title and telephone number if they have been notified that they were listed for the scope and value reflected in #4.

NOTE: If the offeror does not receive award of the prime contract, any and all representations in the letter of Acknowledgment and Commitment shall be null and void.



DBE INFORMATION - GOOD FAITH EFFORTS

RFP No: _____ Proposal Due 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 _____(Proposer).

Proposer 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 proposal due date, or as otherwise specified in the solicitation. Proposer should submit the following information even if the "DBE Participation Commitment Form" indicates that the proposer has met the DBE goal. This will protect the proposer's eligibility for award of the contract if Authority determines that the proposer failed to meet the goal for various reasons, e.g., a DBE firm was not certified at proposal submission, or the proposer 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 proposal submission. Proposer 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 Proposer Made Available to DBE Firms; a description of work items and approximate dollar amounts made available to DBE firms by the proposer, value of work items as a percentage of total contract work, breakdown of larger scopes of contract work (including those items normally performed by the proposer with its own forces) into economically feasible units to facilitate DBE participation sufficient to meet the DBE contract goal. It is the proposer'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	Proposer Normally Performs (Y/N)	Unbundled from Larger Scope (Y/N) If Yes, List Scope	Amount (\$)	Percentage of Contract

- B. Solicitation Effort Documentation; the names and dates of written notices sent to certified DBEs soliciting proposals 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, proposal due date, items of work made available and contact information) in the Request for Proposal from the proposer, the proposer solicited through all reasonable means (e.g. attendance at pre-proposal meetings, advertising and written notices) the interest of all certified DBEs who have the capability to perform the work of the contract, proposer 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 Proposing

(Note: Solicitations should occur at a minimum no later than 14 calendar days prior to the Authority's proposal 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 proposal date has been extended.

- C. Rejected DBE Proposal Documentation; the names, addresses, phone numbers, and amount of rejected DBE firms, the reasons for the proposer'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 (rates) 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 proposer (attach copies of advertisements or proof of publications). Publications should be placed at a minimum 14 calendar days before the Authority's proposal due date. If RFP due date is extended, proposer is to re-advertise new proposal due date.

Publications	Type of Publication (Trade/General/Minority/Focus)	Dates of Advertisement	Duration of Advertisement	Readvertisement (Proposal-Due Date Extension)

- 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 proposer in response).

- 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, proposer to provide evidence of effort.

- 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, proposer to provide a list of any assistance provided to DBEs:

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

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 proposer is to complete all requested information for every firm who submitted a bid, proposal or quote, including the primary proposer, and submit this information to the Authority no later than 4:00 p.m. on the 2nd business day after the Authority's proposal 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:	Agreement Amount	Percentage of Bid Item Sub-consulted	Consultant License No.	DBE (Y/N)	Phone:	Annual Gross Receipts
	NAICS/WCC			DIR Reg Number	DBE Certification ID	E-mail:	
Prime Proposer:							<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:							

Subconsultant Name and Location	Type of Work/Services/Materials Provided:	Agreement Amount	Percentage of Bid Item Sub-consulted	Consultant 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:							

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Subconsultant Name and Location	Type of Work/Services/Materials Provided:	Agreement Amount	Percentage of Bid Item Sub-consulted	Consultant 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.

EXHIBIT F: RESTRICTIONS ON LOBBYING

CERTIFICATION
LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS

A. DEFINITIONS

1. Authority, as used in this clause, means the Orange County Transportation Authority, acting on behalf of the Orange County Transit District.
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.
3. 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.
4. 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.
5. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. Recipient, as used in this clause, includes the CONSULTANT 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.
11. 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.
12. 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 consultant 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:

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.

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:

Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,

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.

- (5) Only those services expressly authorized by paragraph C.3.a.(1) of this clause are permitted under this clause.

b. 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:

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.

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.

- (2) 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.

- (3) 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.
- (4) Only those services expressly authorized by paragraph C.3.a.(1) and (2) of this clause are permitted under this clause.
- (5) 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.

c. Disclosure

- (1) The consultant 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 consultant 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:

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

A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

- (3) The consultant 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 prime consultant. The prime consultant 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 consultant.

d. Agreement

The consultant agrees not to make any payment prohibited by this clause.

e. 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) Consultants may rely without liability on the representation made by their subcontractors in the certification and disclosure forms.

f. Cost Allowability:

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 bidder/offeror) of _____ that:
(Firm name)

1. 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.
2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence 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.
3. If bidder/offeror does not have any reportable activities to disclose, they shall check the box entitled "No Reportable Activities" on the attached Standard Form-LLL "Disclosure of Lobbying Activities" and complete Section 16 of the form. The certifying official shall sign and date the form, print his/her name, title and telephone number.
4. 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/offeror, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the bidder/offeror 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 _____, 20__

By _____
(Signature of authorized official)

(Title of authorized official)

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.

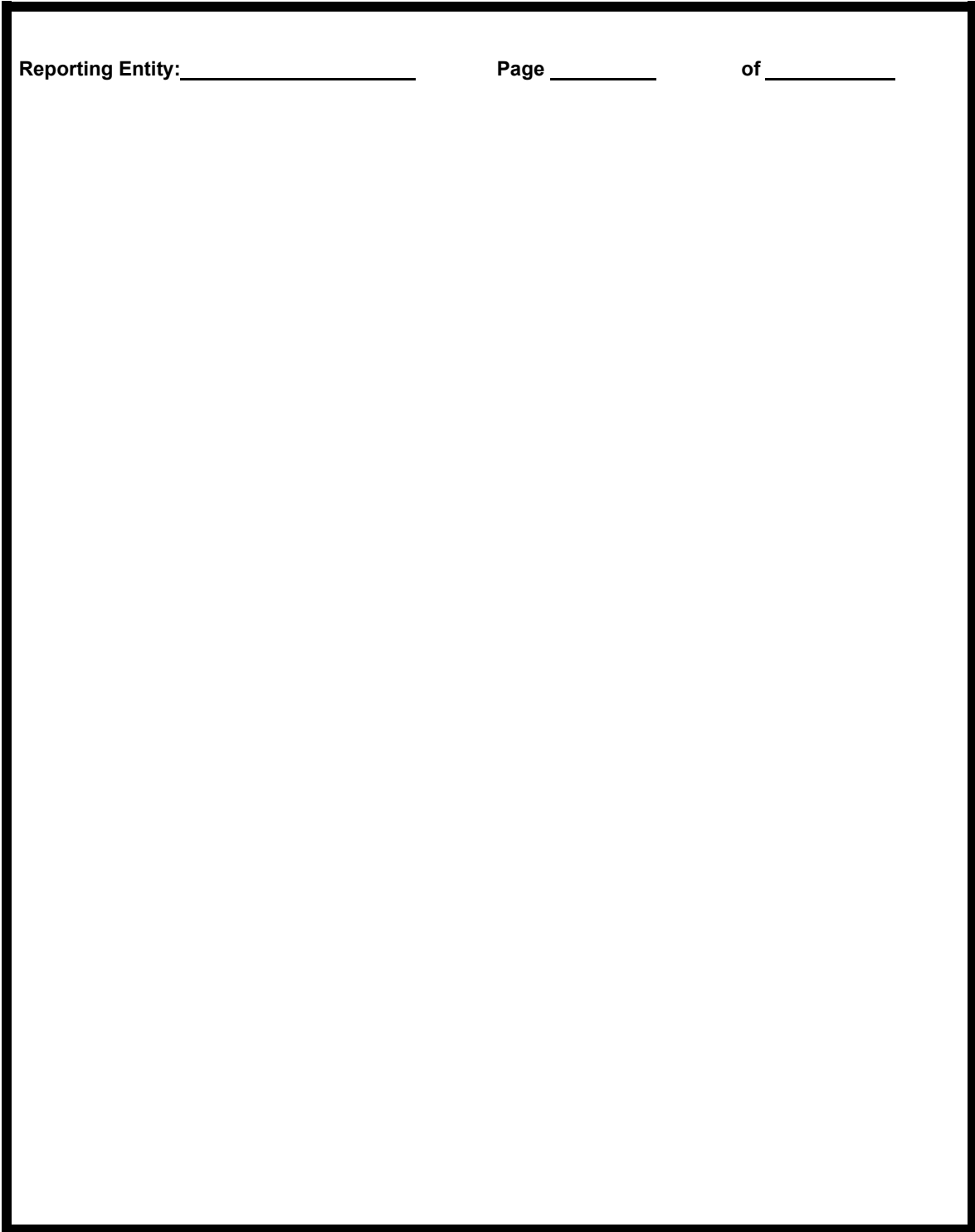
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (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.

Approved by
OMB
003480045

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____



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EXHIBIT G: SAFETY SPECIFICATIONS

MODIFIED LEVEL 1 AND 3 HEALTH, SAFETY AND ENVIRONMENTAL (HSE) SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

- A. The Contractor, its subcontractors, suppliers, and employees have the obligation to comply with all Authority health, safety and environmental compliance department (HSEC) requirements of this safety specification, project site requirements, bus yard safety rules, as well as all federal, state, and local regulations pertaining to scope of work, contracts or agreements with the Authority. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.
- B. Observance of repeated unsafe acts or conditions, serious violation of safety standards, non-conformance of Authority health, safety and environmental compliance department (HSEC) requirements, or disregard for the intent of these safety specifications to protect people and property, by Contractor or its subcontractors may be cause for termination of scope or agreements with the Authority, at the sole discretion of the Authority.
- C. The health, safety, and environmental requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be planned and performed, and safe conditions shall be maintained during the course of this work scope.
- D. The Authority Project Manager shall be responsible to ensure a safety orientation is conducted of known potential hazards and emergency procedures for all Contractor personnel, subcontractors, suppliers, vendors, and new employees assigned to the project prior to commencement of the project.
- E. The Contractor shall ensure that all Contractor vehicles, including those of its subcontractors, suppliers, vendors and employees are parked in designated parking areas, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots.
- F. California Code of Regulations (CCR) Title 8 Standards are minimum requirements; each Contractor is encouraged to exceed minimum requirements. When the Contractor's safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of public and workers.

G. INJURY AND ILLNESS PREVENTION PLAN

1. Injury Illness Prevention Program

The Contractor shall comply with CCR Title 8, Section with California Code of Regulations (CCR) Title 8, Section 3203. The intent and elements of the IIPP shall be implemented and enforced by the Contractor and its sub-tier contractors, suppliers, and vendors. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

2. Substance Abuse Prevention Program

Contractor shall comply with the Policy or Program of the Company's Substance Abuse Prevention Policy that complies with the most recent Drug Free Workplace Act. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

3. Heat Illness Prevention Program

Contractor shall comply with CCR Title 8, Section, Section 3395, Heat Illness Prevention. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

4. Hazard Communication Program

Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of SDS for all applicable chemical products used, if any. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.

5. Storm Water Pollution Prevention Plan

The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the scope. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements.

1.2 INCIDENT NOTIFICATION AND INVESTIGATION

A. The Authority shall be promptly notified of any of the following types of incidents:

1. Damage to Authority property (or incidents involving third party property damage);
2. Reportable and/or recordable injuries (as defined by the U. S. Occupational Safety and Health Administration);
3. Incidents impacting the environment, i.e. spills or releases on Authority property.
4. Incidents occurring to contractors, vendors, visitors, or members of the public that arise from the performance of Authority contract work.
5. Investigations or site visit by a regulatory agency (i.e., Cal-OSHA, DTSC, EPA, SCAQMD, OC Health Care Agency, etc.)

B. Notification shall be made to Authority Project Manager. An immediate verbal notice shall be communicated to the Authority's Project Manager followed by a written

incident investigation report submitted to Authority's Project Manager within 24 hours of the incident.

- C. A final comprehensive written incident investigative report shall be submitted as soon as possible (i.e., 48 hours expectation) and within seven (7) calendar days at the latest. The report shall include the following information. The Current Status of anyone injured, investigation photos of the incident area, photos of the existing conditions and area around the injury/incident scene, detailed description of what happened, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and Management's evaluation of effectiveness, a copy of the task planning documentation, copy of training records (employee, equipment operator, etc.) a copy of the Physician's first report of injury, a copy of Cal/OSHA 300 log of work related injuries and illnesses, a copy of the Cal/OSHA 301 Injury Illness Incident Report, and corrective actions initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report provided to OCTA.
- D. A Serious Injury, Serious Incident, OSHA Recordable Injury/Illness, or a Significant Near Miss shall require a formal incident investigation and incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within seven (7) calendar days of the incident or as determined by the Authority Project Manager. This review shall require a company senior executive, company program or project manager from the Contractors' organization to participate and present the incident review as determined by the OCTA Project Manager and the HSEC Department Manager. The serious incident presentation shall include, but not be limited to; action taken for the welfare of the injured, a status report of the injured, causation factors that lead to the incident, a root cause analysis (using the root cause analysis flow chart method, tap-root method, or the fishbone method), evaluation of applicable policies/procedures effectiveness, task communication effectiveness, key management and supervisor oversight, a written detailed recovery plan that identifies corrective actions to prevent a similar incident, and proposed actions to enhance safety culture awareness.
- E. Non-Disclosure Requirement, Contractor is strictly prohibited from giving any information to the news media. In such event, spokespersons for the Authority will manage all media inquiries. Contractor shall provide any information requested from Governmental Entities related to construction accidents. Such information shall also be provided to Authority immediately, as soon as possible.
1. Serious Injury : includes an injury or illness to one or more employees, occurring in a place of employment or in connection with any employment, which requires inpatient hospitalization for a period in excess of twenty-four hours for other than medical observation, or in which an employee suffers the loss of any member of the body, or suffers any serious degree of physical disfigurement. A serious injury also includes a lost workday or reassignment or restricted injury case as determined by the Physician's first report of injury or Cal/OSHA definitions.
 2. Serious Incident : includes but not limited to property damage of \$500.00 or more, an incident requiring emergency services (local fire, paramedics and ambulance response), news media or OCTA media relations response, and/or incidents

involving other agencies (Cal/OSHA, EPA, AQMD, DTSC, Metrolink, FTA, FRA etc.) notification or representation.

3. OSHA Recordable Injury / Illness: includes and injury / illness resulting in medical treatment beyond First Aid, an injury / illness which requires restricted duty, or an injury / illness resulting in days away from work.
4. Significant Near Miss Incident: includes incidents where no property was damaged and no personal injury sustained, but where, given a slight shift in time or position, damage and/or injury easily could have occurred.

1.4 PERSONAL PROTECTIVE EQUIPMENT

- A. The Contractor, its subcontractors, suppliers, and employees are required to comply with applicable personal protective equipment (PPE) requirements while performing work at any Authority project or property. Generally minimum PPE requirements include eye protection; hearing protection, head protection, class 2 safety reflective vests, and appropriate footwear.
- B. The Contractor, its subcontractors, suppliers, and employees are required to provide their own PPE, including eye, head, foot, ear and hand protection, safety vests, or other PPE required to perform their work safely on Authority projects or property. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

2.1 ORIENTATION

- A. The Contractor shall conduct and document a project site safety orientation for all Contractor personnel, subcontractors, suppliers, vendors, and new employees assigned to the project prior to performing any work on Authority projects. The safety orientation at a minimum shall include, as applicable, Personal Protection Equipment (PPE) requirements, eye protection, ANSI class 2 or 3 reflective vests, designated smoking, eating, and parking areas, traffic speed limit and routing, cell phone policy, and barricade requirements. When required by scope, additional orientation shall include fall protection, energy isolation/lock-out/tag-out (LOTO), confined space, hot work permit, security requirements, and similar project safety requirements.
- B. A Job Hazard Analysis (JHA) shall be prepared for the activities performed.
- C. Copies of orientation documents and JHA shall be provided to the Authority Project Manager within 72 hours upon request.

PART III – SPECIFIC REQUIREMENTS – FIELD SURVEY AND GEOTECHNICAL EXPLORATION

Level 3 Safety Specifications for Field Tasks including Geotechnical Subsurface Activities

3.0 A PROJECT TASK SPECIFIC WORK PLAN AND JOB HAZARD ANALYSIS

- A. The Contractor shall develop a site project appropriate task plan that shall include as necessary for this scope: Permits, Evacuation, Emergency Plan, Roles and

Responsibilities, Scope and Task Activity Details, Safe Work Methods, Hazard Identification & Exposure Control, First Aid and Injury Management, Emergency Procedures, Public Protection, Training and Orientation Requirements. A copy of the task plan and JHA shall be provided to the Authority Project Manager within 72 hours upon request.

3.1 DESIGNATED SAFETY REPRESENTATIVE

QUALIFICATIONS – The Contractor shall submit a resume of the designated on-site HSE Representative and a copy of their Professional Certification, upon request, within 72 hours.

A certification from the Board of Certified Safety Professionals (BCSP)

- Certified Safety Professional (CSP), Or;
- Associate Safety Professional (ASP), or
- Construction Health and Safety Technician (CHST), or,

Certification from the American Board of Industrial Hygiene (ABIH)

- Certified Industrial Hygienist (CIH)

Experience:

The Contractor's on-site HSE Representative(s) shall have a minimum of seven (7) years of heavy construction or scope agreement experience in administering HSE programs on field project sites, the last two years of which have been administering HSE compliance in a similar type of scope (Construction, Industrial, etc.) for which Contractor is contracting with the Authority. The designated HSE Representative shall have full stop work authority.

The Authority reserves the right to allow for an exception to modify these minimum qualification requirements for unforeseen circumstances, at the sole discretion of the Authority Project Manager and HSEC Department Manager.

The designated HSE Representative shall review Contract Safety Requirements, Contractor's HSE submittals compliant with CCR Title 8 and 22 Standards, IIPP, Substance Abuse Prevention Program, Hazard Communication, Heat Illness Program, Incident Report Forms, Field Activity JHA's, SWPPP BMP's, HAZWOPER Certificates, Hazardous Waste Manifests, Waste Hauling Company and Disposal Facilities compliance requirements.

All hazardous waste activity and generated substances and manifests shall be coordinated with the Authority Health Safety Environmental Compliance Department's (HSEC) Environmental Specialist.

Geotechnical field subsurface exploration activity shall require employees to possess a current training certificate in accordance with CCR Title 8, Section §5192. Hazardous Waste Operations and Emergency Response.

Class 3 ANSI reflective safety vests shall be required for field traffic survey and geotechnical exploration scope tasks.

3.2 SITE HSE ORIENTATION

- A. The Contractor shall conduct and document a project site safety orientation for all Contractor personnel, subcontractors, suppliers, vendors, and new employees assigned to the project prior to performing any work on Authority projects. The safety orientation, at a minimum, shall include, as applicable, Personal Protection Equipment (PPE) requirements, eye protection, ANSI class 3 reflective vests, designated smoking, eating, and parking areas, traffic speed limit and routing, cell phone policy, and barricade requirements. When required by scope, additional orientation shall include fall protection, energy isolation/lock-out/tag-out (LOTO), confined space, hot work permit, HAZWOPER, security requirements, and similar project safety requirements.
- B. A Job Hazard Analysis (JHA) shall be prepared for the activities performed.
- C. Copies of orientation documents, JHA's, other HSE documents shall be provided to the Authority Project Manager and the HSEC Manager within 72 hours upon request.

3.3 TRAINING DOCUMENTATION

- A. To ensure that each employee is qualified to perform their assigned work, when applicable to scope work, Contractor shall verify training documentation is in place, prior to and during contract scope, and make available to the Authority, upon request, within 72 hours. Training may be required by the Authority or CCR Title 8 Standards and required for activity on Authority's property and/or Authority projects. Contractor shall provide to Authority, upon request, within 72 hours.

PART IV - REFERENCES

- A. CCR Title 8 and 22 Standards (Cal/OSHA)
- B. CFR Including 1910 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH, and Cal-Trans Standards
- D. Construction Industry Institute (CII)
- E. USACE Construction Quality Management Manual (EM-385-1-1)
- F. California Public Utility Commission (CPUC)
- G. Southern California Air Quality Management District (SCAQMD)
- H. Santa Ana Regional Water Quality Control Board (SARWQCB)

END

**EXHIBIT H: CONSULTANT CERTIFICATION OF CONTRACT COSTS AND
FINANCIAL MANAGEMENT SYSTEM**

**EXHIBIT 10-K CONSULTANT ANNUAL CERTIFICATION OF
INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)

Consultant's Full Legal Name: _____

Important: Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

Indirect Cost Rate:

Combined Rate _____ % **OR**

Home Office Rate _____ % and Field Office Rate (if applicable) _____ %

Facilities Capital Cost of Money _____ % (if applicable)

Fiscal period * _____

* Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in [Title 23 United States Code \(U.S.C.\) Section 112\(b\)\(2\); 48 CFR Part 31.201-2\(d\); 23 CFR, Chapter 1, Part 172.11\(a\)\(2\);](#) and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost

accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - [23 CFR Part 172.11\(c\)\(4\)](#)
- False Claims Act - [Title 31 U.S.C. Sections 3729-3733](#)
- Statements or entries generally - [Title 18 U.S.C. Section 1001](#)
- Major Fraud Act - [Title 18 U.S.C. Section 1031](#)

All A&E Contract Information:

- Total participation amount \$ _____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is _____.
- Years of consultant’s experience with 48 CFR Part 31 is _____.
- Audit history of the consultant’s current and prior years (if applicable)

<input type="checkbox"/> Cognizant ICR Audit	<input type="checkbox"/> Local Gov’t ICR Audit	<input type="checkbox"/> Caltrans ICR Audit
<input type="checkbox"/> CPA ICR Audit	<input type="checkbox"/> Federal Gov’t ICR Audit	

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the Indirect Cost Rate Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with [Title 23 U.S.C. Section 112\(b\)\(2\)](#), [48 CFR Part 31](#), [23 CFR Part 172](#), and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name**: _____ Title**: _____
 Signature: _____ Date of Certification (mm/dd/yyyy): _____
 Email**: _____ Phone Number**: _____

**An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: ***Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms. Caltrans will not process local agency’s invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.***

Distribution: 1) Original - Local Agency Project File
2) Copy - Consultant
3) Copy - Caltrans Audits and Investigations

EXHIBIT I: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

The following form shall be completed for each technical and/or contractual exception or deviation that is submitted by Offeror for review and consideration by Authority. The exception and/or deviation must be clearly stated along with the rationale for requesting the exception and/or deviation. If no technical or contractual exceptions or deviations are submitted as part of the original proposal, Offerors are deemed to have accepted Authority's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit C). Offerors will not be allowed to submit this form or any contractual exceptions and/or deviation after the proposal submittal date identified in the RFP. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed by Authority.

Offeror: _____

RFP No.: _____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

- Scope of Work (Technical) _____
- Proposed Agreement (Contractual) _____

Reference Section/Exhibit: _____ Page/Article No. _____

Complete Description of Deviation or Exception:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:

_____ _____ _____

**EXHIBIT J: PUBLIC RECORDS ACT INDEMNIFICATION – PROPOSAL
DOCUMENTS**

PUBLIC RECORDS ACT INDEMNIFICATION – PROPOSAL DOCUMENTS

Offeror is required to submit one copy of the completed and signed form as part of its proposal and it should be included only in the original proposal. Offeror shall complete either Option 1 or Option 2 which ever applies.

Option #1: Public Records Act Indemnification Agreement

By signing below, the Proposer agrees as follows regarding its Proposal:

If Authority receives a Public Records Act request (Government Code sections 6250 et seq.) which seeks any portion of Proposer’s proposal that the Proposer has marked as "confidential", "trade secret", "proprietary", "not subject to disclosure", or similar designation (the "PRA Documents"), the Authority will notify the Proposer of the request. The Proposer shall, within three business days of such notification from the Authority, inform the Authority as to whether it desires the PRA Documents to be withheld, and shall thereafter timely provide a legal basis for each such requested withholding. If the Authority determines to withhold the PRA Documents, Proposer shall indemnify and defend Authority from any and all costs or liabilities resulting from such withholding including, but not limited to, attorney fees and court costs.

Proposer shall pay all costs, immediately as they come due, pertaining to any action under the Public Records Act related to any portion of Proposer’s proposal marked or designated as described above, and withheld by Authority. If the Proposer fails to notify the Authority in writing within three business days, or to timely provide a legal basis for the withholding of documents, Proposer agrees that Authority shall release and disclose Proposer records, notwithstanding any marking or designation of the PRA Documents.

In no case shall Authority be liable for any inadvertent disclosure of any Proposer proposal documents, or any disclosure made by Authority upon a good faith belief that disclosure is required by law, or in the event Proposer has failed to notify the Authority in writing of its desire to withhold the PRA Documents within three business days and/or to timely provide a legal basis for the withholding of documents, regardless of any marking or designation of such PRA Documents, and Proposer waives any claims it may have had related to such disclosure.

Official, legal name of Proposing Firm (Type or Print)

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____

Option #2: Non-Applicability

This Proposer has not marked any portion of its proposal as "confidential", "trade secret", "proprietary", "not subject to disclosure", or similar designation.

Official, legal name of Proposing Firm (Type or Print)

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____