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## **BOARD AGENDA**

Orange County Transportation Authority Board Meeting  
Orange County Transportation Authority Headquarters  
Board Room - Conference Room 07-08  
550 South Main Street  
Orange, California  
**Monday, October 26, 2020 at 9:00 a.m.**

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

### **Agenda Descriptions**

The agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Board of Directors may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

### **Public Availability of Agenda Materials**

All documents relative to the items referenced in this agenda are available for public inspection at [www.octa.net](http://www.octa.net) or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

### **Guidance for Public Access to the Board of Directors/Committee Meeting**

On March 12, 2020 and March 18, 2020, Governor Gavin Newsom enacted Executive Orders N-25-20 and N-29-20 authorizing a local legislative body to hold public meetings via teleconferencing and make public meetings accessible telephonically or electronically to all members of the public to promote social distancing due to the state and local State of Emergency resulting from the threat of Novel Coronavirus (COVID-19).

In accordance with Executive Order N-29-20, and in order to ensure the safety of the Orange County Transportation Authority (OCTA) Board of Directors (Board) and staff and for the purposes of limiting the risk of COVID-19, in person public participation at public meetings of the OCTA will not be allowed during the time period covered by the above referenced Executive Orders.



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## **BOARD AGENDA**

### **Guidance for Public Access to the Board of Directors/Committee Meeting (continued)**

Instead, members of the public can listen to AUDIO live streaming of the Board and Committee meetings by clicking the below link:

<http://www.octa.net/About-OCTA/Who-We-Are/Board-of-Directors/Live-and-Archived-Audio/>

Public comments may be submitted for the upcoming Board and Committee meetings by emailing them to [boardofdirectors@octa.net](mailto:boardofdirectors@octa.net).

If you wish to comment on a specific agenda Item, please identify the Item number in your email. All public comments that are timely received will be part of the public record and distributed to the Board. Public comments will be made available to the public upon request.

In order to ensure that staff has the ability to provide comments to the Board Members in a timely manner, please submit your public comments **30 minutes prior to the start time of the Board and Committee meeting date.**



## **BOARD AGENDA**

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### **Call to Order**

### **Roll Call**

### **Invocation**

Director Sidhu

### **Pledge of Allegiance**

Director Davies

### **Special Calendar**

There are no Special Calendar matters.

### **Consent Calendar (Items 1 through 16)**

All matters on the Consent Calendar are to be approved in one motion unless a Board Member or a member of the public requests separate action on a specific item.

### **Orange County Transportation Authority Consent Calendar Matters**

#### **1. Approval of Minutes**

Approval of the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of October 12, 2020.

#### **2. Coronavirus Update**

Darrell E. Johnson

##### **Overview**

The Orange County Transportation Authority continues to take proactive measures in response to the impacts of the coronavirus pandemic in relation to transportation services, programs, and projects. The response efforts are centered around agency core values, helping to ensure the health and safety of the public and employees while continuing to provide essential transportation services and deliver critical infrastructure improvements. An overview and update on these efforts is presented.



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**BOARD AGENDA****2. (Continued)****Recommendation**

Receive and file as an information item.

**3. Fiscal Year 2020-21 Internal Audit Plan, First Quarter Update**

Janet Sutter

**Overview**

The Orange County Transportation Authority Board of Directors adopted the Orange County Transportation Authority Internal Audit Department Fiscal Year 2020-21 Internal Audit Plan on July 27, 2020. This report provides an update of activities for the first quarter of the fiscal year.

**Recommendation**

Receive and file the first quarter update to the Orange County Transportation Authority Internal Audit Department Fiscal Year 2020-21 Internal Audit Plan as an information item.

**4. Agreement for Fullerton Transportation Center Stair Replacement Project**

Lora Cross/James G. Beil

**Overview**

The Orange County Transportation Authority, in coordination with the City of Fullerton, is replacing the Fullerton Transportation Center stairs that serve the station overcrossing. On June 22, 2020, an invitation for bids was released. Bids were received in accordance with the Orange County Transportation Authority's public works procurement procedures. Board of Directors' approval is requested to execute the agreement.



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## **BOARD AGENDA**

### **4. (Continued)**

#### **Recommendations**

- A. Find A2Z Construct, Inc., the apparent low bidder and Metro Building and Engineering Group, Ltd., the apparent third low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation; and find AP Construction, Inc., the apparent second low bidder, as non-responsive for failure to sign the Disclosure of Lobbying Activities form as required by the bid instructions and the Federal Transit Administration.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2267 between the Orange County Transportation Authority and Golden Gate Construction, the lowest responsive, responsible bidder, in the amount of \$705,300, for the Fullerton Transportation Center Stair Replacement Project.

### **5. Agreement for Rideshare and Vanpool Marketing, Design, and Advertising Services**

Kristopher Hewkin/Maggie McJilton

#### **Overview**

On July 8, 2020, the Orange County Transportation Authority released a request for proposals for consultant support for rideshare and vanpool marketing, design, and advertising services. Proposals were received in accordance with Orange County Transportation Authority procurement procedures for professional and technical services. Board of Directors' approval is requested to execute an agreement for rideshare and vanpool marketing, design, and advertising services.

#### **Recommendations**

- A. Approve the selection of Brown Marketing Strategies, Inc. to provide rideshare and vanpool marketing, design, and advertising services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2206 between the Orange County Transportation Authority and Brown Marketing Strategies, Inc. in the amount of \$570,000, to provide rideshare and vanpool marketing, design, and advertising services for a two-year term, with a one-year option term.



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**BOARD AGENDA****6. Update on Diversity Outreach and Inclusion Efforts**

Ted P. Nguyen/Maggie McJilton

**Overview**

The Orange County Transportation Authority is continuing its effort to conduct comprehensive and meaningful outreach to Orange County's growing diverse communities. This report provides an update on the progress of the diversity and inclusion efforts as well as plans to meet the future needs of community members who are increasingly diverse.

**Recommendation**

Receive and file as an information item.

**7. First Quarter Fiscal Year 2020-21 Procurement Status Report**

Pia Veasapen/Andrew Oftelie

**Overview**

The first quarter procurement status report summarizes the procurement activities for information purposes to the Orange County Transportation Authority Board of Directors. This report focuses on procurement activity from July 1 through September 30, 2020, that was approved by the Board of Directors during this period. The first quarter procurement status report also projects future procurement activity for the second quarter as identified in the fiscal year 2020-21 budget.

**Recommendation**

Receive and file as an information item.



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**BOARD AGENDA**

**8. Agreement for State Legislative Advocacy and Consulting Services**  
Kristin Jacinto/Lance M. Larson

**Overview**

On June 22, 2020, the Board of Directors approved the release of a request for proposals for state legislative advocacy and consulting services to begin when the present term for these services expires on December 31, 2020. One proposal was received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services. Board of Directors' approval is requested to execute an agreement for these services.

**Recommendations**

- A. Approve the selection of Topp Strategies, LLC, as the firm to provide state legislative advocacy and consulting services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2369 between the Orange County Transportation Authority and Topp Strategies, LLC, in the amount of \$420,000, for a two-year initial term, effective January 1, 2021 to December 31, 2022, with two, two-year options, to perform state legislative advocacy and consulting services.

**9. Federal Legislative Status Report**  
Dustin J. Sifford/Lance M. Larson

**Overview**

An update is provided on efforts in Congress to enact appropriations bills and additional economic stimulus legislation. An overview is provided of a hearing on transportation equity.

**Recommendation**

Receive and file as an information item.



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**BOARD AGENDA****10. Draft 2021-22 State and Federal Legislative Platforms**

Dustin J. Sifford/Lance M. Larson

**Overview**

Initial drafts of the 2021-22 State and Federal Legislative Platforms have been prepared for consideration by the Board of Directors.

**Recommendation**

Direct staff to continue developing the initial drafts of the 2021-22 State and Federal Legislative Platforms and prepare subsequent drafts for final approval.

**Orange County Transit District Consent Calendar Matters****11. Agreement for Locker Room Expansion at Santa Ana Bus Base Maintenance Building**

George Olivo/James G. Beil

**Overview**

The Orange County Transportation Authority's Santa Ana Bus Base requires modifications to the maintenance building locker rooms. An invitation for bids was issued on August 5, 2020. Bids were received in accordance with Board of Directors-approved procedures for public works projects. Board of Directors' approval is requested to execute the agreement.

**Recommendation**

Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2467 between the Orange County Transportation Authority and Thomco Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$339,123, for locker room expansion at the Santa Ana Bus Base maintenance building.



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## **BOARD AGENDA**

### **12. Agreement for Replacement of Light Poles and Luminaires at Golden West Transportation Center**

George Olivo/James G. Beil

#### **Overview**

The Golden West Transportation Center requires the replacement of light poles and luminaries in order to maintain a safe environment and state of good repair. An invitation for bids was released on July 22, 2020. Bids were received in accordance with Board of Directors-approved procedures for public works projects. Board of Directors' approval is requested to execute the necessary agreement.

#### **Recommendations**

- A. Find KDC, Inc., dba Dynalectric, the apparent low bidder and Elecnor Belco Electric, Inc., the apparent second low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2363 between the Orange County Transportation Authority and Crosstown Electrical & Data, Inc., the lowest responsive, responsible bidder, in the amount of \$223,789, for the replacement of light poles and luminaires at the Golden West Transportation Center.

### **13. State Transit Assistance Fund and SB 1 (Chapter 5, Statutes of 2017) State of Good Repair Claims for Fiscal Year 2020-21**

Sam Kaur/Andrew Oftelie

#### **Overview**

The Orange County Transit District is eligible to receive funding from the State Transit Assistance Fund for providing public transportation services throughout Orange County. In order to receive these funds, the Orange County Transit District, as the public transit and community transit services operator, must file claims with the Orange County Transportation Authority, the transportation planning agency for Orange County.



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**BOARD AGENDA****13. (Continued)**

The Orange County Transportation Authority is also eligible to receive funding from the SB 1 State of Good Repair Program that is funded by the Transportation Improvement Fee on vehicle registrations. Funding recommendations for fiscal year 2020-21 were approved by the Board of Directors on August 24, 2020. Upon approval of the statewide list of fiscal year 2020-21 projects by the California Department of Transportation, the Orange County Transportation Authority must file claims on a quarterly basis to receive the funding.

**Recommendations**

- A. Adopt Resolution No. 2020-281 to authorize the filing of State Transit Assistance Fund claims, in the amount of \$22,592,552, or up to the actual allocation published by the State Controller's Office, to support public transportation.
- B. Authorize the filing of SB 1 State of Good Repair claims, in the amount of \$6,426,478, or up to the actual allocation published by the State Controller's Office, to help sustain and upgrade the Orange County Transportation Authority's bus system.

**Orange County Local Transportation Authority Consent Calendar Matters****14. Approve the Release Request for Proposals for Preliminary Engineering and Environmental Services for the Irvine Station Improvements Project**

Jason Lee/James G. Beil

**Overview**

The Orange County Transportation Authority has developed a request for proposals to initiate a competitive procurement process to retain consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project.



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## **BOARD AGENDA**

### **14. (Continued)**

#### **Recommendations**

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 0-2604 for consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project.
- B. Approve the release of Request for Proposals 0-2604 for consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project.

### **15. Approval to Release Request for Proposals for Construction Management Support Services for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5**

Ross Lew/James G. Beil

#### **Overview**

The Orange County Transportation Authority has developed a request for proposals to initiate a competitive procurement process to retain a consultant to provide construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.

#### **Recommendations**

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 0-2582 for selection of a consultant to provide construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.
- B. Approve the release of Request for Proposals 0-2582 to provide construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.



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## **BOARD AGENDA**

### **16. Regional Traffic Signal Synchronization Program Update** Alicia Yang/Kia Mortazavi

#### **Overview**

The Orange County Transportation Authority has been working with local cities, the County of Orange, and the California Department of Transportation to fund and implement key regional traffic signal synchronization projects. This report provides an update on the Measure M2 Regional Traffic Signal Synchronization Program, including results from recently completed projects.

#### **Recommendation**

Received and file as an information item.

### **Regular Calendar**

### **Orange County Transportation Authority Regular Calendar Matters**

### **17. Transportation Infrastructure Finance and Innovation Act Loan Interest Rate Reset** Robert Davis/Andrew Oftelie

#### **Overview**

On July 26, 2017, the Orange County Transportation Authority and the United States Department of Transportation Build America Bureau Credit Programs Office executed a Transportation Infrastructure Finance and Innovation Act Loan for up to \$628.93 million for the Interstate 405 Improvement Project. Over the past two months, staff has had several successful discussions with the Build America Bureau regarding the possibility of lowering the interest rate on the existing 2017 Transportation Infrastructure Finance and Innovation Act Loan. Staff is seeking approval to pursue lowering the current fixed rate of 2.91 percent interest rate based on current market conditions.



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**BOARD AGENDA****17. (Continued)****Recommendations**

- A. Direct staff to proceed with pursuing an interest rate reset of Orange County Transportation Authority's Transportation Infrastructure Finance and Innovation Act Loan for the Interstate 405 Improvement Project.
- B. Authorize staff to execute Amendment No. 1 to Agreement No. C-7-2137 between the Orange County Transportation Authority and Sperry Capital, Inc. in the amount of \$170,000, to provide financial advisory services to the Orange County Transportation Authority for the interest rate reset transaction. The total contract amount will increase to \$665,000.
- C. Authorize staff to execute Amendment No. 1 to Agreement No. C-0-2021 between the Orange County Transportation Authority and Nossaman LLP, in the amount of \$65,000, to provide bond counsel services to the Orange County Transportation Authority for the interest rate reset transaction. The total contract amount will increase to \$301,000.
- D. Authorize the payment of fees and expenses required by the Build America Bureau to facilitate the interest rate reset.
- E. Direct staff to return to the Board of Directors for approval of the financing documents required to execute the closing of the transaction.



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**BOARD AGENDA**

## **Orange County Local Transportation Authority Regular Calendar Matters**

- 18. 2020 Measure M2 Sales Tax Forecast**  
Sam Kaur/Andrew Oftelie

### **Overview**

The Orange County Transportation Authority contracts with MuniServices, LLC and three universities to forecast Measure M2 taxable sales. Within the past six months, MuniServices, LLC and the three universities have each provided updated forecasts and staff has incorporated the new information into the annual update for the long-range forecast of Measure M2 taxable sales.

### **Recommendation**

Direct staff to determine the impacts of the updated forecast to Measure M2 programs and projects and return to the Board of Directors with options to address the decrease in projected sales tax revenue.

## **Discussion Items**

- 19. Coronavirus Impacts to the 91 Express Lanes**  
Kirk Avila

Staff will present the impacts of coronavirus on the activities and operations of the 91 Express Lanes.

- 20. Public Comments**

- 21. Chief Executive Officer's Report**

- 22. Directors' Reports**

- 23. Closed Session**

There are no Closed Sessions scheduled.



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**BOARD AGENDA****24. Adjournment**

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, November 9, 2020**, at the Orange County Transportation Authority Headquarters, Board Room - Conference Room 07-08, 550 South Main Street, Orange, California.

Minutes of the  
Orange County Transportation Authority  
Orange County Transit District  
Orange County Local Transportation Authority  
Orange County Service Authority for Freeway Emergencies  
Board of Directors Meeting

## **Call to Order**

The October 12, 2020 regular meeting of the Orange County Transportation Authority (OCTA) and affiliated agencies was called to order by Chairman Jones at 9:00 a.m. at the OCTA Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

## **Roll Call**

The Clerk of the Board (COB) conducted an attendance Roll Call and announced there was quorum of the Board of Directors (Board) as follows:

Directors Present: Steve Jones, Chairman

***Via teleconference:***

Andrew Do, Vice Chairman  
Lisa A. Bartlett  
Doug Chaffee  
Laurie Davies  
Barbara Delgleize  
Michael Hennessey  
Gene Hernandez  
Joseph Muller  
Mark A. Murphy  
Richard Murphy  
Miguel Pulido  
Tim Shaw  
Harry S. Sidhu  
Michelle Steel  
Donald P. Wagner  
Ryan Chamberlain, District Director  
California Department of Transportation District 12

Director Absent: None

Also Present: Darrell E. Johnson, Chief Executive Officer (CEO)  
Jennifer L. Bergener, Deputy CEO/Chief Operating Officer  
Laurena Weinert, COB  
Martha Ochoa, Assistant COB  
James Donich, General Counsel

## **Invocation**

Director Delgleize gave the invocation.

## **Pledge of Allegiance**

Director Chamberlain led in the Pledge of Allegiance.

## **Special Calendar**

### **Orange County Local Transportation Authority Special Calendar Matters**

#### **1. Adopt Resolutions of Necessity for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5**

James Donich, OCTA's General Counsel, provided opening comments, and Ross Lew, Program Manager, provided a PowerPoint presentation as follows:

- State Route 55 Improvement Project Resolutions of Necessity (RON) Locations;
- RON No. 2020-279 – New Kenyon Apartments LP;
- RON No. 2020-280 – HW-Dyer LLC; and
- Four Requirements to be Considered to Adopt Resolutions.

Director Wagner stated that he opposed this item, concerned about displacement of the apartment tenants, at least nine months to process, coming forward three weeks prior to an election, and asked the Board to oppose.

Chairman Jones opened the hearing for public comments and there were no public comments.

Director Wagner inquired if the apartment tenants were given a notice of this hearing. Mr. Donich stated that the tenants were not provided a notice of the hearing, OCTA is required by statute to provide the hearing notice to the property owner on record, construction begins in July 2022, and OCTA is in negotiations with the apartment property owner. An additional discussion ensued in regards to the apartment property.

Mr. Lew clarified that the right-of-way certification date is estimated to be in October 2021. Director Wagner noted his concerns about the definition of the word necessity, no final word from the apartment owner, and no notice to the affected apartment tenants.

**1. (Continued)**

A motion was made by Vice Chairman Do, seconded by Director Hernandez, and following a roll call vote, declared passed 16-0, to close the public hearing.

Vice Chairman Do stated that the Board's action should be guided by what the law requires, as well as provide other comments.

Director Shaw asked Mr. Donich about the Measure M2 language for this item's project and do the apartment tenants have the option to stay during construction.

Mr. Donich stated the apartment complex impact is the inability to use the garages for vehicle storage, a tenant has the option to stay during construction, this project is Project F in Measure M2, and both RONS are temporary construction easements.

A motion was made by Vice Chairman Do, seconded by Director Hernandez, and following a roll call vote, declared passed 14-2, to adopt Resolutions of Necessity Nos. 2020-279 and 2020-280, and authorize and direct General Counsel to prepare, commence, and prosecute a proceeding in eminent domain for the purpose of acquiring necessary right-of-way and real property interests for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.

Directors Steel and Wagner voted in opposition.

**Consent Calendar (Items 2 through 17)**

**Orange County Transportation Authority Consent Calendar Matters**

**2. Approval of Minutes**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to approve the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of September 28, 2020.

**3. Coronavirus Update**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

**4. Agreement for Security System Service and Maintenance**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to:

- A. Approve the selection of Climatec LLC as the firm to provide service and maintenance of the Orange County Transportation Authority's security system.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2341 between the Orange County Transportation Authority and Climatec LLC, in the amount of \$537,600, for a five-year term, to provide service and maintenance of the Orange County Transportation Authority's security system.

**5. Approval to Release an Invitation for Bids for Construction of Anaheim Canyon Metrolink Station Improvements**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to approve the release of Invitation for Bids 0-2193 for construction of improvements at the Anaheim Canyon Metrolink Station.

**6. Agreement for Facility Modifications at Santa Ana Bus Base for the Interstate 405 Toll Operations Center**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to:

- A. Find Reed Family Enterprises, Inc., the apparent low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2191 between the Orange County Transportation Authority and Dalke & Sons Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$636,680, for facility modifications at the Santa Ana Bus Base for the Interstate 405 Express Lanes Toll Operations Center.

**7. Metrolink Fiscal Year 2019-20 Performance Report**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

## **Orange County Transit District Consent Calendar Matters**

**8. Bus Operations Performance Measurements Report for the Fourth Quarter of Fiscal Year 2019-20**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

**9. Agreement for the Procurement of 40-Foot Plug-In Battery-Electric Buses**

This item was pulled, and the Clerk of the Board noted for the record that a public comment was received by the Clerk of the Board Department on October 12, 2020 at 8:29 a.m. from Ethan Carbaugh from Proterra. The comment was emailed to the Board on October 12, 2020 at 8:42 a.m. and will be retained as part of the record for today's Board meeting.

Darrell E. Johnson, Chief Executive Officer (CEO), referenced the public comment received, and stated that around October 1st, OCTA notified the vendors of the recommended award that was presented and approved at the October 8th Transit Committee meeting.

Mr. Johnson also stated this is the first OCTA has heard concerns from Proterra until this morning. He noted that OCTA needs time to review Proterra's concerns, suggested the Proterra representative communicate directly with OCTA's procurement office, and requested to continue this item for two weeks.

A motion was made by Director Hernandez, seconded by Director Delgleize, and following a roll call vote, declared passed 15-1, to continue this item for two weeks.

Director R. Murphy voted in opposition.

**10. Agreement for the Procurement of 40-Foot Compressed Natural Gas-Powered Buses**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to:

- A. Approve the selection of GILLIG LLC as the firm to provide up to 165, 40-foot compressed natural gas-powered buses, with an option to purchase up to 134 additional buses.

**10. (Continued)**

- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-9-1836 between the Orange County Transportation Authority and GILLIG LLC, in the amount of \$100,371,600, for the purchase of up to 165, 40-foot compressed natural gas-powered buses, with an option to purchase up to 134 additional buses.

**Orange County Local Transportation Authority Consent Calendar Matters**

**11. Cooperative Agreement with the California Department of Transportation for the State Route 91 Improvement Project Between State Route 57 and State Route 55 and Authority to Acquire Right-of-Way**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 15-0, to:

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-0-2583 between the Orange County Transportation Authority and the California Department of Transportation, in the amount of \$970,000, to perform right-of-way support services for the State Route 91 Improvement Project between State Route 57 and State Route 55.
- B. Authorize the use of up to \$39.602 million in State Route 91 Express Lanes excess revenue funding for right-of-way capital and right-of-way support services for the following projects:
  - State Route 91 from State Route 55 to Lakeview Avenue (Segment 1) - \$5.926 million
  - State Route 91 from La Palma Avenue to State Route 55 (Segment 2) - \$28.166 million
  - State Route 91 from Acacia Street to La Palma Avenue (Segment 3) - \$5.510 million
- C. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute or amend all necessary agreements to facilitate the above actions.
- D. Authorize the Chief Executive Officer to initiate discussions with property owners and utility owners, make offers, and execute agreements for the acquisition of all necessary real property interests and necessary utility relocations.

Due to a potential conflict of interest with the Levine Act, Vice Chairman Do did not vote on this item.

**12. Amendment to Cooperative Agreement with the City of Fountain Valley for the Interstate 405 Improvement Project**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to authorize the Chief Executive Officer to negotiate and execute Amendment No. 5 to Cooperative Agreement No. C-5-3613 between the Orange County Transportation Authority and the City of Fountain Valley, in the amount of \$374,000, for the procurement and installation of emergency vehicle preemption at 28 proposed signal locations, as part of the Interstate 405 Improvement Project. This will increase the maximum obligation of the cooperative agreement to a total value of \$5,023,708.

**13. Contract Change Orders for the Interstate 405 Improvement Project from State Route 73 to Interstate 605**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to:

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 3.2 to Agreement No. C-5-3843 between the Orange County Transportation Authority and OC 405 Partners, a joint venture, in the amount of \$2,200,000, to provide additional extra maintenance work.
- B. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 78 to Agreement No. C-5-3843 between the Orange County Transportation Authority and OC 405 Partners, a joint venture, in the amount of \$537,436, to provide parking lot improvements at the United States Postal Service property.
- C. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 79 to Agreement No. C-5-3843 between the Orange County Transportation Authority and OC 405 Partners, a joint venture, in the amount of \$270,528, to provide an extension of the third westbound lane on Talbert Avenue to Cashew Street.
- D. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 80 to Agreement No. C-5-3843 between the Orange County Transportation Authority and OC 405 Partners, a joint venture, in the amount of \$579,604, to provide a temporary bypass waterline for the Goldenwest Street overcrossing bridge.

**14. Consultant Selection for the Preparation of Project Report and Environmental Document for the Interstate 5 Improvement Project from San Diego County Line to Avenida Pico**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 15-0, to:

- A. Approve the selection of Advanced Civil Technologies as the firm to prepare the project report and environmental document for the Interstate 5 improvement project from the San Diego County Line to Avenida Pico.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2335 between the Orange County Transportation Authority and Advanced Civil Technologies to prepare the project report and environmental document for the Interstate 5 improvement project from the San Diego County Line to Avenida Pico.

Due to a potential conflict of interest with the Levine Act, Vice Chairman Do did not vote on this item.

**15. Measure M2 Senior Mobility Program Temporary Guideline Exceptions**

Director Wagner pulled this item, stated this item is a great program that he supports, a great example of focused help to the vulnerable in need, provided other comments, and complimented staff.

A motion was made by Director Wagner, seconded by Director M. Murphy, and following a roll call vote, declared passed 15-1, to:

- A. Approve a temporary exception of the Senior Mobility Program guideline requirements related to service guidelines and service plan amendments, allowing agencies to use funds to provide the delivery of meals to seniors who had previously used city-provided transportation to travel to nutrition programs, from March 4, 2020 until Governor Newsom lifts the State of Emergency.
- B. Approve a temporary exception to the Senior Mobility Program guideline requirement related to funding distribution to suspend and hold allocations in reserve for agencies with suspended services until the State of Emergency is lifted or transportation services resume, whichever happens first.

Director Steel voted in opposition.

**16. 2020 Project X - Environmental Cleanup Program Tier 1 Call for Projects - Programming Recommendations**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to approve 12 projects, in the amount of \$2,800,000, for the 2020 Tier 1 Environmental Cleanup Program Tier 1 call for projects.

**Orange County Service Authority For Freeway Emergencies  
Consent Calendar Matters**

**17. Approval to Release Request for Proposals for Freeway Service Patrol Services**

A motion was made by Director R. Murphy, seconded by Director M. Murphy, and following a roll call vote, declared passed 16-0, to:

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 0-2574 for Freeway Service Patrol services.
- B. Approve the release of Request for Proposals 0-2574 for Freeway Service Patrol services for four service areas effective October 2, 2021 through October 2, 2027 and two service areas effective December 4, 2021 through October 2, 2027.

**Regular Calendar**

**Orange County Local Transportation Authority Regular Calendar  
Matters**

**18. Fullerton Park-and-Ride Joint Development Study**

Kurt Brotcke, Director of Planning, provided a PowerPoint presentation as follows:

- OCTA's Joint Development Policy;
- Federal Transit Administration Guidance/Limitations;
- Joint Development Process Overview;
- Site History: Fullerton Park-and-Ride;
- Current Conditions;
- Phase 1 Study;
- Phase 1 Assumptions;
- City of Fullerton;
- Future Phase 2 Study; and
- Joint Development Process Overview.

**18. (Continued)**

A motion was made by Director Pulido, seconded by Director Shaw, and following a roll call vote, declared passed 16-0, to direct staff to work with the City of Fullerton and stakeholders to further explore joint development opportunities at the Fullerton Park-and-Ride facility.

**Orange County Transportation Authority Regular Calendar Matters**

**19. Contract Change Orders for the Construction of the OC Streetcar Project**

Jim Beil, Executive Director of Capital Program, highlighted the reasons for this item's contract change orders.

A motion was made by Director Hernandez, seconded by Director Pulido, and following a roll call vote, declared passed 14-2, to:

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 18 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$300,000, to increase the allowance for removal of man-made objects.
- B. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 24.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$845,985, for overhead contact system sectionalization.
- C. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 30.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$320,164, to conduct electrical continuity testing.

Directors Steel and Wagner voted in opposition.

## **Discussion Items**

### **20. Orange County Coronavirus Travel Trends**

Darrell E. Johnson, CEO, provided opening comments and introduced Kurt Brotcke, Director of Planning, who provided a PowerPoint presentation as follows:

- Orange County (OC) Coronavirus Travel Impacts;
- Unemployment: A Key Driver of Travel Changes;
- Job Losses: Not Evenly Distributed;
- Google Maps: Most Activities Down in OC With Some Exceptions;
- OCTA Survey: Some Activities Up, Others Down;
- Results: Total Travel is Down (Person-Trips; All Modes);
- OC Freeways: Demand/Delay Down But Trending Upward;
- OC Freeways: Delay Shifting In Time (Delay In Hours);
- OC Freeways: Delay Increases Exponentially As Traffic Grows;
- OC Work-From-Home: Five-Fold+ Increase;
- Work-From-Home: Likely To Continue But Lessen;
- Summary; and
- Next Steps.

A discussion ensued regarding:

- Director Hennessey inquired about future OCTA policy decisions to encourage work from home.
- OCTA had preliminary discussions with larger employers, Orange County Business Council, and California Department of Transportation (Caltrans) about remote work from home, and is part of OCTA's planning process to reduce congestion.
- Director Wagner referenced Slide 7 of the PowerPoint and asked what is attributed to the decline in person-trips.
- OCTA had aggregated data from the Bureau of Transportation that uses location-based service data for the person-trips.
- There is lack of data on people shifting from arterials to freeways and freeways to arterials, and OCTA is exploring options for obtaining data.
- Director Bartlett appreciated the travel pattern commentary, and noted there are many factors to the travel patterns (e.g., layoffs, reduction in unemployment benefits, OC economy not opened to the extent preferred at this time, OC is still in the "Red Tier", etcetera.

**21. Public Comments**

There were no public comments.

**22. Chief Executive Officer's Report**

Darrell E. Johnson, CEO, reported on the following:

- OC Chapter of the Public Relations Society of America (Chapter) -
  - The Chapter's 45th annual PROTOS Awards were recently held to honor the region's top public relations professionals, programs, and campaigns.
  - OCTA received two Awards of Excellence for the following:
    - OCTA's "Crisis Communications & Issues Management Program on OCTA's Coronavirus Awareness and Customer Education" campaign.
    - OCTA's Corporate Blog "On the Move".
  - Staff who worked on these campaigns were congratulated.
- OCTA Studies Underway -
  - The South Orange County Multimodal Transportation Study will review transportation needs in south OC and identify improvements through 2045. Information is available at [octa.net/SouthOCStudy](http://octa.net/SouthOCStudy).
  - The Freeway Bus Rapid Transit (BRT) Concept Study was launched earlier this year, in partnership with Caltrans. This will develop a conceptual plan for two freeway BRT routes on the following:
    - Interstate 5 from Fullerton to the Laguna Niguel/ Mission Viejo Metrolink Station.
    - State Route 55 from Santa Ana to Newport Beach.
  - OCTA is hosting a virtual public webinar for this study this Wednesday from 5:30 p.m. to 6:30 p.m.
  - To register for the webinar and for more information about the BRT study go to [octa.net/freewayBRT](http://octa.net/freewayBRT)
- Laurena Weinert, Clerk of the Board, Retirement –
  - After 36 years of dedicated service, Ms. Weinert is retiring from OCTA and her last day will be on November 19th.

**23. Directors' Reports**

There were no Directors' reports.

**24. Closed Session**

There were no Closed Sessions scheduled.

**25. Adjournment**

The meeting adjourned at 10:12 a.m.

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, October 26, 2020**, at the OCTA Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

ATTEST:

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Laurena Weinert  
Clerk of the Board

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Steve Jones  
Chairman



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** Laurena Weinert, Clerk of the Board  
**Subject:** Fiscal Year 2020-21 Internal Audit Plan, First Quarter Update

Finance and Administration Committee Meeting of October 14, 2020

**Present:** Directors Do, Hennessey, Hernandez, Jones, Muller, R. Murphy,  
and Steel  
**Absent:** None

**Committee Vote**

Following the roll call vote, this item was declared passed 7-0 by the Members present.

**Committee Recommendation**

Receive and file the first quarter update to the Orange County Transportation Authority Internal Audit Department Fiscal Year 2020-21 Internal Audit Plan as an information item.



**October 14, 2020**

**To:** Finance and Administration Committee

**From:** Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director  
Internal Audit Department

**Subject:** Fiscal Year 2020-21 Internal Audit Plan, First Quarter Update

### **Overview**

The Orange County Transportation Authority Board of Directors adopted the Orange County Transportation Authority Internal Audit Department Fiscal Year 2020-21 Internal Audit Plan on July 27, 2020. This report provides an update of activities for the first quarter of the fiscal year.

### **Recommendation**

Receive and file the first quarter update to the Orange County Transportation Authority Internal Audit Department Fiscal Year 2020-21 Internal Audit Plan as an information item.

### **Background**

The Internal Audit Department (Internal Audit) is an independent appraisal function, the purpose of which is to examine and evaluate the Orange County Transportation Authority's (OCTA) operations and activities to assist management in the discharge of its duties and responsibilities.

Internal Audit performs a wide range of auditing services that include overseeing the annual financial and compliance audits, conducting operational and contract compliance reviews, investigations, pre-award price reviews, and Buy America reviews. In addition, audits initiated by entities outside of OCTA are coordinated through Internal Audit.

### **Discussion**

The OCTA Internal Audit Department Fiscal Year (FY) 2020-21 Internal Audit Plan (Plan) (Attachment A) reflects the status of each project.

During the first quarter of the FY, Internal Audit issued results of an audit of oversight controls and contract compliance related to the Interstate 5 Project: State Route 55 to State Route 57. Internal Audit tested compliance with project management procedures and found evidence of management and oversight controls. In addition, procurements and amendments were handled in accordance with procurement policies and procedures, and contract deliverables were received. Internal Audit made one recommendation to improve review of the construction management consultant invoices. Management agreed with the recommendation and indicated that corrective actions are being implemented.

Internal Audit also issued results of the semi-annual audit of investments for the period January 1 through June 30, 2020. Based on the audit, OCTA complied with its debt, investment, and reporting policies and procedures.

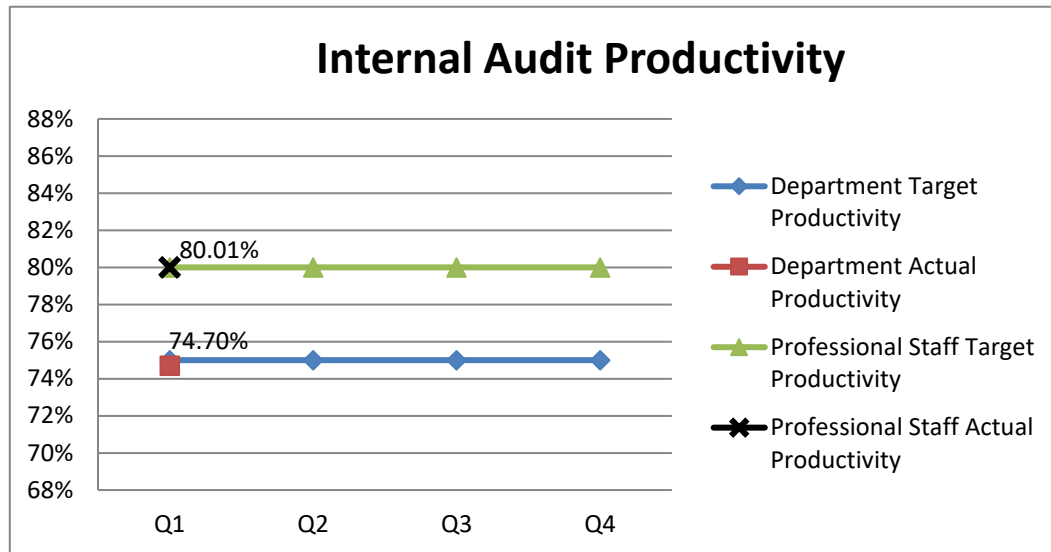
Also, during the quarter, OCTA was notified by the Department of Finance, Office of State Audits and Examinations, of their intention to audit four Proposition 1B-funded projects. Internal Audit is providing assistance and coordination of the audit and will report results once received.

The primary focus of Internal Audit as of September 30, 2020, and in the ensuing months, will be to provide coordination of the annual financial audits and agreed-upon procedure reviews conducted by OCTA's independent auditor, Crowe LLP.

#### Internal Audit Productivity

Internal Audit measures the productivity of the department by calculating a productivity ratio. The ratio, used broadly throughout the audit industry, measures the amount of time auditors spend on audit projects versus time spent on administrative duties. Productivity goals are established for both the professional staff and for the department as a whole. Because the executive director regularly participates in non-audit management activities such as planning and committee meetings, the department-wide target is set at 75 percent. The target for internal audit professional staff, not including the executive director, is 80 percent.

For the first quarter ended September 30, 2020, Internal Audit achieved productivity of 74.6 percent, and the professional staff achieved productivity of 80 percent.



#### Price Reviews

At the request of the Contracts Administration and Materials Management (Camm) Department, and consistent with OCTA's procurement policy, Internal Audit conducts reviews of single bid procurements to ensure that Camm handled the procurement in a fair and competitive manner. Internal Audit also reviews prices proposed by architectural and engineering firms, and sole source contractors, to ensure that the prices are fair and reasonable. Internal Audit makes recommendations to adjust proposed rates where they exceed the rates per review. During the first quarter, Internal Audit issued results of ten price reviews.

#### Fraud Hotline

During the quarter ended September 30, 2020, Internal Audit received two reports through OCTA's Fraud Hotline, [www.ethicspoint.com](http://www.ethicspoint.com). Based on the nature of the complaints, both were referred to Customer Service. As part of the administration of the hotline, Internal Audit maintains documentation of each complaint and its disposition.

Internal Audit is committed to responding to all hotline complaints within eight business days. During the quarter ended September 30, 2020, Internal Audit made initial contact within two business days.

#### Findings and Recommendations Tracking

At the request of the Finance and Administration Committee, unresolved audit recommendations are included with the quarterly updates to the Plan as Attachment B. Internal Audit includes the findings and recommendations

generated internally, as well as those provided by regulatory auditors and OCTA's independent financial statement auditors.

During the quarter ended September 30, 2020, Internal Audit completed follow-up reviews of ten outstanding audit recommendations and closed one (Attachment C). In addition, one recommendation was added as a result of audits issued during the first quarter.

***Summary***

Internal Audit will continue to implement the Plan, report on performance metrics, follow up on outstanding audit recommendations, and report progress on a quarterly basis.

***Attachments***

- A. Orange County Transportation Authority Fiscal Year 2020-21 Internal Audit Plan, First Quarter Update
- B. Outstanding Audit Recommendations, Audit Reports Issued Through September 30, 2020
- C. Audit Recommendations Closed During First Quarter, Fiscal Year 2020-21

**Prepared by:**



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Janet Sutter  
Executive Director, Internal Audit  
714-560-5591

**Orange County Transportation Authority  
Fiscal Year 2020-21 Internal Audit Plan  
First Quarter Update**

<b>Audit Activity</b>	<b>Project Number</b>	<b>Description</b>	<b>Primary Audit Type</b>	<b>Planned Staff Hours</b>	<b>Staff Hours To Date</b>	<b>Under (Over)</b>	<b>Status (Date Issued)</b>
<b>Mandatory External Independent Audits</b>							
Annual Financial Audits and Agreed-Upon (AUP) Procedures Reviews	FY21-001 through FY21-004	Coordinate and report on annual financial and AUP reviews for fiscal year 2019-20.	Financial	450	67	383	In Process
External Regulatory Audits	FY21-005	Coordinate and report on external audits by regulatory or funding agencies.	Compliance	60	33	27	In Process
<b>Internal Audit Department Projects</b>							
Risk Assessment and Annual Audit Plan	FY21-100	Preparation of the annual audit plan, quarterly updates to the audit plan, and periodic assessment of risk throughout the year, including monitoring the audit results of related entities.	Audit Plan and Updates	180	41	139	
Quality Assurance and Self-Assessment	FY21-101	Update of Internal Audit Policies & Procedures. Annual self assessment of the Internal Audit Department's (Internal Audit) compliance with Generally Accepted Government Auditing Standards.	Quality Assurance	160	15	145	
Fraud Hotline Activities	FY21-102	Administrative duties related to maintenance of the Fraud Hotline and work related to investigations of reports of fraud, waste, or abuse.	Fraud Hotline	240	26	214	2 Reports
Automated Workpaper Solution	FY21-103	System updates/training related to automated workpaper solution.	Workpaper System	40	3	37	
<b>Internal Audits</b>							
<b>Security and Emergency Preparedness</b>							
Physical Access Security	FY21-5XX	Review and test controls in place to ensure physical access security at Orange County Transportation Authority (OCTA) locations.	Internal Control / Operational	240		240	
<b>Clerk of the Board</b>							
Form 700 Disclosures	FY21-5XX	Review and test controls in place related to coordination of Form 700 disclosures by designated employees.	Compliance	240		240	

**Orange County Transportation Authority  
Fiscal Year 2020-21 Internal Audit Plan  
First Quarter Update**

<b>Audit Activity</b>	<b>Project Number</b>	<b>Description</b>	<b>Primary Audit Type</b>	<b>Planned Staff Hours</b>	<b>Staff Hours To Date</b>	<b>Under (Over)</b>	<b>Status (Date Issued)</b>
<b>Human Resources and Organizational Development</b>							
Department of Motor Vehicles (DMV) Pull Notice Program	FY20-5XX	Assess controls and test operation of the DMV Pull Notice Program.	Internal Control/Operational	240		240	
Separations	FY21-501	Assess and test controls related to employee separations.	Operational	220	217	3	In Process
<b>Capital Programs</b>							
Interstate 5 (I-5) Project: State Route 55 (SR-55) to State Route 57 (SR-57)	FY20-510	Review of the I-5 Project: SR-55 to SR-57, including project administration, oversight controls, and contract compliance.	Internal Control / Compliance	60	57	3	Complete 7-29-20
OC Streetcar Project Management	FY21-503	Review of the OC Streetcar project management controls, including project administration, oversight controls, and contract compliance.	Internal Control / Compliance	320	46	274	In Process
<b>Planning</b>							
Comprehensive Transportation Funding Programs (CTFP): Oversight and Reporting	FY20-512	Review of OCTA monitoring and reporting controls over CTFP projects.	Internal Control	160	90	70	In Process
<b>Operations</b>							
Facilities Maintenance	FY21-5XX	Review of facilities maintenance function within Operations Division, including oversight controls and contract compliance.	Operational / Compliance	300		300	
Bridgestone/Firestone Tire Lease and Services	FY21-5XX	Evaluate and test oversight controls and contract compliance related to the agreement with Bridgestone/Firestone for lease of tires and related services.	Internal Controls / Compliance	240		240	
<b>Finance and Accounting</b>							
Treasury	FY21-5XX	Semi-annual review of investments: compliance, controls, and reporting.	Compliance	200	120	80	
Banking Services - Bank of the West	FY20-507	Assess and test controls to ensure compliance with the agreement between OCTA and Bank of the West for banking services.	Compliance	100	169	(69)	In Process

**Orange County Transportation Authority  
Fiscal Year 2020-21 Internal Audit Plan  
First Quarter Update**

<b>Audit Activity</b>	<b>Project Number</b>	<b>Description</b>	<b>Primary Audit Type</b>	<b>Planned Staff Hours</b>	<b>Staff Hours To Date</b>	<b>Under (Over)</b>	<b>Status (Date Issued)</b>
<b>Contract Administration and Materials Management (Camm)</b>							
Price Reviews	PR21-XXX	As requested by the Camm Department, apply AUP to sole source, single bid, and architectural and engineering firm proposals.	Price Review	800	343.5	457	10 Reports Issued
Buy America	PR21-XXX	As requested by the Camm Department, apply AUP to determine compliance with Buy America requirements.	Buy America	180		180	
<b>Unscheduled Reviews and Special Requests</b>							
Unscheduled Reviews and Special Requests	FY21-800	Time allowed for unplanned audits and requests from the Board of Directors (Board) or management.	Varies	240	10	230	
<b>Monitoring Activities</b>							
Measure M Taxpayer Oversight Committee (TOC)	FY21-601	Coordination of audit activities on behalf of the Audit Subcommittee of the TOC.	Administrative Support	60	8	52	
Metrolink Audit Activities	FY21-602	Obtain and review audit results of Metrolink activities	Non-Audit Service	20	47	(27)	
Capital Asset Inventory Observation	FY20-603	At the request of the Finance and Administration Department, observe and apply limited procedures related to the bi-annual capital asset inventory counts.	Non-Audit Service	80	85	(5)	In Process
Bus Base Inspections	FY20-604	At the request of the Transit Division, participation on annual base inspection teams.	Non-Audit Service	40	21	19	
<b>Follow-Up Reviews</b>							
Follow-Up Reviews and Reporting	FY21-700	Follow-up on the status of management's implementation of audit recommendations.	Follow-Up	280	26	254	
<b>Total Audit Project Planned Hours (A)</b>				<b>5,150</b>	<b>1,425</b>	<b>3,726</b>	

**Orange County Transportation Authority  
Fiscal Year 2020-21 Internal Audit Plan  
First Quarter Update**

Audit Activity	Project Number	Description	Primary Audit Type	Planned Staff Hours	Staff Hours To Date	Under (Over)	Status (Date Issued)
<b>Internal Audit Administration</b>							
Board and Committee Meetings				180	37	143	
Executive Steering and Agenda Setting Meetings				180	37	143	
Internal Audit Staff Meetings				150	27.5	123	
Other Administration				1,250	389.5	861	
<b>Total Hours (B)</b>				<b>6,910</b>	<b>1,916</b>	<b>4,995</b>	
<b>Department Target Efficiency (A/B)</b>				75%	<b>75%</b>		75%
<b>Target Efficiency - Professional Staff</b>				80%	<b>80%</b>		80%

**Outstanding Audit Recommendations**  
**Audit Reports Issued Through September 30, 2020**

<b>Audit Issue Date</b>	<b>Report Number</b>	<b>Division/ Department/ Agency</b>	<b>Audit Name</b>	<b>Recommendation</b>	<b>Initiate Next Update</b>	<b>Management Response and Status</b>	<b>Internal Audit Status</b>
10/31/19	19-508	Capital Programs and Finance and Administration (F&A)	Oversight Controls and Contract Compliance Related to the Orange Transportation Center Parking Structure Project	<p>The Internal Audit Department (Internal Audit) recommends that prime and sub-consultants be required to have an adequate labor timekeeping system.</p> <p>Management should remind consultants of the need to request amendments to add staff, labor rates, and other direct costs in a timely fashion.</p>	Oct-20	<p>Capital Programs will work with the Contracts Administration and Materials Management (Camm) Department to include language in the Personnel Qualifications and Responsibilities section of future request for proposals to require both prime contractors and sub-consultants to have an adequate labor timekeeping system.</p> <p>During project kick-off meetings after contract execution and in on-going meetings with the project managers, Camm staff will emphasize the need for timely submission of requests for amendments.</p>	<b>Update June 2020:</b> Camm is reminding consultants of the need to request amendments to add staff, labor rates, and other direct costs in a timely manner, at project kick-off meetings. This part of the recommendation will be closed. Camm is planning to discuss requirements for consultant labor timekeeping systems at an upcoming meeting with a local engineering professional organization. This part of the recommendation will remain open pending the outcome of the meeting and Camm's determination of the appropriate action.
12/5/19	19-512	External Affairs	Bus Marketing	Management should revise practices to ensure that contracts for similar services are combined and contract terms are set for longer periods when recurring services are sought. Management should train staff and perform monitoring, to ensure procurements are not being designed to fall under approval thresholds.	Dec-20	Management concurs and has begun to implement practices to have longer terms and consolidate future contracts for similar services to support Bus Marketing needs. External consulting expertise will be procured to provide project management training. Management has also implemented a requisition process with added controls that will ensure procurements are not being designed to fall under approval thresholds.	<b>Update June 2020:</b> Management has revised practices to ensure contracts are combined and/or issued for longer periods for recurring services. Management's development of a manual and training program is still in process. The recommendation will remain open pending completion of the manual and related training program.
12/5/19	19-512	External Affairs	Bus Marketing	Management should undergo training to reiterate the responsibilities of those charged with reviewing and approving invoices. Invoice Review Checklists should be blank and completed as invoices are reviewed.	Dec-20	Management has implemented a program controls function for all marketing and customer engagement contracts. This new function will ensure thorough and accurate reviews, approvals, and payments of contract invoices. Additionally, training will be provided.	<b>Update June 2020:</b> A Project Controls function has been implemented. Management's development of a manual and training program is still in process. The recommendation will remain open pending completion of the manual and related training program.

**Outstanding Audit Recommendations**  
**Audit Reports Issued Through September 30, 2020**

<b>Audit Issue Date</b>	<b>Report Number</b>	<b>Division/ Department/ Agency</b>	<b>Audit Name</b>	<b>Recommendation</b>	<b>Initiate Next Update</b>	<b>Management Response and Status</b>	<b>Internal Audit Status</b>
12/5/19	19-512	External Affairs	Bus Marketing	Internal Audit recommends written procedures be reviewed with project managers, and management require documented compliance with requirements. Documentation should include the source and support of stated evaluation criteria and related results.	Dec-20	Management will evaluate and update the current processes and procedures manual to reflect current needs and work environment to include the source and support of stated evaluation criteria and related results. It is expected that the new processes, procedures, and training will be completed by the end of December 2020.	<b>Update June 2020:</b> Management's development of a manual and training program is still in process. The recommendation will remain open pending completion of the manual and related training program.
2/18/20	20-501	F&A	Patch Management Program (PMP)	The auditors offered one recommendation to expand the PMP to address all other operating systems hardware, software, and peripherals, and to incorporate all devices into the PMP. The auditors also offered four recommendations to further enhance the PMP by formalizing plans to address patch vulnerabilities, removing obsolete operating systems and software from the network, restricting users from installing unauthorized software, and developing test scripts to ensure system functionality after implementation of a patch.	Feb-21	Management agreed with the recommendations and indicated that progress has been made, and efforts will continue to implement these improvements.	<b>Update September 2020:</b> Management is in the process of implementing the recommendations, and expects all five recommendations to be completed no later than January 2021. The recommendations will remain open until fully recommended.
5/26/20	20-506	Operations	Revenue Vehicle Maintenance	Internal Audit recommends that management either incorporate several preventive maintenance tasks into the work order templates or document variances from the manufacturer guidelines with justification.	Nov-20	Maintenance concurs with the recommendation to incorporate these tasks into the work order templates or document variances from the manufacturer recommendation with justification. Maintenance will apply the recommended solution to the items outlined in the audit within the next six months and adopt this procedure for all subsequent deviations going forward.	

**Outstanding Audit Recommendations**  
**Audit Reports Issued Through September 30, 2020**

<b>Audit Issue Date</b>	<b>Report Number</b>	<b>Division/ Department/ Agency</b>	<b>Audit Name</b>	<b>Recommendation</b>	<b>Initiate Next Update</b>	<b>Management Response and Status</b>	<b>Internal Audit Status</b>
7/29/20	20-510	Capital Programs	I-5 Project: SR-55 to SR-57	Internal Audit recommends that management add a step on reviewing labor rate escalation in its invoice review checklist. Internal Audit also recommends that management require cost documentation for other direct costs invoiced and request the consultant to bill all first-tier sub-consultants based on their contract rate schedules.	Jan-21	Management agrees with the recommendation, and items noted in the recommendation are currently being implemented. The invoice review checklist has been revised to add an additional step to include labor rate escalation review. Invoiced labor rate escalation is currently being reviewed. Management will be seeking recovery of the \$1,903 in over-billings due to the incorrect application of the contract's 2.5 percent annual labor escalation factor. Management had previously identified the first-tier subconsultant billing issue, and this was corrected with the consultant's April 2020 invoice. There was no increased cost to the OCTA based on the previous sub-consultant billings.	

**Audit Recommendations Closed During  
First Quarter, Fiscal Year 2020-21**

<b>Audit Issue Date</b>	<b>Report Number</b>	<b>Division/ Department/ Agency</b>	<b>Audit Name</b>	<b>Recommendation</b>	<b>Internal Audit Status Comments</b>
1/8/20	20-503	Finance and Administration	Same-Day Taxi Service	For future procurements, Internal Audit recommended that management assess the likelihood of competition. Internal Audit also recommended that management ensure compliance with policy and procedures (P&P) or revise the P&P accordingly.	Management updated the procedures to require that single-proposal procurements follow the same procedures as competitive procurements. Management also expressed a commitment to conduct an industry workshop with potential providers to assess the likelihood of competition for the next procurement.



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** *Laurena Weinert*  
Laurena Weinert, Clerk of the Board  
**Subject:** Agreement for Fullerton Transportation Center Stair Replacement Project

### Transit Committee Meeting of October 8, 2020

**Present:** Directors Davies, Do, Jones, Pulido, Shaw, and Sidhu  
**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 5-0 by the Members present.

Director Pulido was not present to vote on this item.


### **Committee Recommendations**

- A. Find A2Z Construct, Inc., the apparent low bidder and Metro Building and Engineering Group, Ltd., the apparent third low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation; and find AP Construction, Inc., the apparent second low bidder, as non-responsive for failure to sign the Disclosure of Lobbying Activities form as required by the bid instructions and the Federal Transit Administration.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2267 between the Orange County Transportation Authority and Golden Gate Construction, the lowest responsive, responsible bidder, in the amount of \$705,300, for the Fullerton Transportation Center Stair Replacement Project.



**October 8, 2020**

**To:** Transit Committee

**From:** Darrell E. Johnson, Chief Executive Officer 

**Subject:** Agreement for Fullerton Transportation Center Stair Replacement Project

### **Overview**

The Orange County Transportation Authority, in coordination with the City of Fullerton, is replacing the Fullerton Transportation Center stairs that serve the station overcrossing. On June 22, 2020, an invitation for bids was released. Bids were received in accordance with the Orange County Transportation Authority's public works procurement procedures. Board of Directors' approval is requested to execute the agreement.

### **Recommendations**

- A. Find A2Z Construct, Inc., the apparent low bidder and Metro Building and Engineering Group, Ltd., the apparent third low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation; and find AP Construction, Inc., the apparent second low bidder, as non-responsive for failure to sign the Disclosure of Lobbying Activities form as required by the bid instructions and the Federal Transit Administration.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2267 between the Orange County Transportation Authority and Golden Gate Construction, the lowest responsive, responsible bidder, in the amount of \$705,300, for the Fullerton Transportation Center Stair Replacement Project.

### **Discussion**

The City of Fullerton (City), in coordination with the Orange County Transportation Authority (OCTA), has completed plans, specifications, and estimates (PS&E) for the Fullerton Transportation Center (FTC) Stair Replacement Project (Project). The stairs are part of the existing pedestrian

overpass and were recently inspected by a structural engineer from Ficcadenti, Waggoner, and Castle. It was determined that the treads and risers have considerable structural degradation and need to be replaced. The existing stringer and railing will remain and be repainted.

On June 22, 2020, the Board of Directors (Board) approved a cooperative agreement with the City that defined roles and responsibilities for the Project. The City is the lead on the design and will provide inspection services, design support during construction, and all right-of-way needed for the Project. OCTA is the lead on the construction phase and programmed funding, in the amount of \$1,295,000, in fiscal year 2019-20 Federal Transit Administration Section 5337 funds for the construction phase of the Project.

### ***Procurement Approach***

This procurement was handled in accordance with OCTA's Board-approved procedures for public works projects. These procedures, which conform to both federal and state requirements, require that contracts are awarded to the lowest responsive, responsible bidder after a sealed bidding process.

Invitation for Bids (IFB) 0-2267 was electronically released on June 22, 2020, through OCTA's CAMM NET system. The Project was advertised on June 23 and 29, 2020, in a newspaper of general circulation. A pre-bid conference was held on June 30, 2020, and was attended by 12 firms. Four addenda were issued to provide the pre-bid conference registration sheets and handle administrative issues related to the IFB. On July 23, 2020, eight bids were received and publicly opened.

One bid was no longer considered for award after being withdrawn by the bidder. The remaining seven bids were reviewed by staff from both the Contracts Administration and Materials Management and Rail Programs departments to ensure compliance with the contract terms and conditions, and technical specifications. The list of bidders and bid amounts is presented below:

<u>Firm and Location</u>	<u>Bid Amount</u>
A2Z Construct, Inc. Rancho Santa Margarita, California	\$520,000
AP Construction, Inc. Gardena, California	\$529,000

Metro Builders & Engineers Group, Ltd. Newport Beach, California	\$616,815
Golden Gate Construction Norwalk, California	\$705,300
Fast-Track Construction Corporation Culver City, California	\$862,000
LJB Construction Inc. Norwalk, California	\$870,000
Caliagua Inc. Yorba Linda, California	\$949,787

A2Z Construct, Inc., and Metro Builders & Engineers Group, Ltd., were deemed non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation or demonstrate sufficient good faith efforts as required by the United States Department of Transportation, which is providing funding for this Project.

AP Construction, Inc., was deemed non-responsive for failure to sign the Disclosure of Lobbying Activities form as required by the bid instructions and the Federal Transit Administration, which is providing funding for this Project.

State law requires award to the lowest responsive, responsible bidder. As such, staff recommends award to Golden Gate Construction, the lowest responsive, responsible bidder, in the amount of \$705,300, for the Project.

The engineer's estimate for the Project was \$650,000. The recommended firm's bid is eight percent above the engineer's estimate and is considered by staff to be fair and reasonable.

#### Fiscal Impact

Funding for the Project is approved in OCTA's Fiscal Year 2020-21 Budget, Capital Programs Division, Account 0018-9084-C5069-0Z5, and is funded with Federal Transit Administration Section 5337 funds.

***Summary***

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2267 between the Orange County Transportation Authority and Golden Gate Construction, the lowest responsive, responsible bidder, in the amount of \$705,300, for the Fullerton Transportation Center Stair Replacement Project.

***Attachment***

None.

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**Approved by:**



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## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Laurena Weinert, Clerk of the Board

**Subject:** Agreement for Rideshare and Vanpool Marketing, Design, and Advertising Services

Legislative and Communications Committee Meeting of October 15, 2020

**Present:** Directors Bartlett, Davies, Delgleize, Hennessey, Hernandez, and Wagner

**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 6-0 by the Members present.

### **Committee Recommendations**

- A. Approve the selection of Brown Marketing Strategies, Inc. to provide rideshare and vanpool marketing, design, and advertising services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2206 between the Orange County Transportation Authority and Brown Marketing Strategies, Inc. in the amount of \$570,000, to provide rideshare and vanpool marketing, design, and advertising services for a two-year term, with a one-year option term.



**October 15, 2020**

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Agreement for Rideshare and Vanpool Marketing, Design, and Advertising Services

### **Overview**

On July 8, 2020, the Orange County Transportation Authority released a request for proposals for consultant support for rideshare and vanpool marketing, design, and advertising services. Proposals were received in accordance with Orange County Transportation Authority procurement procedures for professional and technical services. Board of Directors' approval is requested to execute an agreement for rideshare and vanpool marketing, design, and advertising services.

### **Recommendations**

- A. Approve the selection of Brown Marketing Strategies, Inc. to provide rideshare and vanpool marketing, design, and advertising services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2206 between the Orange County Transportation Authority and Brown Marketing Strategies, Inc. in the amount of \$570,000, to provide rideshare and vanpool marketing, design, and advertising services for a two-year term, with a one-year option term.

### **Discussion**

The Orange County Transportation Authority (OCTA) provides and manages rideshare and vanpool programs to encourage businesses and commuters to utilize convenient and cost-effective transportation options. The rideshare program promotes transportation alternatives, including bus, train, vanpool, carpool, telework, and active transportation. OCTA's vanpool program is a public-private partnership that provides vanpools to commuters throughout Southern California who work in Orange County. OCTA provides marketing and outreach for the vanpool program in an effort to sustain and grow the number of vanpools and miles reported. In addition, OCTA conducts rideshare marketing

and outreach campaigns that help employers comply with the South Coast Air Quality Management District's Rule 2202 - On-Road Motor Vehicle Mitigation Options, which provides employers of 250 or more employees with a number of options to reduce mobile-source emissions generated from employee commutes to comply with federal and state Clean Air Act requirements.

OCTA's rideshare programs and services include the following:

- Perk Pass – discounted bus passes for employers
- Average Vehicle Ridership survey calculation and data analysis
- Metrolink's Corporate Pass Program – discounted passes for employers
- Guaranteed Ride Home– provides employees who rideshare the opportunity to reimburse the cost of an emergency trip home
- Vanpool Program – promotes commuting as a group in a shared vehicle
- Employer outreach to encourage rideshare program participation
- Employer marketing training workshops and network meetings
- Marketing campaigns for Rideshare Week, Bike to Work Week, and Dump the Pump Day
- Ride matching and vanpool formation services
- Rule 2202 compliance assistance

With consultant support, OCTA conducts marketing campaigns, promotions, and outreach to achieve the following goals:

- Increase awareness of OCTA's rideshare programs and services
- Stimulate use of alternative transportation modes and encourage telework programs
- Grow ridesharing participation by commuters and employers
- Expand the vanpool program participation

To assist with the development and implementation of these strategies, OCTA requires consultant support to provide various marketing services to conduct marketing campaigns and promotions. Services include:

- Integrated strategic marketing plan development and campaign development
- Email, social media, and mobile marketing
- Digital and traditional media planning, buying, and optimization
- Diversity marketing and translation services
- Print and digital creative development, including website development, video production, and photography

- Market research
- Production and printing services

Historically, OCTA has held separate contracts for rideshare and vanpool marketing services; however, it was determined that the programs would be better served by having one consultant manage the marketing efforts since both programs have similar objectives. Furthermore, it was determined that these marketing programs would benefit from a more extended engagement as it will allow for cohesive messaging and potential cost savings from a multiyear agreement.

### ***Procurement Approach***

This procurement was handled in accordance with OCTA Board of Directors (Board)-approved procedures for professional and technical services. In addition to cost, many other factors are considered in an award for professional and technical services. Award is recommended to the firm offering the most comprehensive overall proposal considering factors such as project organization and staffing, prior experience with similar projects, work plan, and a fair and reasonable price structure.

On July 8, 2020, Request for Proposals (RFP) 0-2206 was issued electronically on CAMM NET. The project was advertised in a newspaper of general circulation on July 9 and 13, 2020. A pre-proposal conference was held on July 14, 2020 with six attendees representing six firms. Two addenda were issued to provide a copy of the pre-proposal registration sheet and to respond to questions related to the RFP.

On July 28, 2020, six proposals were received. An evaluation committee consisting of OCTA staff from Contracts Administration and Materials Management, Marketing and Customer Engagement, Public Outreach, as well as Planning and Analysis departments met to review all proposals received. The proposals were evaluated based on the following evaluation criteria and weightings.

- |                                     |            |
|-------------------------------------|------------|
| • Qualifications of the Firm        | 30 percent |
| • Staffing and Project Organization | 20 percent |
| • Work Plan                         | 30 percent |
| • Cost and Price                    | 20 percent |

Several factors were considered in developing the evaluation criteria weightings. Qualifications of the firm was weighted at 30 percent to emphasize the importance of the proposing firms having qualifications and past experience on similar projects. Staffing and project organization was weighted at 20 percent to ensure the knowledge, skills, and abilities needed to perform the services required in the scope of work are met. Work plan was also weighted at 30 percent as the firms needed to demonstrate a thorough understanding of the work required and the methods needed to deliver successful results for the highly-specific and niche nature of the work required. Cost and price were weighted at 20 percent to ensure the services would be provided at competitive rates.

On August 11, 2020, the evaluation committee reviewed and discussed the six proposals received based on the evaluation criteria, and two firms were shortlisted and interviewed. The two firms are listed in alphabetical order as follows:

Firms and Location:

Brown Marketing Strategies, Inc. (BMS)  
San Diego, California

Celtis Ventures, Inc. (Celtis)  
Redondo Beach, California

The interviews with the two short-listed firms were conducted on August 18, 2020, and consisted of a presentation to demonstrate the firms' understanding of OCTA's requirements. The firms' project managers and key team members had an opportunity to present qualifications and respond to evaluation committee questions. Questions were asked relative to the qualifications and experience of the proposed project team's key personnel, innovative ideas for rideshare and vanpool marketing, and the firm's approach to the work plan considering the continuously changing physical and social landscape as a result of the coronavirus (COVID-19) pandemic.

After considering the responses to the questions asked during the interviews, the evaluation committee reviewed the preliminary ranking and made adjustments to the scores. However, BMS remained the higher-ranked firm with the higher overall score.

Based on the evaluation of written proposals and interviews, staff recommends BMS as the firm to provide rideshare and vanpool marketing, design, and advertising services. The following is a summary of the proposal evaluation results.

#### **Qualifications of the Firm**

BMS is a Disadvantaged Business Enterprise firm founded in 2007 with nine full-time staff members and two part-time staff members. The firm has demonstrated direct relevant experience and capabilities in all aspects of the services requested. The firm has provided similar services collaborating on rideshare week with other transit agencies such as Rapid San Diego, media buying and placement for new routes for Metropolitan Transit System, promoting customer retention programs and initiatives for North County Transit District, and worked with San Diego Association of Governments (SANDAG) for iCommute rideshare and vanpool services, as well as media buying and creative implementation for both the County of San Diego COVID-19 campaign and Orange County Health Care Agency.

Celtis was established in 2012 and employs 16 full-time staff and two part-time staff members. The firm has experience working with many transportation agencies and specifically provided marketing services for rideshare and vanpool campaigns for the Ventura County Transportation Commission (VCTC), the Livermore Amador Valley Transit Authority and the Riverside County Transportation Commission, which resulted in increased participation for all three agencies. The firm also promoted a ridership campaign for OCTA's OC Bus, which helped to increase ridership and system redesign for OC Bus. In addition, the firm has also created vanpool programs for the City of Los Angeles and the State of Texas.

#### **Staffing and Project Organization**

BMS' proposed creative director/account manager and other key personnel are all qualified and demonstrate knowledge of the program requirements. The proposed project staff for the firm demonstrated familiarity essential to the scope of work demonstrating expertise in marketing, advertising, and design skills and have worked for the firm ranging from two to 12 years. The creative director brings almost 30 years of experience in the advertising field and creative strategy and is currently the project manager for the SANDAG vanpool and rideshare project. The art director has over ten years' experience in project management and creative strategy. During the interview, the team was responsive and offered proficiency and insight with every response.

Celtis proposed a team with experience and qualified backgrounds suitable to performing the requirements of the scope of work. Celtis' proposed creative director/account manager has 20 years marketing and outreach experience and is the current project manager for VCTC's comprehensive communications. The art director has more than 15 years of experience in graphic design. The project team members discussed their approach and strategies, as well as responded to the evaluation committee's questions during the interview.

#### **Work Plan**

The work plan proposed by BMS conformed to the scope of work identified in the RFP and outlined the activities that would be undertaken in completing the services. The firm, through their proposal, also demonstrated their ability to provide the proper tools and mechanisms to see the process from beginning to end and provided details of the firms' approach to providing a strategic marketing plan development for campaigns. The firm demonstrated details on how they have achieved ridership growth with agencies like SANDAG and identified how transit markets need to identify and attract a diverse customer base of prospective commuters through the use of social media tactics and display events. The firm recommended new ideas like the employer recognition program that praises Orange County employers for their efforts in encouraging their employees to make alternative commute choices. During the interview, the firm provided information, which demonstrated they are looking at ways to anticipate disruptions associated with COVID-19 using virtual outreach and webinars with virtual ambassadors and also discussed ways to make the rideshare and vanpool program more exciting and desirable.

The work plan proposed by Celtis was complete and comprehensive addressing the requirements of the scope of work and the firm demonstrated understanding of rideshare and vanpool programs. Celtis recommends OCTA take advantage of available technology and become more digital in rideshare marketing. The firm stressed the importance of strategic planning for each project and provided ideas to mitigate the impacts of COVID-19, such as virtual training sessions where people can have access to Orange County rideshare information regarding safety guidelines. The firm was not specific in responses to certain interview questions.

#### **Cost and Price**

Pricing scores were based on a formula which assigned the highest score to the firm with the lowest average hourly rate and scored the other proposals' average hourly rates based on their relation to the lowest average hourly rate. BMS'

proposed average hourly rate was lower than Celtis and was competitive based on proposed rates with other firms.

#### **Procurement Summary**

Based on the evaluation of the written proposal, the firm's qualifications, and the information obtained from the interviews, the evaluation committee recommends the selection of BMS as the top-ranked firm to provide rideshare and vanpool marketing, design, and advertising services. BMS delivered a thorough and comprehensive proposal and an interview that was responsive to requirements of the RFP.

#### **Fiscal Impact**

The project is included in OCTA's Fiscal Year 2020-21 budget. The program is funded with Congestion Mitigation and Air Quality grant funds in External Affairs Division Account No. 1841-7519-A2237-L75.

#### **Summary**

Staff is recommending the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2206 between the Orange County Transportation Authority and Brown Marketing Strategies, Inc., in the amount of \$570,000, for a two-year term, with a one-year option term for the Orange County Transportation Authority's rideshare and vanpool marketing, design, and advertising services.

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***Attachments***

- A. Review of Proposals, RFP 0-2206 Rideshare and Vanpool Marketing, Design, and Advertising Services
- B. Proposal Evaluation Criteria Matrix (Short-Listed Firms), RFP 0-2206 Rideshare and Vanpool Marketing, Design, and Advertising Services
- C. Contract History for the Past Two Years, RFP 0-2206 Rideshare and Vanpool Marketing, Design, and Advertising Services

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**Review of Proposals**  
**RFP 0-2206 Rideshare and Vanpool Marketing, Design and Advertising Services**  
 Presented to the Legislation and Communications Committee on October 15, 2020  
**Six proposals were received, Two firms were interviewed, One firm is being recommended**

Overall Ranking	Proposal Score	Firm & Location	Sub-Contractors	Evaluation Committee Comments	Average Hourly Rate
1	86	Brown Marketing Strategies, Inc. San Diego, California	Continental Interpretation Services Infrastructure Productions, LLC Repromagic Pixel Imaging Media Outfront Media Discount Mugs Alibaba Cycling Print Place	Over 13 years in business. The firm demonstrated how they have achieved ridership growth with other agencies. Demonstrated familiarity managing all aspects of the required services. Rideshare Week and carpool campaign experience. Scope of work tailored to Orange County Transportation Authority needs and bringing in knowledge of similar agencies. Experience providing services to other transit agencies such as Rapid San Diego, San Diego Metropolitan Transit System, North County Transit District, and San Diego Association of Governments for iCommute. Creative director brings almost 30 years' experience in the advertising field and creative strategy. Responded to interview questions.	\$120
2	80	Celtis Ventures, Inc. Redondo Beach, California	Young Communications Group Nakatomi and Associates Bumpercar, Inc. Trend Offset Printing Dual Graphics	Over eight years in business. The firm demonstrated how they have achieved ridership growth with agencies. Although detailed, the work plan was not easy to follow. The firm's proposed creative/director/account manager has 20 years marketing experience. The firm has experience working with many transportation agencies and specifically provided marketing services for rideshare and vanpool campaigns for Ventura County Transportation Authority. Responded to interview questions.	\$129

Contracts Administration and Materials Management (1)	Qualifications of the Firm	30 percent
Marketing and Customer Engagement (2)	Staff and Project Organization	20 percent
Planning and Analysis (1)	Work Plan	30 percent
Public Outreach (1)	Cost and Price	20 percent

**PROPOSAL EVALUATION CRITERIA MATRIX (Short-Listed Firms)**

**RFP 0-2206 RIDESHARE AND VANPOOL MARKETING, DESIGN, AND ADVERTISING SERVICES**

Brown Marketing Strategies, Inc.						Weights	Overall Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	4.0	4.5	4.5	4.5	4.0	6	26
Staffing/Project Organization	4.0	4.0	4.5	4.5	4.5	4	17
Work Plan	4.5	4.5	4.5	4.5	4.5	6	27
Cost and Price	3.9	3.9	3.9	3.9	3.9	4	16
Overall Score	82.6	85.6	87.6	87.6	84.6		86
Celtis Ventures, Inc.						Weights	Overall Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	4.5	4.5	4.0	4.5	4.5	6	26
Staffing/Project Organization	4.0	4.5	4.0	3.5	4.0	4	16
Work Plan	3.5	4.0	4.0	4.0	3.5	6	23
Cost and Price	3.7	3.7	3.7	3.7	3.7	4	15
Overall Score	78.8	83.8	78.8	79.8	78.8		80

Range of Score for Non-Short Listed firms is 55 to 77

# CONTRACT HISTORY FOR THE PAST TWO YEARS

## RFP 0-2206 Rideshare and Vanpool Marketing, Design, and Advertising Services

Prime and Subconsultants	Contract No.	Description	Contract Start Date	Contract End Date	Subconsultant Amount	Total Contract Amount
<b>Brown Marketing Strategies, Inc.</b>						
Contract Type: None						
Subconsultants:						
None						
<b>Sub Total</b>						<b>\$0.00</b>
<b>Celtis Ventures, Inc.</b>						
Contract Type: Firm-Fixed	C-8-1539	Outreach Services for Orange County Transportation	March 1, 2018	June 30, 2019		\$ 200,000
Subconsultants:		Authority's Rideshare Programs				
None						
Contract Type: Firm-Fixed	C-8-1586	Bus Ridership Marketing Services	June 1, 2018	June 30, 2020		\$ 245,000
Subconsultants:						
None						
<b>Sub Total</b>						<b>\$445,000.00</b>



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** Laurena Weinert, Clerk of the Board  
**Subject:** Update on Diversity Outreach and Inclusion Efforts

Legislative and Communications Committee Meeting of October 15, 2020

**Present:** Directors Bartlett, Davies, Delgleize, Hennessey, Hernandez,  
and Wagner  
**Absent:** None

### **Committee Vote**

Following the discussion, no action was taken on this receive and file information item.

### **Staff Recommendation**

Receive and file as an information item.



**October 15, 2020**

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Update on Diversity Outreach and Inclusion Efforts

### **Overview**

The Orange County Transportation Authority is continuing its effort to conduct comprehensive and meaningful outreach to Orange County's growing diverse communities. This report provides an update on the progress of the diversity and inclusion efforts as well as plans to meet the future needs of community members who are increasingly diverse.

### **Recommendations**

Receive and file as an information item.

### **Background**

The Orange County Transportation Authority (OCTA) is continuing its effort to conduct comprehensive and meaningful outreach to Orange County's growing diverse communities. More than a decade ago, OCTA's diversity efforts primarily centered on working closely with ethnic business groups to conduct procurement outreach at business expos, conferences, and other events. OCTA has leveraged those strong relationships with diverse business organizations over the past few years by engaging with the business community on OCTA's other transportation programs, projects, and plans. OCTA's diversity outreach and inclusion efforts have now expanded significantly to provide public involvement opportunities with Orange County's other diverse stakeholders. These include communities of color that now make up 57 percent of Orange County's population. These demographics, combined with the fact that nearly half of Orange County's residents do not speak English at home, highlight the importance of effectively engaging with diverse audiences to effectively deliver on OCTA's mission.

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***Discussion***

The OCTA Diversity Outreach and Business Opportunities team's work to plan, execute, and evaluate diversity outreach has relied primarily on building relationships of trust with community, business, faith, social, and other organizations' leaders and members that represent Orange County's diverse communities. The communications and engagement foundation of the program has relied on personally connecting with these constituents – who are often hard to reach. Staff has made tangible progress with outreach to diverse audiences through in-person networking, information sharing, soliciting feedback, and other engagement activities. These outreach activities have relied on participating at community and business events as well as being on-site with large numbers of diverse audiences. During the past several months, OCTA's Diversity Outreach program has significantly shifted to adjust to the dramatic changes as a result of the coronavirus (COVID-19) pandemic.

**Proactive Outreach to Orange County's Ethnic Communities and Other Diverse Audiences**

For the past decade, OCTA has had a strong presence with Orange County's numerous chambers of commerce and business organizations that represent Orange County's diverse communities. OCTA's Diversity Outreach and Business Opportunities staff is integrated into many ethnic business organizations as steering committee members, board members or executive advisory members. This includes working closely with prominent business groups such as the Orange County Hispanic Chamber of Commerce, the Black Chamber of Commerce of Orange County, the Filipino American Chamber of Commerce of Orange County, the Korean American Chamber of Commerce of Orange County, and the Vietnamese American Chamber of Commerce of Orange County. Staff also works across OCTA divisions and departments to facilitate procurement opportunities with small minority- and women-owned businesses as well as to provide information about employment opportunities at OCTA and other public agency partners. Staff members participate in expos, conferences, and other business events attracting tens of thousands of participants each year and often coordinate keynote speeches, serve on panels, or play other prominent roles.

The team also staffs booths at events to share information and answers questions about OCTA's services, projects, programs, and plans. Staff has been involved with these business events and other smaller business engagement activities – totaling more than 80 opportunities – in the past fiscal year, with approximately 25 of these events conducted virtually since March 2020.

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Engagement Activities for Transportation

Staff is integrated into OCTA's largest capital projects: The Interstate 405 (I-405) Improvement Project and the OC Streetcar Project. Communications and outreach plans for both projects contain communications strategies that include Spanish and Vietnamese at a minimum with other non-English languages when necessary. Both projects' public information campaigns also include bilingual English/Spanish and bilingual English/Vietnamese information along with team members who are bilingual or trilingual to help community members, business owners, and commuters in the language they are most comfortable. Staff also provides in-language messaging that resonates with the common background, shared values, and cultural nuances of Orange County's Latinx, Vietnamese American community, and other audiences. Staff also provides assistance with Orange County's Spanish and Vietnamese news media, with placement of news stories on television, radio, and print publications for these construction projects.

Prior to the COVID-19 pandemic, OCTA conducted public outreach for transportation studies onboard specific routes to connect with OC Bus riders who may be unable to provide feedback at a formal open house. This effort has helped reach difficult-to-reach audiences by providing transit users with proposed updates to OC Bus or other transit-related changes and by obtaining their valuable opinions and suggestions. By pairing bilingual staff targeting Orange County's top two non-English speaking communities of Spanish and Vietnamese, OCTA is cost-effectively reaching constituents who otherwise may not have had that opportunity with traditional communications methods.

By riding bus routes and visiting key stops in fall 2019 and winter 2020, staff contributed to the Beach Boulevard Transportation Study and the Bristol Street Corridor Study with more than 220 OC Bus riders' comments and suggestions in English, Spanish, and Vietnamese. The majority of the survey respondents were from communities of color – Latinx, Asian Americans, and other groups.

Another example of direct community outreach is OCTA's highly visible role in celebrating cultural holidays and participating in commemorations. OCTA staff participated in Hispanic Heritage Month in September 2019, with a social media campaign and on panel discussions regarding contributions of the Latinx community in Orange County. The Latinx community (also known as Latinos or Hispanics) is the largest ethnic group, making up 34 percent of the County's population while the fastest-growing group is the Asian American community that encompasses 21 percent of the population.

OCTA also actively engaged with thousands of participants at two Tết festivals celebrating the Vietnamese Tết lunar new year over the same three-day

weekend in January 2020 at events in the cities of Costa Mesa and Fountain Valley. OCTA's booth at both locations were designed to attract attention with culturally striking graphics. An OC Streetcar video in English, Spanish, and Vietnamese played to passers-by while staff distributed packets of bilingual transportation information to thousands of participants. Also, nearly 800 community members from both Tết event locations completed transportation surveys and signed up to receive future transportation updates.

In early February 2020, OCTA participated in Black History Month and the Cultural Faire in the City of Anaheim. The booth was culturally and historically appropriate with strong visuals to attract visitors. Similar information packets highlighting transportation offerings were distributed to thousands of people during the one-day event that featured OCTA's diverse employees. More than 130 community members filled out transportation surveys during this event.

#### Multilingual COVID-19 Pandemic Response

Like other organizations, OCTA's high-touch, person-to-person contact with diverse audiences dramatically changed with the impact of the COVID-19 pandemic. In early March 2020, the team transitioned to filling an important role with the OCTA crisis communications team and quickly executed virtual outreach and communications. All communications pieces were in English, Spanish, and Vietnamese – from the website, emails, and social media to bus signs and voice messages on buses. The team provided, and continues to provide, updates and information alerts in different languages to bus riders, the 91 Express Lanes customers, and capital project stakeholders.

During the early stage of the COVID-19 pandemic, staff partnered with California State University, Fullerton's Latino Communications Institute and Northgate Markets for a Spanish-language question-and-answer session via Facebook Live. The virtual session helped answer questions from the public and transit riders about COVID-19 and mitigations to help stop its spread. Staff also participated in numerous virtual workshops and social media discussions in Spanish and Vietnamese to communicate important health and safety messages on COVID-19 to vulnerable community members and to highlight OCTA's response to help safely transport essential workers.

OCTA's Diverse Community Leaders group also continues to play an important role, especially during the COVID-19 pandemic. The group of community, business, faith, and social leaders representing diverse communities meets quarterly to learn about OCTA's transportation updates and plans. The group of influential diversity leaders then shares the updates with their respective constituents or members while also providing valuable feedback to help OCTA

enhance transportation plans and programs. The group has also been instrumental in helping OCTA distribute COVID-19 information and other transportation information. The group had a virtual meeting in July 2020, and the next virtual meeting is scheduled for October 29, 2020.

#### Qualitative Survey of Hard-to-Reach Diverse Audience

A comprehensive study targeting hard-to-reach diverse audiences, called the Transportation Needs Assessment, was halted in March due to COVID-19. In an effort to gain valuable feedback from diverse communities, staff created an informal qualitative online survey in English, Spanish, and Vietnamese to safely gauge feedback from underserved community members. Staff launched this survey to help bridge the absence of physically connecting with community members with a cost-effective way to virtually solicit feedback. From July 9 to August 31, 2020, 326 community members completed the nonscientific, brief online survey. Highlights of the online survey results include:

<b>ASKED ABOUT PRIORITIZING ISSUES TO CONSIDER WHEN PLANNING FOR TRANSPORTATION BY SELECTING TWO CHOICES</b>	<b>NUMBER OF RESPONSES</b>
REDUCING CONGESTION	153
ENHANCING SAFETY	122
IMPROVING AIR QUALITY	110
PROVIDING MORE TRAVEL OPTIONS	110
ENSURES SUSTAINABILITY	72
<b>ASKED TO SELECT UP TO THREE REASONS FOR NOT RIDING OC BUS</b>	<b>NUMBER OF RESPONSES</b>
SAFETY / COVID-19	173
PREFER TO DRIVE	120
SERVICE NOT FREQUENT ENOUGH / DOESN'T RUN EARLY OR LATE ENOUGH	112
NO STOPS NEAR DESTINATION	83
SAFETY CONCERNS	67

ASKED ABOUT IMPACT OF COVID-19 ON THE 52 RESPONDENTS WHO INDICATED THEY PRIMARILY RODE OC BUS	PERCENT OF RESPONDENTS
RIDING LESS THAN BEFORE COVID-19	60%
RIDING ABOUT THE SAME AS BEFORE COVID-19	31%
STOPPED RIDING SINCE COVID-19	5%

More than 50 percent of the survey respondents were Latinx, and 17 percent were Asian Americans. Although not a representative sample, this online survey – with more than one-third of respondents completing the survey in Spanish and Vietnamese – is one further step toward providing a greater voice for Orange County’s increasingly diverse community members.

#### Future Work with Communities of Color and Other Diverse Stakeholders

OCTA’s community-based approach to diversity outreach and inclusion is a solid foundation that will help enable staff to cultivate new relations with other groups and organizations in Orange County and Southern California. Although the COVID-19 pandemic altered the timeline for a more robust in-person engagement effort with communities of faith, especially for the I-405 Improvement Project, plans are in place to begin that effort in alternative ways. Staff is forging partnerships with other groups that represent the Latinx community, the Vietnamese American community, Korean American community, and other ethnic communities. Staff is also moving forward with outreach plans to organizations that represent the Lesbian, Gay, Bisexual, Transgender, and Queer community, faith organizations, and other community organizations.

Through this work, OCTA is well-positioned to enhance its communications with diverse communities and to ensure effective two-way communications on transportation projects, programs, and services. The team is part of two internal OCTA working groups, focusing on planning and projects and the OCTA workforce, that will help develop OCTA’s ongoing work for diversity and inclusion and identify tangible ways to continually live up to OCTA’s mission and values in serving the diverse travel needs of Orange County’s dynamic demographics.

***Summary***

OCTA's diversity outreach and inclusion efforts will continue to forge new partnerships. The work will not only include business groups that represent diversity but also provide a stronger role for collaboration with diverse community members, ensuring more opportunities for enhanced engagement with OCTA's projects, programs, and plans. OCTA's Diversity Outreach team will continue to remain flexible to address the evolving environment and work to strengthen public participation opportunities to help meet the needs of Orange County's communities of color and other diverse groups.

***Attachment***

None.

**Prepared by:**

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Ted P. Nguyen  
Senior Section Manager,  
Diversity Outreach  
714-560-5334

**Approved by:**

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Maggie McJilton  
Interim Executive Director,  
External Affairs  
714-560-5824



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Laurena Weinert, Clerk of the Board

**Subject:** First Quarter Fiscal Year 2020-21 Procurement Status Report

Finance and Administration Committee Meeting of October 14, 2020

**Present:** Directors Do, Hennessey, Hernandez, Jones, Muller, R. Murphy,  
and Steel

**Absent:** None

**Committee Vote**

Following the roll call vote, this item was declared passed 7-0 by the Members present.

**Committee Recommendation**

Receive and file as an information item.



**October 14, 2020**

**To:** Finance and Administration Committee  
**From:** Darrell E. Johnson, Chief Executive Officer  
**Subject:** First Quarter Fiscal Year 2020-21 Procurement Status Report

### **Overview**

The first quarter procurement status report summarizes the procurement activities for information purposes to the Orange County Transportation Authority Board of Directors. This report focuses on procurement activity from July 1 through September 30, 2020, that was approved by the Board of Directors during this period. The first quarter procurement status report also projects future procurement activity for the second quarter as identified in the fiscal year 2020-21 budget.

### **Recommendation**

Receive and file as an information item.

### **Background**

The Board of Directors (Board) approved the Orange County Transportation Authority (OCTA) Fiscal Year (FY) 2020-21 Budget on June 8, 2020, which identifies the goods and services that will be purchased during the FY. A quarterly procurement report has been prepared detailing the procurement activity for line items that were approved by the Board during the first quarter of FY 2020-21. The report also provides a "look-ahead" of upcoming procurement activity by Board committee. The quarterly procurement report identifies contractual activity, not dollars spent.

### **Discussion**

During the first quarter of FY 2020-21, the Contracts Administration and Materials Management Department handled 467 different contractual documents. Of the total, 301 procurements, valued at \$202,500,787, were

completed; the remaining procurements will be executed during the second quarter of FY 2020-21.

In the first quarter, the Board acted on 37 procurements. The procurements were split between ten new agreements valued at \$26,494,579, nine amendments valued at \$24,546,081, two construction change orders valued at \$695,717, eight cooperative agreements valued at \$11,751,447, one amendment to cooperative agreements valued at \$2,354,802, four purchase order amendments valued at \$449,261, and three option-term amendments valued at \$4,279,773. Not all procurements are completed within the quarter in which they begin. Often, the procurements require cost and price reviews, and negotiations which can lengthen the procurement process, resulting in the procurement spanning two quarters. Procurements not completed within the first quarter will be completed in the second quarter of FY 2020-21. Attachment A shows a list of Board-approved procurements during the first quarter.

Looking forward to the second quarter of FY 2020-21 (October through December 2020), the Board committees will be asked to take action on several items such as:

- Consultant selection for public communications and community outreach services for the State Route 55 (SR-55) Improvement Project;
- Consultant selection for roadway operations and maintenance for the 91 Express Lanes;
- Consultant selection for the preparation of plans, specifications, and estimate for the Interstate 5 Widening Project between Yale Avenue and SR-55;
- Consultant selection for the enterprise asset management solution; and
- Consultant selection for traffic and intelligent transportation systems engineering services for the Warner Avenue Regional Traffic Signal Synchronization Program.

The estimated value of these upcoming procurements is \$236,273,371. Attachments B through F identify procurement activity anticipated in the second quarter of FY 2020-21 by the committee that will review the items.

### ***Summary***

This report provides an update of the procurement activity for the first quarter of FY 2020-21, July through September 2020, as well as a look-ahead at anticipated procurement activity for the second quarter of FY 2020-21. Staff recommends that this report be received and filed as an information item.

***Attachments***

- A. Board-Approved Contracts – First Quarter Fiscal Year 2020-2021
- B. Regional Planning and Highways Committee – Second Quarter Outlook (October 1, 2020 – December 31, 2020)
- C. Transit Committee – Second Quarter Outlook (October 1, 2020 – December 31, 2020)
- D. Finance and Administration Committee – Second Quarter Outlook (October 1, 2020 – December 31, 2020)
- E. Legislative and Communications Committee – Second Quarter Outlook (October 1, 2020 – December 31, 2020)
- F. Executive Committee – Second Quarter Outlook (October 1, 2020 – December 31, 2020)

**Prepared by:**



Pia Veasapen  
Interim Director, Contracts Administration  
and Materials Management  
(714) 560-5619

**Approved by:**



Andrew Oftelie  
Chief Financial Officer,  
Finance and Administration  
(714) 560-5649

## Board-Approved Contracts - First Quarter Fiscal Year 2020-2021

## AGREEMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
T.Y. Lin International	C02073	Plans, Specifications and Estimates for the SR-91 Improvement Project Between Acacia Street and La Palma Avenue	11/13/2020	12/31/2028	\$8,999,918
DKS Associates	C02018	Traffic and Intellegent Transportation Systems Engineering Services for the Edinger Avenue Regional Traffic Signal Synchronization Program	1/15/2021	12/31/2023	\$5,631,454
Celtis Ventures	C02249	OC Bus Public Awareness and Communication Program Services	9/1/2020	8/31/2022	\$300,000
Winner Chevrolet	C02515	Operator Relief Vehicles	8/17/2020	12/31/2021	\$1,655,060
Michael Baker International, Inc.	C02186	Plans, Specifications and Estimates for the I-605/Katella Avenue Interchange Improvement Project	11/17/2020	2/18/2027	\$200,000
Albert Grover & Associates, Inc.	C02019	Traffic and Intellegent Transportation Systems Engineering Services for the MacArthur Boulevard/Talbert Avenue Regional Traffic Synchronization Program	1/15/2021	12/31/2023	\$3,414,588
CBRE, Inc.	C02160	On-Call Commercial Real Estate Brokerage Services	9/22/2020	9/30/2023	\$50,000
Intercare Holdings Insurance Services, Inc.	C02202	Claims Administration for the Orange County Transportation Authority's Self-Insured Workers' Compensation Program	11/1/2020	12/31/2025	\$2,445,559
Two Brothers Construction Corp.	C02413	Metrolink Train Stations Platform Detectable Tiles Replacement and Painted Guidelines Restriping Project	10/15/2020	4/15/2022	\$1,098,000
Los Angeles Federal Armored Services, Inc.	C02256	Armored Vehicle Transportation and Fare Collection Counting Services	12/1/2020	11/31/2027	\$2,700,000
<b>TOTAL NUMBER OF CONTRACTS</b>					<b>10</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$26,494,579</b>

## AMENDMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Public Risk Innovation, Solutions, and Management – Excess Insurance Authority for Kaiser Permanente Health Plan, Inc.	C53649	Amendment No. 5 Prepaid Medical Services	1/1/2021	12/31/2021	\$13,112,500
Public Risk Innovation, Solutions, and Management for Anthem Blue Cross Health Maintenance Organization	C53650	Amendment No. 5 Prepaid Medical Services	1/1/2021	12/31/2021	\$2,753,904
Public Risk Innovation, Solutions, and Management for Anthem Blue Cross Preferred Provider Organization	C53651	Amendment No. 5 Prepaid Medical Services	1/1/2021	12/31/2021	\$1,717,656
Public Risk Innovation, Solutions, and Management for Anthem Blue Cross Consumer Driven Health Plan	C53652	Amendment No. 5 Prepaid Medical Services	1/1/2021	12/31/2021	\$2,454,912

## Board-Approved Contracts - First Quarter Fiscal Year 2020-2021

Public Risk Innovation, Solutions, and Management for Delta Dental Preferred Provider Organization	C12996	Amendment No. 10 Dental Services	1/1/2021	12/31/2021	\$1,277,164
Public Risk Innovation, Solutions, and Management for Delta Dental Health Maintenance Organization	C12995	Amendment No. 10 Dental Services	1/1/2021	12/31/2021	\$57,069
Public Risk Innovation, Solutions, and Management for Delta Dental Health Maintenance Organization	C81869	Amendment No. 2 Dental Services	1/1/2021	12/31/2021	\$17,334
Public Risk Innovation, Solutions, and Management for Vision Service Plan	C12997	Amendment No. 8 Vision Services	1/1/2021	12/31/2021	\$255,542
HNTB Corporation	C53337	Amendment No. 10 Continuation of OC Streetcar Project Design Support Services During Construction	9/14/2020	3/31/2022	\$2,900,000
<b>TOTAL NUMBER OF CONTRACTS</b>					<b>9</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$24,546,081</b>

### CONTRACT CHANGE ORDERS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
OC 405 Partners	C53843	CCO 34.4 Assistance to Chevron and Crimson Utility Companies During Utility Relocation Work at Goldenwest Street Overcrossing for the I-405 Improvement Project from SR-73 to I-605	9/21/2020	12/31/2025	\$300,000
Walsh Construction Company II, LLC	C71904	CCO 9 Installation of Vapor Barrier Under the Maintenance and Storage Facility	11/1/2020	4/15/2022	\$395,717
<b>TOTAL NUMBER OF AMENDMENTS</b>					<b>2</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$695,717</b>

### COOPERATIVE AGREEMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Orange County Sheriff's Department	C02330	Transit Police Services	7/1/2020	6/30/2021	\$10,596,947
City of Laguna Beach	C02400	Senior Mobility Program	8/24/2020	6/30/2021	\$0
Abrazar, Inc.	C02454	Mobility Management and Transportation Resources	10/1/2020	9/30/2022	\$237,800
Boys and Girls Clubs of Huntington Valley	C02455	Mobility Management and Transportation Resources	10/1/2020	9/30/2022	\$118,200
Dayle McIntosh Center for the Disabled	C02456	Mobility Management and Transportation Resources	10/1/2020	9/30/2022	\$193,400
North Orange County Community College District	C02457	Mobility Management and Transportation Resources	10/1/2020	9/30/2022	\$315,800
Women Helping Women/Men2Work	C02458	Mobility Management and Transportation Resources	10/1/2020	9/30/2022	\$73,600
City of Mission Viejo	C02543	Prepare Plans, Specifications, and Estimates for the Crisanta Drive Community Soundwall	10/15/2020	12/31/2024	\$215,700
<b>TOTAL NUMBER OF CONTRACTS</b>					<b>8</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$11,751,447</b>

## Board-Approved Contracts - First Quarter Fiscal Year 2020-2021

### COOPERATIVE AMENDMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Anaheim Transportation Network	C71760	Amendment No 1 - Pass Through of Corona Aid, Relief and Economic Security Act Funding	7/20/2020	6/30/2022	\$2,354,802
<b>TOTAL NUMBER OF CONTRACTS</b>					<b>1</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$2,354,802</b>

### PURCHASE ORDER AMENDMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Public Risk Innovation, Solutions, and Management for VOYA for Life and Accidental Death and Dismemberment Insurance	C71897	Amendment No. 3 Life and Accidental Death and Dismemberment Insurance	1/1/2021	12/31/2021	\$264,242
and Management for VOYA to Provide Supplemental Life Insurance	C71898	Amendment No. 2 Supplemental Life Insurance	1/1/2021	12/31/2021	\$0
Public Risk Innovation, Solutions, and Management for VOYA for Short-Term and Long-Term Disability Insurance	C71899	Amendment No. 2 Short-Term and Long-Term Disability	1/1/2021	12/31/2021	\$160,631
Public Risk Innovation, Solutions, and Management for VOYA with Compsych to Provide Employee Leave Administration	C71900	Amendment No. 2 Employee Leave Administration	1/1/2021	12/31/2021	\$24,388
<b>TOTAL NUMBER OF CONTRACTS</b>					<b>4</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$449,261</b>

### OPTION YEARS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Cabco Yellow, Inc. dba California Yellow Cab	C81440	Amendment No. 2 Exercise First Option Term for Same Day Taxi Service	9/1/2020	8/31/2021	\$1,794,198
Outfront Media Group, LLC	C53076	Amendment No. 3 Exercise Second Option Term for Bus Advertising Revenue Program	9/1/2020	8/31/2022	\$0
Gamboa Services, Inc. dba Corporate Image Maintenance	C71723	Amendment No. 3 Exercise First Option Term for Janitorial Services	11/1/2020	10/31/2022	\$2,485,575
<b>TOTAL NUMBER OF AMENDMENTS</b>					<b>3</b>
<b>TOTAL DOLLAR VALUE</b>					<b>\$4,279,773</b>

#### Acronyms

I-405 - Interstate 405

I-605 - Interstate 605

SR-73 - State Route 73

SR-91 - State Route 91

**REGIONAL PLANNING and HIGHWAYS COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)**

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
October 5, 2020	Agreement for Facility Modifications at Santa Ana Bus Base for the Interstate 405 Toll Operations Center	\$636,680	Capital Programs
	Contract Change Orders for the Interstate 405 Improvement Project from State Route 73 to Interstate 605	\$1,592,040	Capital Programs
	Cooperative Agreement with the California Department of Transportation for the State Route 91 Improvement Project Between State Route 57 and State Route 55 and Authority to Acquire Right-of-Way	\$970,000	Capital Programs
	Amendment to Cooperative Agreement with the City of Fountain Valley for the Interstate 405 Improvement Project	\$374,000	Capital Programs
	Consultant Selection for the Preparation of Project Report and Environmental Document for the Interstate 5 Improvement Project from San Diego County Line to Avenida Pico	\$4,100,000	Capital Programs
November 2, 2020	Consultant Selection for the Preparation of Plans, Specifications, and Estimates for the Interstate 5 Widening Project Between Yale Avenue and State Route 55	\$13,898,000	Capital Programs

**REGIONAL PLANNING and HIGHWAYS COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)**

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
	Traffic and Intelligent Transportation Systems Engineering Services Consultant Selection for the Warner Avenue Regional Traffic Signal Synchronization Program Project	\$5,110,000	Planning
	Agreement for M2 Environmental Mitigation Program Interim Biological Preserve Monitoring	\$1,200,000	Planning

## TRANSIT COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
October 8, 2020	Contract Change Orders for the Construction of the OC Streetcar Project	\$1,466,000	Capital Programs
	Agreement for the Procurement of 40-Foot Compressed Natural Gas-Powered Buses	\$100,371,600	Operations
	Agreement for Fullerton Transportation Center Stair Replacement Project	\$705,300	Capital Programs
	Agreement for Locker Room Expansion at Santa Ana Bus Base Maintenance Building	\$339,123	Capital Programs
	Agreement for Replacement of Light Poles and Luminaires at Golden West Transportation Center	\$223,789	Capital Programs
	Agreement for the Procurement of 40-Foot Plug-In Battery-Electric Buses	\$10,373,230	Operations
November 12, 2020	Approval to Exercise the First Option Term for Mobile Ticket Validator Extended Warranty Coverage Period	\$136,608	Finance and Administration
	Mobile Ticketing Service Option-Term Extension and Contract Budget Increase	\$290,372	Finance and Administration
	Amendment to Agreement with MV Transportation, Inc., for the Provision of OC Flex Service	\$0	Operations

## TRANSIT COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
	Amendment to Agreement with First Transit, Inc., for the Provision of Contracted Fixed-Route Service	\$78,883,275	Operations
	Amendment to Agreement with MV Transportation, Inc., for the OC ACCESS Service	\$315,414	Operations
	Award of Agreement for the Purchase of an Enterprise Asset Management System	\$8,000,000	Operations
	Sole Source Agreement for the Replacement of Fluid Management System Data Loggers	\$97,350	Operations
	Sole Source Agreement for the Replacement of Fluid Management System Remote Island Heads	\$338,000	Operations
<hr/>			
December 10, 2020	Sole Source Agreement for the Operations and Maintenance of Fluid Management System	\$540,000	Operations

## FINANCE AND ADMINISTRATION COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
November 11, 2020	Property Insurance Policy Renewal	\$700,000	Human Resources and Organizational Development
	Excess Liability Insurance Renewal	\$1,500,000	Human Resources and Organizational Development

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## LEGISLATIVE AND COMMUNICATIONS COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
October 15, 2020	Consultant Selection for Rideshare and Vanpool Marketing Services	\$570,000	External Affairs
	Agreement for State Legislative Advocacy and Consulting Services	\$420,000	Government Relations
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November 19, 2020	Agreement for Public Communications and Community Outreach Consultant Services for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5	\$1,684,990	External Affairs
	Website Maintenance Support Services	\$900,000	External Affairs

**EXECUTIVE COMMITTEE - Second Quarter Outlook (October 1, 2020 - December 31, 2020)**

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
October 5, 2020	Agreement for Security System Service and Maintenance	\$537,600	Executive

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## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Laurena Weinert, Clerk of the Board

**Subject:** Agreement for State Legislative Advocacy and Consulting Services

Legislative and Communications Committee Meeting of October 15, 2020

**Present:** Directors Bartlett, Davies, Delgleize, Hennessey, Hernandez, and Wagner

**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 6-0 by the Members present.

### **Committee Recommendations**

- A. Approve the selection of Topp Strategies, LLC, as the firm to provide state legislative advocacy and consulting services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2369 between the Orange County Transportation Authority and Topp Strategies, LLC, in the amount of \$420,000, for a two-year initial term, effective January 1, 2021 to December 31, 2022, with two, two-year options, to perform state legislative advocacy and consulting services.



**October 15, 2020**

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Agreement for State Legislative Advocacy and Consulting Services

### **Overview**

On June 22, 2020, the Board of Directors approved the release of a request for proposals for state legislative advocacy and consulting services to begin when the present term for these services expires on December 31, 2020. One proposal was received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services. Board of Directors' approval is requested to execute an agreement for these services.

### **Recommendations**

- A. Approve the selection of Topp Strategies, LLC, as the firm to provide state legislative advocacy and consulting services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2369 between the Orange County Transportation Authority and Topp Strategies, LLC, in the amount of \$420,000, for a two-year initial term, effective January 1, 2021 to December 31, 2022, with two, two-year options, to perform state legislative advocacy and consulting services.

### **Discussion**

The Orange County Transportation Authority's (OCTA) state legislative advocacy consultants represent the agency's positions on legislation, policy issues, and funding priorities before the State Legislature, Administration and administrative agencies. The state legislative advocacy consultants also provide input to the OCTA legislative platform, notify staff of relevant proposed legislation, legislative activity affecting OCTA, and provide timely updates and strategy for transportation issues and events occurring in Sacramento.

Presently, OCTA's state legislative advocacy and consulting services are provided by Platinum Advisors, LLC (Platinum), with a subcontract to Topp Strategies, LLC (Topp Strategies) with Moira Topp as the lead legislative advocate for OCTA. OCTA first contracted with Platinum with Topp Strategies as a subcontractor in 2014. Moira Topp has served as OCTA's lead legislative advocate since 2007. The firm is currently paid \$17,500 per month, and their contract expires on December 31, 2020.

### ***Procurement Approach***

This procurement was handled in accordance with OCTA's Board of Directors (Board)-approved procedures for professional and technical services. In addition to cost, many other factors are considered in an award for professional and technical services. Award is recommended to the firm offering the most comprehensive overall proposal considering factors such as qualifications, prior experience with similar projects, staffing and project organization, work plan, as well as cost and price.

On June 22, 2020, the Board approved the release of Request for Proposals (RFP) 0-2369, which was electronically issued on CAMM NET. The project was advertised in a newspaper of general circulation on June 24, and 29, 2020. A pre-proposal conference was held virtually on July 14, 2020 and was attended by two firms. Three addenda were issued to make available the pre-proposal conference registration sheets, as well as the presentation, and for administrative notifications.

On August 14, 2020, one proposal was received from Topp Strategies. In accordance with OCTA's procurement policies and procedures, a single proposal received for a procurement over \$50,000 requires OCTA's Internal Audit Department (Internal Audit) to conduct a review to determine if there was adequate competition. Based on Internal Audit's review, there were no findings that concluded the procurement restricted competition. In addition, Contracts Administration and Materials Management (CAMM) contacted one of the firms that attended the pre-proposal conference along with all the consultants on the plan holder's list, which indicated they were interested in submitting a proposal to inquire why they did not submit proposals. The responses from the firms varied with one firm responding that representing OCTA would pose a conflict of interest based on their current client portfolio, to another firm stating it was a business decision not to submit a proposal as it is a culture in Sacramento that if a lobbying client is currently represented, most firms will pass on submitting a proposal. Another firm stated that they were not interested in proposing on the project.

An evaluation committee consisting of OCTA staff from the Executive Office, Government Relations, and CAMM departments was established to review the proposal received from Topp Strategies.

The proposal was evaluated based on the following Board-approved evaluation criteria and weightings:

• Qualifications of the Firm	25 percent
• Staffing	35 percent
• Work Plan	25 percent
• Cost and Price	15 percent

Several factors were considered in developing the four criteria weightings. Qualifications of the firm was weighted at 25 percent because it is important that the firm demonstrated it has performed these services for other similar clients and has the necessary access to the state legislators and their staff. Staffing was weighted highest at 35 percent as it is the most critical element to the success of these services. The firms needed to demonstrate that key personnel were knowledgeable of the political and economic climate and the ongoing transportation issues that face the State of California. The work plan was also weighted at 25 percent as the firms needed to demonstrate their understanding of OCTA's needs and be able to advocate on OCTA's behalf. Finally, cost and price was weighted at 15 percent as the firm must demonstrate that they can perform the services at maximum cost efficiencies to ensure that OCTA receives value for the services provided.

The evaluation committee virtually conducted an interview with Topp Strategies and their proposed subcontractor, Platinum. The interview consisted of a brief overview of the team's organization plan, as well as an opportunity to respond to the evaluation committee's questions.

The following is a brief summary of the proposal evaluation results.

#### Qualifications of Firm and Staffing

The principal and founder of Topp Strategies is Moira Topp. She has served as OCTA's primary legislative advocate since 2007. During this period of time, she has been successful in securing several important pieces of legislation for OCTA including AB 401 (Chapter 586, Statutes of 2013), which provided design-build authority for the Interstate 405 Improvement Project, SB 1119 (Chapter 606, Statutes of 2018), which allowed OCTA to use Low Carbon Transit Operations

Program funding to expand reduced fare transit pass programs for college students, and the securing of an audit by the State Auditor analyzing the impacts online sales have on the Local Transportation Fund. In addition, Moira Topp has existing relationships with all Orange County delegation members, leadership within the Legislature and the Administration, as well as administrative agencies. The proposed project team demonstrated familiarity with not only OCTA policy priorities, but also its programs and projects, which will help facilitate future conversations surrounding transportation.

Furthermore, the proposed team would continue the involvement of Platinum as a subcontractor, which will allow OCTA to continue to access representatives from that firm when needed. This arrangement reflects existing practice, where Moira Topp serves as OCTA's day-to-day contact, but representatives of Platinum are used as needed.

#### **Work Plan**

The work plan proposed by Topp Strategies demonstrated a knowledge of key policy discussions that will be taking place over the next legislative session which will directly impact OCTA. This includes how projected revenue shortfalls will be addressed not only in the state budget, but also within transportation funding programs. Many of the potential proposals are likely to be extensions of issues Topp Strategies has already worked on for OCTA in past sessions, including efforts to reprioritize the State Transportation Improvement Program and added priorities to how funding from SB 1 (Chapter 5, Statutes of 2017) is distributed. In addition, the work plan demonstrated the expectation that other policy discussions will be extended into next legislative session, including those related to toll enforcement and interoperability, expansion of free transit fares, and efforts to strengthen and/or accelerate environmental regulations related to transportation. Because Topp Strategies has worked on behalf of OCTA on each of these issues in the past and understands OCTA's positions, they would be able to immediately engage on these issues.

#### **Cost and Price**

CAMM also conducted a price review. The monthly fixed-fee in the amount of \$17,500 proposed by Topp Strategies is deemed fair and reasonable as it is below the independent cost estimate prepared by OCTA staff, and it is the same monthly fee that OCTA currently pays for these services.

### Procurement Summary

Based on the evaluation of the written proposal, the firm's qualifications, and the information obtained from the interview, the evaluation committee recommends the selection of Topp Strategies as the consultant to provide state legislative advocacy and consulting services. The Topp Strategies team demonstrated strong relevant experience and submitted a thorough and comprehensive proposal that was responsive to all requirements of the RFP.

The agreement will be a firm-fixed contract with a two-year initial term and two, two-year option terms. The amount of the initial term is \$420,000.

### Fiscal Impact

OCTA staff is not recommending any increase in the total contract amount for state legislative advocacy services above what has been authorized by the Board in the Fiscal Year (FY) 2020-21 Budget. This amount is included in the OCTA FY 2020-21 Budget, Account No. 1412-7519-A3202-KSH.

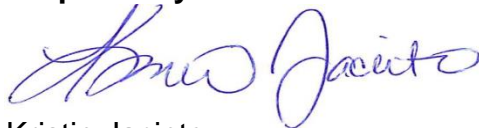
### ***Summary***

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2369 between the Orange County Transportation Authority and Topp Strategies, LLC in the amount of \$420,000 for a two-year initial term, effective January 1, 2021 through December 31, 2022, with two, two-year option terms to provide state legislative advocacy and consulting services.

***Attachment***

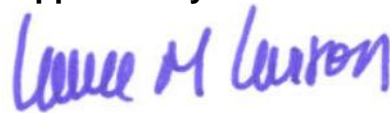
None.

**Prepared by:**



Kristin Jacinto  
Manager, State and Federal Relations  
Government Relations  
(714) 560-5754

**Approved by:**



Lance M. Larson  
Executive Director  
Government Relations  
(714) 560-5908



Pia Veasapen  
Interim Director, Contracts Administration  
and Materials Management  
(714) 560-5619



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** Laurena Weinert, Clerk of the Board  
**Subject:** Federal Legislative Status Report

Legislative and Communications Committee Meeting of October 15, 2020

**Present:** Directors Bartlett, Davies, Delgleize, Hennessey, Hernandez,  
and Wagner  
**Absent:** None

**Committee Vote**

Following the discussion, no action was taken on this receive and file information item.

**Staff Recommendation**

Receive and file as an information item.



**October 15, 2020**

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Federal Legislative Status Report

### **Overview**

An update is provided on efforts in Congress to enact appropriations bills and additional economic stimulus legislation. An overview is provided of a hearing on transportation equity.

### **Recommendation**

Receive and file as an information item.

### **Discussion**

#### Update on Annual Transportation Funding

As previously reported, Congress has not reached agreement on the enactment of annual funding bills, long-term surface transportation legislation, or the next phase of coronavirus (COVID-19) economic relief legislation. With the approaching expiration of the Fixing America's Surface Transportation (FAST) Act on September 30, 2020, and the start of the new fiscal year, Congress had to work to pass legislation providing a short-term extension of both annual appropriations and surface transportation authorization. Without a legislative solution by that date, not only would there be a partial government shutdown, but federal transportation programs would be at risk.

On September 22, 2020, the House of Representatives passed, by a vote of 359 to 57, a continuing resolution that included a one-year extension of surface transportation programs. The continuing resolution provided funding for government operations through December 11, 2020. The surface transportation extension, through September 31, 2021, authorized transportation programs largely at FAST Act levels, without accounting for any of the stimulus funding provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act earlier this year. On September 30, 2020, the Senate passed the House's

short-term funding bill, with the one-year FAST Act extension, by a vote of 84 to 10. The President signed the bill in short order, averting any potentially harmful consequences of failing to extend these critical federal functions.

Orange County Transportation Agency (OCTA) legislative staff and advocates worked with stakeholder organizations to advocate for an extension that would benefit Orange County. The American Association of State Highway and Transportation Officials, the American Public Transit Association, and a broad swath of transportation stakeholders submitted correspondence, included as Attachment A, outlining the need for Congress to extend surface transportation programs and provide additional funding to combat COVID-19, specifically \$37 billion for state departments of transportation and \$32 billion for public transit agencies. The California Transit Association (CTA) sent a similar letter, included as Attachment B, advocating for a continuing resolution, a one-year extension of surface transportation programs, and additional funding for transit agencies to combat COVID-19. The CTA letter supported the industrywide letter's call for \$32 billion in transit funding, emphasizing the need to direct \$3.1 billion to transit agencies in the State of California.

The continuing resolution also directed the transfer of \$13.6 billion into the Highway Trust Fund (HTF) to cover the cost of federal transportation programs for the upcoming fiscal year. In addition, the bill contains a minor adjustment to formula disbursements due to a statutory provision meant to ensure that every state receive adequate funding from the HTF. This provision prevents states from becoming a "donor" to the HTF by requiring that each state's HTF funding be at least 95 percent of the revenues that the state contributes into the HTF. This provision was invoked because the states of Colorado and Texas fell below the 95 percent threshold. Every other state will receive a 0.625 percent reduction to its formula apportionment this year, resulting in an estimated \$25 million reduction to the State of California's \$4 billion apportionment. Staff is conducting an in-depth analysis of these federal formula distributions to effectively advocate for the interests of Orange County and the region when Congress begins its work, in earnest, on a long-term reauthorization bill. Staff will continue to provide updates on any changes to the formula distribution, additional continuing resolutions, the consideration of funding bills, or any related issues as necessary.

#### Update on COVID-19 Relief Efforts

Unfortunately, differences between House and Senate leaders have been detrimental to progress on a potential next round of COVID-19 stimulus. As the Senate was passing the continuing resolution, House leaders announced plans to consider a \$2.2 trillion economic stimulus bill. This proposal was an amended, pared-down version of the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act the House passed in May, which staff previously

detailed for the Board of Directors' (Board) June meeting of the Legislative and Communications Committee. The amended HEROES Act would provide over \$400 billion in dedicated funding for state and local governments, \$120 billion in financial assistance for restaurants, and the \$32 billion for transit agencies requested by CTA and the transportation industry as discussed above. The bill would also provide \$2.4 billion in funding for Amtrak. Unlike the previous version of the HEROES Act, the amended version does not include any supplemental highway funding. The amended HEROES Act instead provides over \$40 billion for airports and the airline industry, a significant increase compared to the previous version of the bill.

The \$32 billion of transit funding would provide \$18.5 billion directly to agencies receiving Federal Transit Administration (FTA) funding through the FTA 5307 Urbanized Area Formula Grants and FTA 5337 State of Good Repair grants. In addition, the bill would provide an additional \$10 billion in FTA 5307 funding via a competitive selection process. The FTA 5307 and 5337 funding would be provided on a modified distribution system, taking into account funding from the CARES Act so that no agency can receive more than their 2018 operating expenses combined, in a manner that makes it difficult to accurately estimate how much funding may flow to Orange County. The amended HEROES Act would provide more than \$2.5 billion in supplemental funding for the Capital Investment Grants (CIG) program, specifically for CIG projects with funding allocated in federal fiscal years 2019 and 2020, to increase the project's federal share.

At the writing of this staff report, news reports indicated the amended HEROES Act stood very little chance of being signed into law in its current form. On October 1, 2020, the House passed the bill by a vote of 214 to 207, with negotiations ongoing on a potential compromise measure. Reports also indicated that Senate leaders did not want to provide more than \$1.5 trillion in any stimulus effort, whereas House leaders indicated an unwillingness to provide less than \$2.2 trillion in economic assistance. Staff will continue to monitor the ongoing stimulus discussions, advocate for stimulus policies that benefit OCTA, and provide updates on a next round of economic stimulus, or on any bill relevant to the agency, to the Board as necessary.

#### Summary of Hearing on Transportation Equity

On September 23, 2020, the House Transportation and Infrastructure Committee held a hearing entitled "Driving Equity: The United States Department of Transportation's Disadvantaged Business Enterprise Program." At the hearing, the discussion was focused on the ways in which the Disadvantaged Business Enterprise (DBE) program can be improved. Chair DeFazio (D-OR) noted that the hearing was the first discussion of the DBE program in 11 years. There was bipartisan consensus for continued commitment

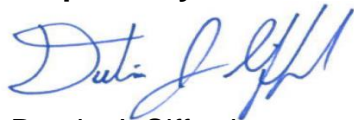
to this program because it is an effective way to ensure that minority- and women-owned businesses have full and fair access to transportation contracts. One theme in the hearing was the importance of this program now, especially because minority-owned businesses have been disproportionately affected by the COVID-19 pandemic. Suggestions from the witnesses included improvements to the personal net worth calculation, consistent program certification, and state transportation department waivers to exclude certain groups of people when they determine that group has reached some level of parity. Panelists stated that the DBE program's greatest benefit is not just financial, instead emphasizing the relationships that were created because of its assistance with future contracts.

**Summary**

An update is provided efforts to ensure that federal transportation funding continues to benefit Orange County, as well as a summary of a hearing on transportation equity.

**Attachments**

- A. Letter from Transportation Stakeholders to Congressional Leaders, dated September 9, 2020
- B. Letter from California Transit Association to Congressional Leaders, dated September 22, 2020
- C. Potomac Partners DC, Monthly Legislative Report – August 2020
- D. Potomac Partners DC, Monthly Legislative Report – September 2020

**Prepared by:**

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Government Relations  
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September 9, 2020

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Charles Schumer  
Democratic Leader  
U.S. Senate  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Republican Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Majority Leader McConnell, Speaker Pelosi, Democratic Leader Schumer, and Republican Leader McCarthy:

The current surface transportation law—the Fixing America’s Surface Transportation Act—expires in 21 days. Therefore, the undersigned 88 organizations urge you to pass legislation to the President before September 30 that includes:

1. A turn-key, one-year extension of the current surface transportation law with increased investment levels;
2. Emergency federal funding for state departments of transportation and public transit agencies—\$37 billion and \$32 billion, respectively; and
3. Provisions to ensure solvency of the Highway Trust Fund for the duration of the extension at a minimum.

Public agencies continue to face COVID-19 pandemic-induced revenue declines. As a result, state and local entities already delayed or cancelled \$8 billion in surface transportation projects, with more on the horizon absent any clear sign of support from the federal government. Failure to approve a one-year extension with increased funding for the purpose of stability would only exacerbate this dire situation.

Passing legislation that includes the aforementioned priorities would enable critical improvements that increase the safety and efficiency of the surface transportation system. This timely action by Congress would tangibly enhance the quality of life for all Americans and jumpstart America’s economic recovery.

Thank you for your leadership in addressing these critical issues. We look forward to working with you to approve such legislation before September 30.

Sincerely,

American Association of State Highway & Transportation Officials  
American Road & Transportation Builders Association  
Associated General Contractors of America  
U.S. Chamber of Commerce  
Association of Equipment Manufacturers  
National Retail Federation

American Public Transportation Association  
International Union of Operating Engineers  
Laborers' International Union of North America  
Transportation Trades Department, AFL-CIO  
National Association of Manufacturers  
American Highway Users Alliance  
Retail Industry Leaders Association  
North America's Building Trades Unions  
American Society of Civil Engineers  
Associated Builders and Contractors  
National Association of Counties  
American Council of Engineering Companies  
American Concrete Pavement Association  
National Stone, Sand & Gravel Association  
American Concrete Pipe Association  
American Traffic Safety Services Association  
National Asphalt Pavement Association  
Portland Cement Association  
The Surety & Fidelity Association of America  
Sheet Metal and Air Conditioning Contractors National Association (SMACNA)  
American Subcontractors Association  
Building America's Future  
Associated Equipment Distributors  
American Iron and Steel Institute  
American Institute of Steel Construction  
National Steel Bridge Alliance  
Auto Care Association  
National Ready Mixed Concrete Association  
National Association of Surety Bond Producers  
American Public Works Association  
Geospatial Equipment & Technology Institute (GETI)  
National Society of Professional Surveyors (NSPS)  
Subsurface Utility Engineering (SUE) Association  
U.S. Geospatial Executives Organization (U.S. GEO)  
Intelligent Transportation Society of America  
Owner-Operator Independent Drivers Association  
National Safety Council  
League of American Bicyclists  
Safe Routes Partnership  
The Design-Build Institute of America  
Commercial Vehicle Safety Alliance  
United Brotherhood of Carpenters  
Governors Highway Safety Association

Association for the Improvement of American Infrastructure  
Community Transportation Association of America  
International Association of Iron Workers  
Transport Workers Union of America  
International Bridge, Tunnel and Turnpike Association  
Institute of Transportation Engineers  
Interlocking Concrete Pavement Institute (ICPI)  
Railway Supply Institute  
National Utility Contractors Association  
FP<sup>2</sup> (formerly Foundation for Pavement Preservation)  
National Tour Association  
United States Tour Operators Association  
American Association of Port Authorities  
Institute of Makers of Explosives  
National Electrical Contractors Association  
Industrial Minerals Association – North America  
Construction & Demolition Recycling Association  
National Association of County Engineers  
The Association of Union Constructors (TAUC)  
American Concrete Pumping Association  
Precast/Prestressed Concrete Institute  
Steel Manufacturers Association  
Concrete Reinforcing Steel Institute  
Foodservice Equipment Distributors Association  
National Parking Association  
National Waste and Recycling Association  
North American Association of Food Equipment Manufacturers (NAFEM)  
Motor and Equipment Manufacturers Association  
National Mining Association  
Lubricant Manufacturers Association  
Associated Wire Rope Fabricators  
National Association of Trailer Manufacturers  
Metals Service Center Institute  
Corn Refiners Association  
Amalgamated Transit Union  
International Brotherhood of Electrical Workers  
American Foundry Society  
Women Construction Owners and Executives  
NORA, An Association of Responsible Recyclers

cc: All Members of Congress



Connecting us.

September 22, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
H-232, U.S. Capitol  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
S-230, U.S. Capitol  
Washington, DC 20510

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
H-204, U.S. Capitol  
Washington, DC 20515

The Honorable Charles E. Schumer  
Minority Leader  
United States Senate  
S-221, U.S. Capitol  
Washington, DC 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, Leader Schumer:

On behalf of the member agencies in the California Transit Association and the millions of Californians who continue to rely on public transportation right now, I thank you again for providing emergency funding for public transit agencies in the Coronavirus Aid, Resources, and Economic Security (CARES) Act.

As you know well, since the passage of that critical funding bill, public transit agencies nationwide have continued to face COVID-19 pandemic-induced revenue declines that threaten their short- and long-term solvency. To remain viable, transit agencies require additional emergency federal funding and a clear commitment to reauthorization and long-term funding of core federal funding programs. This will prevent significant and permanent reductions in transit services that will adversely impact communities throughout the state and which are becoming all too likely at transit agencies operating in rural, suburban and urban contexts.

We, therefore, join transportation stakeholders from across the country in urging you to pass legislation before September 30 to provide:

1) A one-year extension of the Fixing America's Surface Transportation Act that includes increased investment levels, funding to restore solvency to the Highway Trust Fund, and a suspension of the Rostenkowski test;

2) \$32 billion in emergency funding for the nation's public transit agencies, inclusive of no less than \$3.1 billion for California's transit agencies; and,

3) A continuing resolution to fund surface transportation programs through December 2020.

With your leadership to pass legislation that addresses these priorities, California's public transit agencies will be able to continue to provide critical transportation options to the millions of healthcare, public safety, grocery store, and restaurant workers classified as essential workers during the COVID-19 pandemic. Please also consider that reliable – and additional – funding to ensure transit agencies can continue to provide safe and accessible service is critical to a balanced economic recovery, to our quality of life and to achieving our state's ambitious environmental goals.

Again, without this critical funding, transit agencies will have to take steps to further curtail service, delay critical capital projects and halt procurements that will result in lasting impacts to communities across California, but also to manufacturers and part suppliers nationwide.

If you have any questions about this request, please contact me at 323-594-6342. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael Pimentel". The signature is written in a cursive, flowing style.

Michael Pimentel  
Deputy Executive Director

cc: Congressional Delegation, State of California  
The Honorable Gavin Newsom, Governor, State of California  
Senate Appropriations Committee  
House Appropriations Committee  
Senate Finance Committee  
House Ways & Means Committee  
Senate Banking, Housing and Urban Affairs Committee  
House Transportation and Infrastructure Committee



## Monthly Legislative Report – August 2020

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### August Advocacy Meetings

**Congressman Harley Rouda (D-CA)** – During this August recess, we have been following-up with Congressman Rouda's senior staff on several occasions to discuss OCTA requests and amendment proposals for the next Surface Transportation Reauthorization and the Infrastructure Bill that could be considered again in the House early next year. We also discussed any potential for progress with the Senate EPW and Senate Banking before the end of the year. We discussed the timeline for negotiations with the Senate and the White House for an extension of the FAST Act and what else that may entail, including whether there would be opportunities for policy inclusions regarding the TIFIA program.

**Congressman Alan Lowenthal (D-CA)** – We have been in contact numerous times with Congressman Lowenthal's office to discuss next steps on Surface Transportation Reauthorization and OCTA's key requests. We followed-up on the need for new transit formula funding (i.e. 5307 and 5337) to support operations and opportunities in the upcoming stimulus package. We also discussed the outlook for an extension of the FAST Act authorizations and the CR.

**Congressman Lou Correa (D-CA)** – We have been in contact with Congressman Correa and his staff this month to follow-up on OCTA's requests for the Surface Transportation reauthorization and the need for additional formula funding. We also followed-up on support for transit funding to be included in any final stimulus spending bill(s).

**Congressman Mike Levin (D-CA)** – We continue to touch base with Congressman Levin and his senior staff to discuss the Alternative Fuel Tax Credit issue, the effects of COVID-19 on daily operations, as well as Measure M project funding. We also discussed the need to strongly support additional transit formula funds in the upcoming stimulus bill(s).

**Congressman Gil Cisneros (D-CA)** – We followed-up with senior staff in Congressman Cisneros' office to provide an update on OCTA transit services, and the need for additional funding to support COVID-19 activities. We also discussed the timeline for stimulus negotiations and support for OCTA priorities in any final legislation.

**Congressman Pete Aguilar (D-CA)** – We have been in close contact with Congressman Aguilar's senior staff this month to discuss FY21 appropriations and the timeline for negotiations with the Senate and the White House. We discussed the timeline for a possible CR and any opportunities for policy inclusions. We also discussed support for increased transit formula funding in the potential stimulus legislation.

**Senator Dianne Feinstein (D-CA)** – We have been in contact with staff in Senator Feinstein’s office this month to discuss FY21 appropriations and ongoing Senate negotiations for the THUD bill. We followed-up on our prior discussions regarding Measure M impacts from COVID-19, and the need for additional resources to include an increase in formula funding. We also discussed negotiations in the Senate, and with the House, for a new stimulus bill. We discussed opportunities for new transit funding, and the timeline for a bill in September along with the CR.

**House Transportation and Infrastructure Committee** – We have been in close contact with both Majority and Minority staff to provide ongoing updates on OCTA’s projects, discuss progress on the Surface Transportation Reauthorization, and highlight the need for additional spending flexibility authorizations. We specifically highlighted policy requests that would benefit OCTA and the region for that legislation and followed-up on the Alternative Fuel Tax Credit.

**Senate Environment and Public Works Committee** – This month we continued to touch base with various EPW staff (minority and majority) on OCTA’s Surface Transportation Reauthorization policy asks. We discussed the timeline for negotiations with the House and the outlook for a deal in September. We also specifically followed-up on our discussions regarding the need for TIFIA reforms and changes that would benefit OCTA.

**Senate Banking Committee** – We followed-up with senior staff this month to discuss progress on a Senate Surface Transportation reauthorization and the likelihood of progress on negotiations in September or the release of a transit title that may mirror what the House has already released.

### **New Stimulus Legislation Negotiations Update**

With negotiations between the White House and Congressional Democratic leadership at a standstill, Senate Republicans unveiled a draft “skinny” coronavirus relief and economic stimulus bill. The *Delivering Immediate Relief to America’s Families, Schools, and Small Businesses Act* is a streamlined version of the HEALS Act proposal previously introduced by Senate Republicans. A side-by-side comparison of transit/transportation sections of the House and Senate stimulus proposals is included at the end of this report.

The bill eliminates several provisions from the HEALS Act proposal that had been criticized by Senate Republicans, including funding for a new Federal Bureau of Investigations (FBI) building, defense procurement spending, and another round of direct \$1,200 stimulus payments to citizens, while modifying and/or expanding several programs that were more popular within the caucus. Of particular note, the scaled-down bill does not include additional relief funding to state and local governments (the House-passed HEROES Act provides nearly \$1 trillion and the White House has indicated they could accept an additional \$150 billion), which will continue to be a point of contention in negotiations.

Congressional Democrats rejected the idea of a “skinny” coronavirus relief and economic stimulus package last month. Democratic leadership has, however, agreed to come down at least \$1 trillion from the HEROES Act’s \$3.5 trillion price tag, while Senate Republicans and the White House want to keep the total cost of any future stimulus package as close to \$1 trillion as possible. The final package is may include a Continuing Resolution (CR) to fund the federal government beyond the end of the current fiscal year on September 30<sup>th</sup>. Although many do expect that CR to be introduced separately if there is no deal on another stimulus package.

Other provisions in the draft bill (which may change) include the following:

- ***Unemployment Insurance (UI):*** Extends the Federal Pandemic Unemployment Compensation Program established by the CARES Act that expired July 31, 2020 through December 27, 2020.
- Would decrease the weekly assistance amount from \$600 (as included in the CARES Act) to \$300. President Trump issued an Executive Order (*text available [here](#)*) on August 8<sup>th</sup> authorizing \$44 billion from the Federal Emergency Management Agency (FEMA) Disaster Relief Fund (DRF) to provide laid-off workers with unemployment insurance benefits. According to guidance published by FEMA and the Department of Labor (DOL) last week (*guidance available [here](#); fact sheet available [here](#)*), these funds will provide eligible claimants with up to \$400 per week for those qualifying weeks of unemployment between August 1, 2020 - December 27, 2020. These benefits will be administered by states that enter into a cooperative grant agreement with FEMA. Because the source of funding for this effort is the FEMA-administered Disaster Relief Fund (DRF), there will be a 75 percent federal cost share and a 25 percent state match.
- For comparison, the House-passed HEROES Act provides for a full extension of the \$600/week CARES Act unemployment insurance (UI) benefit through December 31, 2020. This week, over 115 House Democrats sent a letter pressuring House leadership to include a vote on stand-alone legislation (H.R. 7821) to extend the \$600 per week UI benefit through the duration of the COVID-19 public health crisis as well as to establish a tiered system of benefits that are tied to certain national and state unemployment rates.
- ***Paycheck Protection Program:*** The package would authorize \$257.7 billion for an additional round of forgivable Small Business Administration (SBA) loans, and would authorize “PPP Second Draw Loans,” that will be limited to firms with 300 or less employees (instead of the 500-employee threshold in CARES), and to businesses that can demonstrate at least a 35-percent reduction in revenue compared to before the pandemic (the HEALS Act proposal required a 50-percent reduction).

- The bill does not include the various set-asides for businesses with 10 or fewer employees and community lenders, as included in the Senate HEALS Act proposal.
- ***Liability Protections:*** As included in the HEALS Act, the bill would limit liability for personal injuries arising from alleged COVID-19 exposure at schools, colleges, nonprofits, churches, or businesses, and would establish detailed procedural requirements to prevent frivolous litigation. To be covered by this protection, entities must have made a reasonable effort to conform to public health guidelines and have not engaged in willful misconduct or gross negligence.
  - Additionally, healthcare providers (including hospitals, doctors, nurses, and nursing homes) would be protected from liability related to the provision of care for the coronavirus or services provided as a result of the coronavirus and sets a willful misconduct or gross negligence standard for coronavirus-related malpractice suits, including suits related to diagnosis, treatment, and general medical care related to COVID-19. This liability protection would be applied to claims occurring from December 1, 2019 to October 1, 2024.
  - Employers would be protected from liability under federal labor and employment laws for complying with COVID-19 related guidance, including stay-at-home orders, and for injuries related from workplace coronavirus testing.
- ***Supplemental Appropriations:***
  - \$105 billion for the Education Stabilization Fund:
    - \$70 billion for the Elementary and Secondary School Emergency Relief Fund.
    - \$29 billion would be for the Higher Education Emergency Relief (HEER) Fund.
  - \$5 billion would be for the Governors Emergency Education Relief Fund, a flexible fund for Governors to use at their discretion for K-12 or higher education needs.
  - \$29 billion for COVID-19 vaccine and drug development and distribution; and
  - \$16 billion for COVID-19 testing and contact tracing.

As a resource, the House and Senate stimulus packages being used as starting points in the negotiations are included below. A side-by-side comparison is also included at the end of this report.

House Democrat stimulus package (HEROS Act):

- H.R. 6800 – The Heroes Act [Text](#) | [Summary](#)

Senate Republican stimulus package (HEALS Act):

- Appropriations: [Text](#) | [Summary](#)
- Finance tax and health provisions: [Text](#) | [Summary](#)
- Health, Education, Labor and Pensions Committee provisions: [Summary](#)
- Small-business provisions: [Text](#) | [Summary](#) | [One Pager](#)

In the absence of a deal in Congress, President Trump signed four Executive Orders to extend and expand COVID-19 relief, included below:

1. [Student Loan Relief](#)
  - a. Directs the Education Secretary to “take action pursuant to applicable law” to effectuate waivers and modifications to economic hardship deferments of student loan payments until December 31, 2020.
2. [Assistance to Renters and Homeowners](#)
  - a. Directs HHS Secretary and CDC Director to “consider” whether temporarily halting evictions of renters for failure to pay rent is necessary to prevent spread of COVID19. Directs Treasury Secretary and HUD Secretary to identify any available funds to assist renters and homeowners struggling to pay rent or mortgages due to COVID19. Directs HUD Secretary to “take action, as appropriate and consistent with applicable law” to promote ability of renters and homeowners to avoid eviction or foreclosure. Directs FHFA Director in consultation with Treasury Secretary to review existing authorities and resources that may be used to prevent such evictions and foreclosures.
3. [Payroll Tax Deferral](#)
  - a. Directs Treasury Secretary to defer withholding and payment of employee portion of Social Security and Railroad Retirement taxes on wages paid from September 1 thru December 31, 2020. Applies only to employees earning \$4,000 biweekly (\$104,000 annual rate). The payroll tax deferral is optional for companies and organizations, but the process for opting out has not been released by the Department of Treasury as of the time of this report.
4. [Authorizing Needs Assistance Programs](#)
  - a. “Calls on” states to use funds from the \$150 billion in the CARES Act for state and local governments to partially continue the Unemployment Insurance \$600/week supplement under a complex formula of up to \$400/week with the state providing \$100 of that amount, until December 27, 2020. Directs DHS/FEMA to make available natural disaster funds for such purpose. Requires buy-in by governors.

Congress may likely take action to supersede these E.O.s in September, especially in the Democrat-controlled House or Representatives. There are still very few details on how these orders will be carried out by the Administration and the requirements set forth for local governments.

## **FY21 Appropriations Update**

House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Stephen Mnuchin have reportedly been communicating during the month of August to negotiate a deal on path forward for the FY21 Appropriations bills. Before the recess, the House passed all but two spending bills in a minibus totaling \$1.3 trillion. The Senate has not passed any of the 12 appropriations bills. It is likely Congress will need to pass a Continuing Resolution that will extend past the Presidential election.

## **Treasury Secretary to Attend House Hearing on Coronavirus Response**

On Tuesday, September 1<sup>st</sup>, the House Select Subcommittee on the Coronavirus Crisis, will hold a hybrid in-person/remote hearing with Treasury Secretary Steven T. Mnuchin on the Administration's response to the country's economic crisis. The hearing will examine "the urgent need for additional economic relief for children, workers, and families and the Administration's implementation of key stimulus programs passed by Congress earlier this year." The topic of additional funding for transportation, infrastructure, and transit revenue losses may be discussed during the hearing. This will be the first time Secretary Mnuchin will testify before Congress since the onset of the Coronavirus. Secretary Mnuchin has been one of the lead negotiators for the White House regarding COVID-19 stimulus and FY21 appropriations discussions with the House. The hearing can be viewed [HERE](#).

## **US Railcar Legislation**

During the Month of August, Congressman Darin LaHood (R-IL) and Brad Schneider (D-IL) introduced legislation to incentivize private investment into the freight railcar manufacturing industry.

The Freight Rail Assistance and Investment to Launch Coronavirus-era Activity and Recovery (Freight RAILCAR) Act would provide tax credits for railcar leasing and manufacturing companies for the cost of replacing existing railcars with new more fuel-efficient railcars or refurbishing existing railcars. The bill would also offer additional tax credits for capital expenditures to modernize equipment and technology to meet environmental standards. The bill is not expected to move to the House floor before the election. However, this rail investment remains an important discussion point that could be included in future Highway bill negotiations and be expanded to include other aspects of the transit industry to include bus manufacturing.

## House and Senate Stimulus Proposals Comparison

	House (HR 6800)	Senate (S 4317, S 4318, S 4319, S 4320, S 4321, S 4322, S 4323, S 4324)
<b>Unemployment benefits</b>	<p>Renew \$600/week payment through Jan. 31, 2021, with transition rule for individuals receiving regular state benefits to continue receiving federal add-on through March 31, 2021</p> <p>Special benefits for independent contractors, freelance/"gig" workers etc. and extended 13-week duration for those exhausting regular benefits would run through those dates as well</p> <p>Funding to help states process benefits (\$925 million)</p> <p><i>Cost: \$433 billion</i></p>	<p><b>S 4318:</b> Renew federal add-on at \$200/week through Sept. 30, 2020, while states transition to 70% wage replacement, capped at \$500/week, by Oct. 5</p> <p>States that need more time can receive two-month waiver to continue flat \$200/week benefit. Program ends Dec. 31, 2020. Within 30 days, states would be required to notify recipients of return-to-work requirements</p> <p>Funding to help states upgrade systems and process benefits (\$3.15 billion)</p> <p>Increase from 50% to 75% reimbursements to nonprofits, tribes and government agencies for benefit costs</p> <p><i>Cost: ~\$113 billion</i></p>
<b>State and local government aid</b>	<p>Provide direct aid to state governments (\$500 billion), counties/municipalities (\$375 billion), tribal and territorial governments (\$20 billion each) and additional \$755 million payment to the District of Columbia (\$916 billion)</p> <p>Provide flexibility in use of prior aid funds to help make up revenue losses</p> <p>Enable U.S. territories and additional cities and counties (those with at least 50,000 residents) to issue debt backed by the Federal Reserve's Municipal Liquidity Facility; extend authorization period for municipal debt facility for a year, through Dec. 31, 2021; extend maximum maturity of debt purchased by facility from three to 10 years; and require interest rates on municipal debt purchased by facility to equal the Fed's discount window primary credit interest rate (\$30 billion)</p> <p><i>Cost: \$946 billion</i></p>	<p><b>S 4318:</b> Would provide flexibility by allowing prior round of \$150 billion (PL 116-136) to be used for additional expenses, including to backfill revenue losses</p> <p>Provides that employees working remotely for 30 days or less in a different taxing jurisdiction -- other than professional athletes, entertainers or other highly-compensated public figures -- will only be subject to state and local taxes where their permanent residence is located; 30-day limit is increased to 90 days for public health workers responding to the COVID-19 emergency</p> <p>Funds could not be used for pension/retirement expenses or replenishing "rainy day" funds</p> <p><i>Cost: not applicable</i></p>
<b>Hazard pay/essential workers</b>	Pandemic premium pay for "essential" workers (health care, grocery, transportation, first responders, etc.) of	None

	<p>\$13/hour up to \$10,000 (\$5,000 for those earning \$200,000+ annually) for work performed through 60 days after the end of declared public health emergency (\$190 billion, including \$10 billion for federal workers)</p> <p>Provide funds for care of family members of essential workers (\$850 million)</p> <p>Permanent \$500 above-the-line deduction for first responder expenses including uniforms, tuition and training fees (\$1.8 billion)</p> <p>Special \$500 above-the-line deduction for 2020 expenses incurred by COVID-19 frontline workers providing at least 1,000 hours of essential work (\$1.3 billion)</p> <p>Expand Defense Production Act authorities to purchase medical supplies</p> <p><i>Cost: \$194 billion</i></p>	
<b>Liability shield</b>	None	<p><b>S 4317:</b> Limit liability for COVID-19 exposure at school, church, nonprofit or business if entity has made reasonable effort to comply with public health guidelines and hasn't exhibited willful misconduct or gross negligence, for claims from Dec. 1, 2019, to Oct. 1, 2024</p> <p>Protect health care providers and nursing homes from liability arising out of provision of care or services related to COVID-19, except in cases of willful misconduct or gross negligence, for claims from Dec. 1, 2019, to Oct. 1, 2024</p> <p>Shield makers of ventilators and personal protective equipment from liability if products meet certain Food and Drug Administration standards</p> <p>Ensure employers are not liable under federal labor and employment laws for complying with public health requirements, including stay-at-home orders and protect employers from liability from injuries arising from workplace coronavirus testing</p> <p><i>Cost: unknown</i></p>
<b>Workplace safety</b>	Require Occupational Safety and Health Administration to develop temporary standards within seven days to protect workers at risk of COVID-19 exposure,	None

	<p>require employers to develop comprehensive infectious disease exposure control plans</p> <p>State agencies would have to develop their own temporary standards within 14 days</p> <p>Protections would cover public employees in 24 states not currently subject to OSHA standards</p> <p>Require employers to abide by OSHA recordkeeping regulations</p> <p>Employers could not retaliate against workers for publicizing lax standards or for using more protective equipment than the firm provides</p> <p>Require OSHA to develop permanent infectious disease standard within 24 months</p> <p>OSHA funding for workplace protection and enforcement activities</p> <p><i>Cost: \$100 million</i></p>	
<b>Pensions/ retirement changes</b>	<p>Relief for multiemployer pension plans (\$58 billion)</p> <p>Extend amortization for single employer pension plans (-\$17 billion)</p> <p>Other retirement provisions (\$7 billion)</p> <p><i>Cost: \$48 billion</i></p>	<p><b>S 4318:</b> Special rules for "money purchase" pension plans that only employers contribute to</p> <p><i>Cost unknown</i></p>
<b>Transportation</b>	<p>Emergency relief for transit systems (\$15.8 billion)</p> <p>Grants to state, territorial and tribal highway departments (\$15 billion)</p> <p>Funds for FAA operations (\$75 million)</p> <p>Increase unemployment and illness benefits for railroad workers (\$1 billion)</p> <p>Require Amtrak to enforce mask-wearing for passengers and crew and provide masks, gloves, wipes etc. to employees</p> <p>All Amtrak trains and stations must be cleaned and disinfected</p>	<p><b>S 4320:</b> Funding for Airport Improvement Program (\$10 billion)</p> <p>Funding for FAA operations, DOT administrative expenses essential air service program (\$151 million)</p> <p>Transportation Security Administration expenses for enhanced cleaning and technology to help avoid physical contact with travelers (\$208 million)</p> <p><i>Cost: \$10.4 billion</i></p>

	<p>Require airlines or contractors receiving financial assistance to avoid layoffs or furloughs until assistance is exhausted</p> <p>Prevent airlines receiving loans from increasing heavy maintenance work done overseas</p> <p>Require flight attendants, passengers and pilots when outside the flight deck to wear masks</p> <p>Require airlines to provide PPE and cleaning supplies to employees and clean/disinfect aircraft</p> <p>Require FAA to equip workers with masks, wipes and other protective gear</p> <p>Waive minimum operating days requirement so all 60 Maritime Security Program vessels can receive full stipends during pandemic</p> <p><i>Cost: \$31 billion</i></p>	
<b>Cybersecurity</b>	None	<p><b>S 4320:</b> Funding for Cybersecurity and Infrastructure Security Agency to defend against attacks on agencies involved in coronavirus response</p> <p><i>Cost: \$53 million</i></p>
<b>EPA</b>	<p>Funding for environmental justice grants</p> <p><i>Cost: \$50 million</i></p>	None



## Monthly Legislative Report – September 2020

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### September Advocacy Meetings

**Congressman Harley Rouda (D-CA)** – We have been in regular contact with senior staff in Congressman Rouda's office to discuss the surface transportation reauthorization and the FACT Act extension included in the CR. We also discussed funding to support transit operations during the COVID-19 crisis and the need for additional flexibilities in the use of existing formula accounts. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed. We also discussed a provision in the HEROES Act 2.0 that would provide extra funding for CIG projects receiving allocations in 2019 and 2020, and opportunities for other projects to be eligible for that funding with report language or clarifications in the bill text.

**Congressman Alan Lowenthal (D-CA)** – We have been in contact numerous times with Congressman Lowenthal's office to discuss next steps on Surface Transportation Reauthorization in November and opportunities to include OCTA priorities. We also discussed the need for new transit formula funding (i.e. 5307 and 5337) to support operations and opportunities in the upcoming stimulus package. We also discussed the additional funding for CIG projects and opportunities to include the OC Streetcar in HEROES Act 2.0. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed.

**Congressman Lou Correa (D-CA)** – We have been in contact with Congressman Correa and his staff this month to follow-up on OCTA's requests for the Surface Transportation reauthorization and the need for additional formula funding. We also followed-up on support for transit funding for be included in any final stimulus spending bill(s). We also discussed the new funding for CIG projects. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed.

**Congressman Mike Levin (D-CA)** – We continue to touch base with Congressman Levin and his senior staff to discuss the Alternative Fuel Tax Credit issue, the effects of COVID-19 on daily operations, as well as Measure M project funding. We also discussed the need to strongly support additional transit formula funds in the upcoming stimulus bill(s). We also discussed the additional funding for CIG projects and the fact that the OC Streetcar would not be eligible, and opportunities to include the other projects in the HEROES Act 2.0. We discussed support for additional transit formula funding but highlighted the need to account for new costs related to maintaining a safe and healthy transit system for riders and operators.

**Congressman Gil Cisneros (D-CA)** – We followed-up with senior staff in Congressman Cisneros' office to provide an update on OCTA transit services, and the need for additional funding to support COVID-19 activities. We also discussed the timeline for stimulus negotiations and support for OCTA priorities in any final legislation. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed.

**Congressman Pete Aguilar (D-CA)** – We have been in close contact with Congressman's Aguilar's senior staff this month to discuss FY21 appropriations and the timeline for negotiations with the Senate and the White House. We discussed the timeline for a possible CR and any opportunities for policy inclusions. We also discussed support for increased transit formula funding in the potential stimulus legislation. We also discussed the need to account for new costs associated with COVID-19 safety measures when looking at transit agency budgets compared to previous years.

**House Transportation, Housing and Urban Development Appropriations** – We followed-up with senior staff on the House Appropriations Committee (THUD) to discuss the CIG funding in the Heroes Act 2.0. We discuss opportunities for expansion of that funding for other projects in a revised version of the bill as negotiations continue.

**Senator Dianne Feinstein (D-CA)** – We have been in contact with staff in Senator Feinstein's office this month to discuss FY21 appropriations and ongoing Senate negotiations for the THUD bill. We followed-up on our discussions regarding Measure M impacts from COVID-19, and the need for additional resources to include an increase in formula funding. We also discussed negotiations in the Senate, and with the House, for a new stimulus bill. We discussed opportunities for new transit funding, and the timeline for a bill in September along with the CR. We also discussed the additional funding for CIG projects and opportunities to include the OC Streetcar in HEROES Act 2.0.

**House Transportation and Infrastructure Committee** – We have been in close contact with both Majority and Minority staff to provide ongoing updates on OCTA's projects, to discuss progress on the Surface Transportation Reauthorization, and to highlight the need for additional spending flexibility authorizations. With the Minority staff we specifically discussed the BUILDER Act, HR 8333, and ways to help expedite project delivery.

**Senate Environment and Public Works Committee** – This month we continued to touch base with various EPW staff (minority and majority) on OCTA's Surface Transportation Reauthorization policy asks. We discussed the timeline for negotiations with the House and the outlook for a deal in September. We also specifically followed-up on our discussions regarding the need for TIFIA reforms and changes that would benefit OCTA in the Highway Bill.

**Senate Banking Committee** – We followed-up again with senior staff this month to discuss progress on a Senate Surface Transportation reauthorization and the likelihood of progress on negotiations in September or the release of a transit title that may mirror what the House has already released.

### **New Stimulus Legislation Negotiations Update**

On Monday, September 28<sup>th</sup>, House Democrats released a revised version of the HEROES Act. The new bill includes \$2.2 trillion in COVID-19 relief to states, individuals, schools, businesses, and workforce agencies. The bill still includes provisions that would make the overall package dead-on-arrival in the Senate; negotiations, however, are still ongoing between the House Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin and there seems to be a desire by both parties to reach an agreement before the House adjourns for the October recess to campaign. In her testimony to the House Rules Committee earlier this week, House Appropriations Chairwoman Nita Lowey (D-NY) said “Negotiations are continuing, and I ardently hope that we can reach a bipartisan agreement. However, if Republicans refuse to meet us halfway, we will have no choice but to once again act alone.”

On September 30<sup>th</sup>, details of a counteroffer being proposed by Secretary Mnuchin began appearing in news reports. The counteroffer (which has not been publicly released) topped out at \$1.6 trillion and would include \$250 billion for state and local governments (\$186 billion below the HEROES Act 2.0), and \$400/week in federal unemployment benefits retroactive to September 12<sup>th</sup>, lasting through January 1, 2021. Both of these offers show a desire to reach a middle ground and a planned vote on the Democratic package in the House was delayed on Wednesday as negotiations continued.

The new House Democrat version tops out at \$2.2 trillion. The 2,152-page bill includes the following highlights:

#### **Department of Transportation (DOT) DOT Operations**

- \$20.2 million to support activities to prevent, prepare for, and respond to coronavirus, including to support telework and information technology, purchase personal protective equipment, and conduct Department-wide oversight of coronavirus related funding.
- Amtrak – \$2.4 billion to support Amtrak’s ability to operate passenger rail service on Northeast Corridor (NEC), State-supported, and long-distance routes, protect Amtrak workers from furloughs, and prevent service reductions on long-distance routes. This includes \$569 million to assist States and commuter rail providers in making FAST Act required payments to Amtrak for State-supported routes and commuter rail service on the NEC.
- Transit Emergency Relief – \$32 billion, of which \$28.5 billion is for operating assistance grants that, in combination with funds provided in the CARES Act, will support up to 100 percent of transit agencies annual operating expenses, \$2.5

billion is for projects that received funding under the Capital Investment Grants program, and \$1 billion is for rural and paratransit providers.

#### **Title II - Sec. 202. Clarification of Assistance.**

- Provides assistance for activities, costs, and purchases of States, local, tribal, or territorial governments, including activities eligible under the Stafford Act but not limited to: backfill costs for first responders, increased operating costs for essential government services, costs of providing public guidance and information, costs for establishing virtual services and operating remote test sites, training provided in anticipation of, or response to, the COVID-19 pandemic, personal protective equipment for first responders, public health, public schools and **public transportation**, and medical supplies, non-congregate sheltering, food preparation and delivery to impacted communities, as well as limited funeral benefits.

#### **Title III - Sec. 301. Requirements for Owners and Operators of Equipment or Facilities Used by Passenger or Freight Transportation Employers.**

- Establishes requirements for the provision of personal protective equipment for certain passenger and freight transportation employees. Ensures that stations, facilities, and equipment are cleaned and disinfected in accordance with Centers for Disease Control and Prevention guidance. Establishes standards for the use of face masks and protective coverings by passengers and certain employees. Creates reporting requirements in the event that a passenger or freight transportation employer is unable to procure the required personal protective equipment.

#### **Assistance to Multi-State Transportation Agencies**

- \$100 million for assistance to multi-state entities that are involved in the transportation of passengers or cargo and are suffering revenue losses due to the public health emergency caused by the coronavirus.

#### **Direct Payments to Individuals**

- A second round of \$1,200 checks for individuals, in addition to \$500 for each dependent.

#### **State and Local Assistance**

- \$436 billion for State, Local, and Tribal governments.
  - \$62.65 billion for entitlement municipalities (defined as being generally over 50,000 population)
  - \$26.85 billion for non-entitlement municipalities (populations less than 50,000)
  - \$89.5 billion to Counties based on population.
- \$75 billion in new funding for COVID-19 **testing** and related measures.
- \$21 billion to states, territories, and tribes for **homeowners** struggling to afford their housing due directly or indirectly to the impacts of the pandemic by providing

direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs.

- \$238 billion in **State Fiscal Relief** funding to assist state governments with the fiscal impacts from the public health emergency caused by the coronavirus, including \$755 million in CARES Act Coronavirus Relief Fund repayment for the District of Columbia.
- \$179 billion in **Local Fiscal Relief** funding to assist local governments with the fiscal impacts from the public health emergency caused by the coronavirus.
- \$3.6 billion for **Elections** grants to states for contingency planning, preparation, and resilience of elections for Federal office.
- \$1.3 billion for **FEMA** to prevent, prepare for, and respond to coronavirus.
- **Centers for Disease Control and Prevention** – \$13.7 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including:
  - \$2 billion for State, local, Territorial, and Tribal Public Health Departments;
  - \$7 billion for a COVID-19 vaccination campaign;
  - \$1 billion for an evidence-based public awareness campaign on the importance of vaccinations;
  - \$500 million for an enhanced seasonal influenza campaign;
  - \$1 billion to strengthen global public health preparedness and response capacity;
  - \$200 million for the multi-year effort to modernize public health data surveillance and analytics infrastructure; and
  - \$2 billion for grants to State, local, Tribal, or territorial health departments to purchase personal protective equipment for essential workers.

The text of revised version of the House Democrat's Heroes Act is [here](#).

A one-pager on the legislation is [here](#).

A section-by-section summary is [here](#).

Additional information on the state and local relief provisions is [here](#).

### **FY21 Appropriations Update**

On September 30th, the Senate passed H.R. 8319, a Continuing Resolution (CR) to extend government spending until December 11th, 2020, by a vote of 84-10. The House already passed the CR on September 22nd by a vote of 359-57. The President signed the bill into law shortly after midnight. The stopgap measure extends current funding levels for most federal agencies. In addition to extending federal spending, the Continuing Resolution:

- Extends the **Surface Transportation Authorization** (FAST Act) for one year, until September 30, 2021.

- Extends the **National Flood Insurance Program** through September 30, 2021.
- Prevents the Department of Defense (DOD) from beginning new multi-year activities during the period of the CR.
- Includes the same terms, conditions, authorities, and prohibitions as the FY19 CR.
- Prevents new starts and activities outside the DOD.
- Provides agencies with a daily rate for operations unless Congress allows them to spend funds more quickly.
- Prevents agencies from spending grant money too quickly.
- Reiterates that funding should be spent in the most limited manner possible.
- States that mandatory spending and appropriated entitlements should operate as normal, and in the case of a government shutdown provides an additional 30 days for after December 11<sup>th</sup>.
- Allows the Department of Agriculture to continue issuing loans for clean and reliable water systems in rural areas.
- Allows the Food and Nutrition Service to spend at a higher rate during the CR to ensure the Summer EBT program is fully operational by May 2021.
- Allows the Food and Nutrition Service to spend at a higher rate during the CR to provide supplemental USDA foods to low-income seniors, and to some low-income women, infants, and children.
- Extends the dates in the Reclamation States Emergency Drought Relief Act, ensuring the Bureau of Reclamation can provide emergency drought assistance in 17 western states.
- Allows FEMA to access the entire Disaster Relief Fund appropriations for FY21 as necessary to respond to declared disasters.
- Reduces discretionary funding for the Land and Water Conservation Fund now that those funds are mandatory appropriations.
- Allows the US Forest Service to transition certain accounts to a new budget structure as required by Congress.
- Extends funding for TANF and the Childcare Entitlement to States, allowing HHS to make first-quarter payments to States.

- Increases funding for the Veterans Electronic Health Record Modernization program for the first quarter.
- Allows the transfer of funds from the CARES Act to maintain operations of the Veterans Canteen Service.
- Provides additional spending flexibilities and extends obligation deadlines for 2017 and 2018 BUILD grant recipients.

The full text of the Continuing Resolution (H.R. 8319) can be found [HERE](#).

A section-by-section summary is [here](#)

Two states, Texas and Colorado, will receive more funding in the Continuing Resolution compared to their FHWA 2020 allotments. This is because the one-year extension of the FAST Act (H.R. 8337) requires all apportionment calculations to be run anew for fiscal year 2021. Therefore, every non-Texas, non-Colorado state's fiscal 2021 highway formula funding will be reduced by 0.625 percent, from 2020 levels, so that Texas's apportionment can be increased by 5.93 percent, and Colorado's by 0.51 percent, over 2020 levels. This is because subsection (c)(1)(B) of [23 U.S.C. §104](#) guarantees that "each State receives an aggregate apportionment equal to at least 95 percent of the estimated tax payments attributable to highway users in the State" deposited in the Highway Account in the most recent year.

### **DOT Announces \$574 Million in Emergency Relief for Road and Bridge Repairs**

On September 29<sup>th</sup>, DOT announced \$574 million in federal funding to help states repair and rebuild roads and bridges damaged from natural disasters. DOT's Emergency Relief program is administered by the Federal Highway Administration and some of the reimbursements include:

- More than \$64 million to California, including \$34 million for November 2018 wildfires.
- More than \$46 million to Nebraska for winter storms and flooding in 2019.
- More than \$27 million to Alabama for storms and flooding in 2020.
- More than \$25 million to Michigan for flooding in the central part of the state in 2020.
- More than \$22 million to Florida for Hurricane Michael in 2018.
- More than \$21 million to North Carolina for Hurricane Dorian in 2019.

A full list of reimbursements can be found [HERE](#) and [HERE](#).

### **House T&I Committee Sends Letter to US Army Corps Regarding Clean Water Protections**

On October 1<sup>st</sup>, the House T&I Committee Chairman Peter DeFazio (D-OR) and Water Resources Subcommittee Chairwoman Grace Napolitano (D-CA) sent a letter to US Army Corp of Engineers Civil Works ASA RD James. The letter (found [HERE](#)) criticizes the issuance and implementation of the Navigable Waters Protection rule. The letter, which calls the rule “unlawful”, requests a laundry list of oversight and informational items from the US Army Corps of Engineers regarding the implementation, scope, and effects of the rule on the nation’s waterways and wetlands. This is likely to be an ongoing issue before the House T&I Committee under Democratic leadership.

### **DOT Announces \$321 Million in CRISIS Grants**

On September 23<sup>rd</sup>, the Department of Transportation announced the award of \$321 million in Fiscal Year (FY) 2020 Consolidated Rail Infrastructure and Safety Improvements (CRISI) grants. Nine of the projects were selected to specifically address safety at highway-rail grade crossings, and deter illegal trespassing, which is the leading cause of rail-related deaths in America. Of these awards, 77% went to rural projects. Other major projects in this year’s grants include:

- \$31.8 million for the Wisconsin DOT to upgrade the Soo Line communication and signaling and extend sidings so that Amtrak can add an additional *Hiawatha* round-trip each day between Milwaukee and Chicago.
- \$16.9 million to Pan Am (seriously – a Class II in New England bought the old airline’s name and logo) to upgrade the track and bridges between Waterville and Mattawamkeag (in Maine) so that speeds and car weights can be increased.
- \$16.4 million so that Boca Raton, Florida can build a Brightline station and attached parking garage.
- \$15.6 million to the Michigan DOT to eliminate trespassing hotspots between Dearborn and Kalamazoo. (Reducing fatalities by reducing trespassing has been a top priority of AAR’s government relations work for the last couple of years, and it shows in the pattern of federal grants.)
- \$13.7 million to upgrade the Buckingham Branch Railroad’s line between Charlottesville and Clifton Forge, Virginia.

### **House T&I Committee Requests Improvements to DOT Disadvantaged Business Enterprise Program**

On September 23<sup>rd</sup>, the House T&I Committee held a hearing to examine U.S. Department of Transportation’s Disadvantaged Business Enterprise (DBE) program. During the hearing, Members discussed ways to improve the program, which has not seen statutory adjustments or improvements since women-owned business enterprises were added in 1987. Witnesses testified that many DBEs would be put out of business

without the program. One witness testified that the vast majority of minority-owned businesses have less than ten employees. Overall, this was a very non-partisan hearing.



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** Laurena Weinert, Clerk of the Board  
**Subject:** Draft 2021-22 State and Federal Legislative Platforms

Legislative and Communications Committee Meeting of October 15, 2020

**Present:** Directors Bartlett, Davies, Delgleize, Hennessey, Hernandez,  
and Wagner  
**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 5-0 by the Members present.

Director Wagner was not present to vote on this item.

### **Committee Recommendation**

Direct staff to continue developing the initial drafts of the 2021-22 State and Federal Legislative Platforms and prepare subsequent drafts for final approval.



**October 15, 2020**

**To:** Legislative and Communications Committee  
**From:** Darrell E. Johnson, Chief Executive Officer  
**Subject:** Draft 2021-22 State and Federal Legislative Platforms

### **Overview**

Initial drafts of the 2021-22 State and Federal Legislative Platforms have been prepared for consideration by the Board of Directors.

### **Recommendation**

Direct staff to continue developing the initial drafts of the 2021-22 State and Federal Legislative Platforms and prepare subsequent drafts for final approval.

### **Background**

At the beginning of each legislative session, the Orange County Transportation Authority (OCTA) adopts State and Federal Legislative Platforms to guide the agency's advocacy activities for the upcoming legislative sessions in Sacramento and Washington, D.C., respectively. The most recent versions of the 2019-20 State and Federal Legislative Platforms were approved by the OCTA Board of Directors (Board) on November 25, 2019. Staff has prepared initial drafts of the 2021-22 State and Federal Legislative Platforms for the Board's consideration. In preparing these drafts, staff solicited feedback and suggestions from the following groups:

- OCTA Board
- OCTA advisory groups
- OCTA division directors, department managers, and staff
- Orange County legislative delegation
- Cities, chambers of commerce, and the County of Orange
- Orange County community-based organizations and associations
- Private business and industry groups

Staff will continue to consider any additional input received by all stakeholders prior to bringing final drafts back to the Board later this year. The staff report

also details how the initial drafts reflect the impact of the coronavirus (COVID-19) pandemic.

#### Draft 2021-22 State Legislative Platform

The initial draft of the 2021-22 State Legislative Platform is outlined below and further detailed in the attachments. Attachment A is a clean version of the initial draft, and Attachment B reflects staff's recommended changes as a strikethrough version, with changes being designated by italicized and strikethrough text. Language was edited, amended, or removed as necessary to ensure accuracy and grammatical and stylistic integrity, both within the State Legislative Platform and between the State and Federal Legislative Platforms.

In order to allow the State Legislative Platform to be a better organized, more readable document, many minor edits were made to move provisions in the platform to more appropriate sections, update wording to better reflect current policy, and to eliminate duplicative principles. This includes the merging of duplicative issue areas sections, including those related to environmental policy and regulatory issues. None of these changes are intended to alter OCTA advocacy goals.

Staff is also recommending several substantive changes to the State Legislative Platform to position OCTA to inform expected legislative discussions in the upcoming legislative session. Specifically, staff is recommending reformatting of the Key Policy Issues section to focus on a streamlined list of policy priorities for the upcoming legislative session, as consistent with the Federal Legislative Platform. Many of the provisions previously under this section are now grouped with sections on related subjects. Beyond those edits substantive additions are discussed in detail below, with all changes referencing the language in Attachment B.

- Subsections (a), (b), and (c) of the section entitled, "Key Policy Issues in 2021-22," facilitate OCTA's continued response to the COVID-19 pandemic. The language is specifically intended to allow the agency to advocate for funding and policy solutions that benefit Orange County both throughout and after the COVID-19 pandemic, as well as language targeted towards improving transit ridership as pandemic recovery moves forward. All three of these subsections are verbatim of the language that is recommended to be added to the Federal Legislative Platform.
- Subsection (d) of the section entitled, "Key Policy Issues in 2021-22," would allow OCTA to engage in the increasingly important equity discussions taking place amongst policymakers, supporting efforts to be inclusive in outreach as projects and programs are developed and

delivered. This language is verbatim of the language that is recommended to be added to the Federal Legislative Platform.

- Subsection (f) of the section entitled, “Key Policy Issues in 2021-22,” related to maximizing OCTA’s share of state transportation funding, was broadened slightly to also seek a more equitable distribution within competitive grant programs.
- Subsection (i) of the section entitled, “Key Policy Issues in 2021-22,” would allow support for funding and other incentives to facilitate pilot programs to consider pursuing free- or reduced-fare pilot programs. With other transit agencies contemplating mandating free- or reduced-fares, staff is recommending language, modeled after the Board-adopted principles on this issue, that would allow OCTA to first pursue funding for a pilot program to determine if such an option merits broader adoption in Orange County.
- Subsection (j) of the section entitled, “Key Policy Issues in 2021-22,” broadens a previously included principle that encourages congestion relief programs, such as vanpooling and ridesharing, to also include incentives for teleworking. This language is verbatim of the language that is recommended for the Federal Legislative Platform.
- Subsection (k) of the section entitled, “Key Policy Issues in 2021-22,” seeks to support policies related to improved workforce development and training for transportation technologies and services, either structural or resulting from COVID-19, that might arise in these unprecedented times.

Beyond the Key Policy Issues section, substantive changes were made in the following areas:

- What were subsections (e), (f), and (g) of Section III, entitled “Fiscal Reforms and Issues,” related to matching funds for state competitive programs, federal performance measures for federal-aid highways, and the use of an interim exchange for the programming of funds, are recommended for removal. These issues are best addressed through funding guidelines and no legislative activity is anticipated related to these issues.
- Subsection (d) of Section V, entitled “Transit Programs,” combines all of the existing platform language related to the pursuit of funding for and testing of zero-emission bus technology into one, focused provision. No shift in advocacy goals is intended.

- What was subsection (e) of Section VII, entitled “Roles and Responsibilities,” related to the Orange County Taxi Administration Program is recommended for removal due to the phasing out of OCTA’s administration of the program.
- Subsection (d) of Section IX, entitled “Rail Programs,” related to Positive Train Control was broadened to ensure that OCTA’s advocacy efforts focus on its operation and maintenance, as opposed to the initial focus on equipment implementation. A similar change is recommended to the Federal Legislative Platform.
- What were subsections (f) and (g) of what was Section XII, previously entitled “Environmental Policies,” related to National Environmental Policy Act delegation for highway projects and the monitoring of the Air Quality Management Plan, are recommended for removal. The former objective was successfully enacted permanently via legislation and the latter is not related to any legislative activity.

In the final draft of the State Legislative Platform, staff may propose additional changes that are identified as staff works with stakeholders and internal departments. In addition, OCTA often encounters specific legislative issues requiring sponsor legislation, prompting OCTA to take the lead in developing legislative language and securing an author. Staff is currently exploring the need for potential sponsor opportunities and will provide an update to the Board for consideration on such possibilities.

#### Draft 2021-22 Federal Legislative Platform

The initial draft of the 2021-22 Federal Legislative Platform is outlined below and detailed in the attachments. Attachment C is a clean version of the initial draft, and Attachment D reflects staff’s recommended changes as a strikethrough version, with changes being designated by italicized and strikethrough text. Language was edited, amended, or removed as necessary to ensure accuracy and grammatical and stylistic integrity, both within the Federal Legislative Platform and between the State and Federal Legislative Platform. An overview of the recommended changes is outlined below, with all textual references to the strikethrough draft in Attachment D.

- Subsections (a), (b), and (c) of the section entitled, “Key Policy Issues in the 117<sup>th</sup> Congress,” related to advocacy for funding and policy solutions to assist in responding to the COVID-19 pandemic and in recovery, including attracting transit ridership post-pandemic, are verbatim of the language that is recommended to be added to the State Legislative Platform.

- Subsection (d) of the Section entitled, “Key Policy Issues in the 117<sup>th</sup> Congress,” related to equity is verbatim of the language that is recommended to be added to the State Legislative Platform.
- Subsection (j) of the Section entitled, “Key Policy Issues in the 117<sup>th</sup> Congress,” related to commuter benefit policies was broadened to also include incentivizing teleworking. This language is verbatim of what is proposed for inclusion in the State Legislative Platform.
- Subsection (k) of the Section entitled, “Key Policy Issues in the 117<sup>th</sup> Congress,” is language added to reflect the increased focus on tolling issues. Specifically, this language is borrowed, almost verbatim, from the State Legislative Platform’s principle on tolling interoperability, which is expected to become a highlighted topic during the 117<sup>th</sup> Congress.
- What was subsection (o) of Section II, entitled “Reauthorization Priorities,” related to OCTA’s Breaking Down Barriers Report is recommended for removal because many of the policy suggestions have been adopted. The remaining policy issues can be addressed by other provisions in the Federal Legislative Platform.
- What was subsection (f) of Section III, entitled “Implementing Federal Transportation Programs,” related to the administration of funding and evacuation routes, is recommended for removal because it is unclear that this will benefit OCTA’s funding and emergency response issues that are covered under other principles.
- Subsection (e) of Section IV, entitled “Fiscal Reforms and Issues,” related to sales tax revenues from online purchase was amended slightly to ensure that the language remains relevant in the 117<sup>th</sup> Congress. While Congress could enact legislation affecting the State of California’s implementation of the *South Dakota v. Wayfair, Inc.* Supreme Court decision, OCTA will only recommend engagement should Congress take action that might undermine or materially change state law on this issue.
- Subsections (a) and (b) in Section V, entitled “Rail Programs,” related to Positive Train Control (PTC) were streamlined. Subsection (a) was broadened to ensure that OCTA’s advocacy efforts on PTC focus on its operation and maintenance, as opposed to the initial focus on equipment implementation. A similar change is recommended to the State Legislative Platform.

- Section VIII, formerly entitled “Energy Issues,” was merged with what was Section IX, formerly entitled “Environmental Policy,” to form one, more concise set of streamlined provisions that comprehensively address energy and environmental issues affecting OCTA. The only two substantive changes to Section VIII, now entitled “Environmental and Energy Issues,” are outlined as follows:
  - What were subsections (a), (b), and (d) of Section VIII, related to engaging in advocacy associations to represent OCTA interests and in reporting on energy related legislation impacting OCTA, were stricken because all three described are routine staff activities, not advocacy goals.
  - Subsections (b) and (c) of Section VIII, related to incentives for alternative fuel technology, were amended slightly to reflect the mandate in state law that transit agencies adopt zero-emission bus technology and the need to expand incentives to include fuels associated with this technology.

### ***Summary***

Initial drafts of the 2021-22 State and Federal Legislative Platforms are detailed for the Board’s consideration.

### ***Attachments***

- A. Draft 2021-22 State Legislative Platform (clean copy)
- B. Draft 2021-22 State Legislative Platform (strikethrough version)
- C. Draft 2021-22 Federal Legislative Platform (clean copy)
- D. Draft 2021-22 Federal Legislative Platform (strikethrough version)

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With over three million residents, Orange County is the third most populous county in California and the sixth most populous county in the nation. Orange County is one of the most densely populated areas in the country and is served by one of the nation's busiest transit systems. In addition, Orange County provides highway and rail corridors that facilitate the increasing level of international trade entering the Southern California ports.

The 2021-22 State Legislative Platform serves as a framework document to guide the Orange County Transportation Authority's (OCTA) legislative, regulatory, and administrative activities in the coming legislative session. The Key Policy Issues section offers guidance on the policy issues that will likely be the focus of the upcoming legislative session. The later sections present guiding policy statements for other major issue areas that may arise during the session. Positions on individual items not directly in this document will be brought to the OCTA Board of Directors (Board) for formal action.

## **Key Policy Issues in 2021-22**

A number of significant transportation issues are expected to be discussed in the 2021-22 legislative session. OCTA will focus its advocacy efforts on the following principles.

- a) Support funding and policy flexibilities that allow OCTA to provide essential multimodal mobility improvements and services during the unprecedented coronavirus (COVID-19) pandemic;
- b) Encourage policies and guidance that rebuild public confidence in public transit, as well as other measures that both protect the public health and facilitate essential transit trips;
- c) Support transportation funding investments, economic stimulus measures, and other recovery efforts that will prepare OCTA to meet the changing mobility needs of Orange County after the COVID-19 pandemic subsides;
- d) Support equitable policies to ensure that the inclusive public engagement, planning, and delivery of mobility improvements best serve all residents of Orange County;
- e) Support flexibility in the application of "disadvantaged" and "low-income" communities to ensure that transportation funding flows to each region's most impacted areas, allowing OCTA to best meet the needs of its local communities;
- f) Support efforts to maximize OCTA's share of transportation and transit funding, especially through distribution formulas and more equitable competitive funding processes;
- g) Oppose efforts to link or reprioritize local and state transportation funding to programs not primarily intended to help the State meet its transportation needs;

- h) Support efforts to maintain the promises self-help counties have made to taxpayers in the implementation of local sales tax measures, specifically regarding the sequencing and delivery of transportation improvements;
- i) Support funding and incentives to develop or phase-in free- or reduced-fare transit pilot programs, that comply with all statutory and regulatory requirements, in order to encourage an increase in transit ridership;
- j) Support policies that encourage ridesharing, teleworking, vanpool and related congestion relief programs for Orange County commuters;
- k) Support workforce development and training policies that allow OCTA to hire and retain personnel ready to implement the next generation of mobility;
- l) Monitor implementation of Executive Order N-19-19, and any related legislative or regulatory efforts, to ensure that transportation funds are used for their intended purposes.

## **I. IMPLEMENTATION OF ENVIRONMENTAL POLICIES**

In order to ensure that the State's environmental regulations and cap-and-trade program are implemented in an equitable manner, which will both help to reduce emissions and encourage the development of necessary infrastructure to serve California's growing population, OCTA will:

- a) Support efforts to ensure local flexibility in meeting the goals of the State's greenhouse gas reduction initiatives, including the creation of incentive-based measures and grant programs to assist with compliance;
- b) Support the creation of formula-based cap-and-trade programs, including maintaining ongoing appropriations for transit, and the prioritization of cap-and-trade funding for transportation projects that achieve greenhouse gas emission reduction;
- c) Support legislation to streamline the environmental review and permitting processes for transportation projects and programs to avoid potentially duplicative and unnecessary analysis, while still maintaining traditional environmental protections;
- d) Ensure that air quality determinations and policies do not constrain funding availability or otherwise undermine OCTA's ability to deliver transportation improvements;
- e) Oppose efforts to lengthen the California Environmental Quality Act process in a manner that would delay mobility improvements;

- f) Oppose legislation that restricts road construction by superseding existing broad-based environmental review and mitigation processes;
- g) Oppose legislation that would limit lead agency discretion in the management and oversight of lands set aside for environmental mitigation purposes, while encouraging policies that promote advance mitigation planning programs.

## **II. TRANSPORTATION FUNDING**

As the Legislature continues to move forward in developing solutions to close the State's structural deficit, OCTA continues to monitor the status of transportation funding in California, promoting the continued stability of existing programs and efforts to address future funding deficiencies to meet transportation infrastructure needs. As a proven method to help rebuild the economy through investments in vital transportation infrastructure projects and critical transit services, OCTA will also work to promote methods of expediting such projects to allow for such stimulus. Key actions include:

- a) Oppose unfunded mandates for transportation agencies, transit providers, and local governments in providing transportation improvements and services;
- b) Oppose cost shifts or changes in responsibility for projects funded by the State to the local transportation entities;
- c) Support legislation to treat the property tax of single-county transit districts the same as multi-county districts and correct other Educational Revenue Augmentation Fund inequities between like agencies;
- d) Support the constitutional protection of all transportation funding resources;
- e) Support legislation protecting or expanding local decision-making in programming expenditures of transportation funds;
- f) Oppose efforts to reduce local prerogative over regional program funds;
- g) Support legislation to involve county transportation commissions in the development and prioritization of State Highway Operation and Protection Program projects;
- h) Oppose efforts to redirect or reclassify transportation revenue sources, including earned interest, for anything other than their intended purposes;
- i) Support the implementation of federal transportation programs in an equitable manner that promotes traditional funding levels, programming roles, and local discretion in allocation decisions;

- j) Oppose policies that significantly increase costs, threatening OCTA's ability to deliver projects and provide transit service;
- k) Support removing the barriers for funding transportation projects, including allowing local agencies to advance projects with local funds when state funds are unavailable due to budgetary reasons, and allowing regions to pool federal, state, and local funds in order to limit lengthy amendment processes and streamline project delivery time.

### **III. FISCAL REFORMS AND ISSUES**

In recent years, the Legislature and Governor have worked collaboratively during the budget process to pass funding bills in a timely manner. Unfortunately, uncertainties over future changes remain due to a continued structural deficit and the economic consequences resulting from COVID-19. Therefore, OCTA will:

- a) Monitor the study and development of alternative transportation funding proposals, including the State's road charge pilot program and ensure that efforts are made to address concerns related to equity, privacy, and public support of such proposals;
- b) Oppose levying new and/or increase in gasoline taxes or user fees, including revenue increases on fuel consumption categorized as charges, fees, revenue enhancements, or similar classifications. Consideration of such efforts shall occur when a direct nexus is determined to exist between revenues and transportation projects, and additional revenues are to be controlled by the county transportation commission;
- c) Oppose efforts to decrease the voter threshold requirement for local tax measures for transportation purposes and/or mandating specific uses of future local sales tax revenues;
- d) Oppose efforts to increase administrative fees charged by the California Department of Tax and Fee Administration on the collection of local sales tax measures;
- e) Support efforts that ensure that all users of the State's transportation system pay their "fair share" to maintain and improve the system;
- h) Support efforts to restore equity with regards to the generation and disbursement of sales tax revenues that support the Local Transportation Fund;
- i) Support the retention of existing and future local revenue sources.

#### **IV. STATE TRANSPORTATION IMPROVEMENT PROGRAM**

The State Transportation Improvement Program (STIP), substantially amended by SB 45 (Chapter 622, Statutes of 1997), is a programming document that establishes the funding priorities and project commitments for transportation capital improvements in California. SB 45 placed decision-making authority closest to the problem by providing project selection for 75 percent of the funding in the Regional Transportation Improvement Program (RTIP). This funding is distributed to counties based on an allocation formula. The remaining 25 percent of the funds is programmed by the California Department of Transportation (Caltrans) in the Interregional Transportation Improvement Program (ITIP). OCTA will seek to ensure that the regional focus of the program is preserved. Key provisions to be sought by OCTA include:

- a) Support maintaining the current STIP formula, which provides 75 percent of STIP funding to the locally-nominated RTIP and 25 percent to the ITIP;
- b) Support legislation that maintains equitable allocations of transportation funding, such as the north/south formula distribution of county shares and ITIP allocations;
- c) Support legislation to clarify that programming of current period county shares has priority over advancement of future county shares;
- d) Support a formula-based guaranteed disbursement of the ITIP;
- e) Support efforts to allow a mode-neutral STIP;
- f) Support increased flexibility for the use of STIP funds to support alternative projects, including, but not limited to, transit and goods movement improvement projects.

#### **V. TRANSIT PROGRAMS**

OCTA will continue with its focus on providing safe, reliable, and efficient transit services in Orange County. While state transit funding has recently become more stable, future demand increases due to environmental regulations and increased fuel prices may put further strain on existing resources. Thus, OCTA will make every effort to minimize additional state obligations to transit operations which lack a sufficient and secure revenue source. To that end, OCTA will focus on the following:

- a) Advocate for a continued strong state role in providing funding for transit operations rather than shifting responsibility to local transportation entities. No additional requirements should be created for operation levels beyond existing capacity, unless agreed to by that entity or otherwise appropriately funded;
- b) Support the development of greater efficiencies within the Transportation Development Act's performance metrics while maintaining existing eligibility

parameters and realigning administrative rules and farebox recovery requirements to eliminate any unnecessary or overly burdensome mandates in order to streamline the administration of transit funding;

- c) Flexibility should be included in state transit funding sources, allowing transit operators to use the funding for both operations and capital expenditures;
- d) Support efforts to mitigate costs associated with the development, testing, purchase, and operation of zero-emission transit buses, including an alternative electricity rate structure, tax incentives, and other forms of financial assistance;
- e) Seek additional funding for paratransit operations and transit accessibility capital improvements that support persons with disabilities and senior citizens;
- f) Support legislation to encourage and incentivize the interoperability of transit and rail systems within California;
- g) Support legislation to limit the liability of transit districts for the location of bus stops (*Bonanno v. Central Contra Costa Transit Authority*);
- h) Support the citing of transit-oriented development projects (i.e., authorize extra credit towards housing element requirements for these developments), including incentives for development;
- i) Support legislation and or/regulations which aim to enhance transit services, and the overall safety and security of transit riders, coach operators, and on-road vehicles.

## **VI. ROADS AND HIGHWAYS**

OCTA's commitment to continuously improve mobility in Orange County is reflected through a dynamic involvement in such innovative highway endeavors as the ownership of the 91 Express Lanes and the use of design-build authority on the State Route 22 project and Interstate 405 (I-405) Improvement Project. OCTA will continue to seek new and innovative ways to deliver road and highway projects to the residents of Orange County and, to that end, OCTA will focus on the following:

- a) Oppose efforts to create a conservancy that would inhibit the delivery of transportation projects under study or being implemented in the region;
- b) Support efforts to expand, extend, and preserve new and existing alternative project delivery methods such as design-build, public-private partnership authority, and construction manager/general contractor authority, including expanding mode and funding eligibility, while allowing the appropriate balance of partnership between the State and local agencies;

- c) Support legislation that would authorize local agencies to advertise, award, and administer contracts for state highway projects;
- d) Oppose duplicative reporting mandates and efforts to impose additional requirements, beyond what is required in statute, on lead agencies awarding contracts using alternative project delivery mechanisms;
- e) Support streamlining of the Caltrans review process for projects, simplification of processes, and reduction of red tape, without compromising environmental safeguards;
- f) Support administrative policy changes to lower the oversight fee charged by Caltrans to ensure that project support costs are equivalent whether the project is administered by Caltrans or a local agency;
- g) Support policies that improve signal synchronization programs in order to facilitate street signal coordination, prioritization, and preemption, as well as encouraging the use of intelligent transportation system measures;
- h) Support policies that expand utilization of continuous access of high-occupancy vehicle (HOV) lanes;
- i) Monitor efforts to increase fines for HOV lane violations and, if implemented, ensure fines are dedicated to enforcement purposes;
- j) Support legislation that provides for equitable enforcement of regulations governing transportation network companies;
- k) Support efforts to study the development and safe operation of autonomous vehicles and related technologies;
- l) Oppose legislation that fails to preserve local discretion and flexibility in the development of the congestion management program.

## **VII. ROLES AND RESPONSIBILITIES**

In recent years, there have been many efforts to reorganize or restructure transportation programs and local agency responsibilities. OCTA will continue to monitor legislation or regulations that would significantly affect the way in which it operates, with a focus on the following principles:

- a) Support efforts to preserve the role of county transportation commissions, as consistent with existing law, in the administration of transportation programs;

- b) Oppose proposals that reduce the rights and responsibilities of county transportation commissions in planning, funding, and delivering transportation programs;
- c) Oppose efforts to unnecessarily subject projects to additional reviews and project selection approvals that could adversely affect delivery timelines and processes;
- d) Support efforts to facilitate a partnership with alternative mobility providers that allows for adequate information sharing while also respecting the planning efforts of local agencies;
- e) Support efforts to increase the flexibility of funds used for motorist service programs.

## **VIII. 91 EXPRESS LANES/MANAGED LANES**

OCTA's commitment to continuously improve mobility in Orange County is reflected through a dynamic involvement in such innovative highway endeavors as the ownership of the 91 Express Lanes, a ten-mile managed lane facility on State Route 91 (SR-91), extending from State Route 55 to the Orange/Riverside County line. Since its purchase in 2003, the 91 Express Lanes has provided drivers an alternative mobility option between Orange and Riverside counties, while also allowing for investment in multimodal improvements throughout the SR-91 corridor.

As transportation demands continue to increase, innovative tools must be available to ensure transportation infrastructure projects continue to be built in a reliable, prompt, and efficient manner. OCTA took advantage of one such tool by securing a \$629 million federal loan to supplement state and local funds on the I-405 Improvement Project. The loan, obtained through the Transportation Infrastructure Finance and Innovation Act (TIFIA), will save taxpayers approximately \$300 million in the decades to come. As the TIFIA loan illustrates, OCTA is committed to improving mobility for Orange County residents using the innovative tools and approaches that are allowing transportation agencies to stretch their dollars further than ever before.

Many agencies are discussing the increased use of managed lane facilities. To ensure not only the continued success of the 91 Express lanes, but also to ensure managed lane policy moving forward allows for local flexibility and input, OCTA will:

- a) Support legislation to ensure revenues from managed lane facilities remain within the corridor from which they are generated, opposing efforts to divert revenues from managed lane facilities for state purposes;
- b) Support policies that allow OCTA and the Riverside County Transportation Commission to efficiently operate and maintain the 91 Express Lanes into Riverside County;

- c) Support efforts to preserve local flexibility in the administration of toll lanes;
- d) Oppose state efforts to construct or operate managed lane facilities that are established without an adopted statewide managed lane strategy or plan;
- e) Oppose state efforts to construct or operate managed lane facilities that fail to respect existing local transportation projects and funding programs;
- f) Support customer privacy rights while maintaining OCTA's ability to effectively communicate with customers and operate the 91 Express Lanes;
- g) Support the use of innovative means to enhance toll agency enforcement efforts, including ways to address toll violations due to protected plates;
- h) Support collaborative solutions to address the degradation of HOV lanes that respect local transportation funding sources and programs, have the support of the relevant regional transportation planning agency, do not redirect existing local transportation funding sources, and analyze the effect of single-occupant, low-emission vehicles, including associated federal requirements triggered by their access allowance.
- i) Support efforts to improve the interoperability of the different toll systems across the State in order to ensure fair and efficient toll operations while affirming user privacy protections.

## **IX. RAIL PROGRAMS**

Metrolink is Southern California's commuter rail system that links residential communities to employment and activity centers. Orange County is served by three Metrolink lines: the Orange County Line, the Inland Empire-Orange County Line, and the 91/Perris Valley Line. In support of these routes, OCTA owns 48 miles of rail right-of-way in Orange County on which Metrolink operates. OCTA's rail capital budget supports improvements to the regional commuter rail system in Orange County, and under existing policy, OCTA is the primary construction lead on major capital improvements to the regional commuter rail system on its right-of-way.

In addition to Metrolink services, Orange County is also served by the state-supported Pacific Surfliner intercity passenger rail service traveling between San Luis Obispo and San Diego. The Pacific Surfliner is operated by Amtrak and managed by the Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency (LOSSAN Agency). OCTA has served as the managing agency for the LOSSAN Agency since 2013 and assumed full administrative and management responsibility for the Pacific Surfliner service in June 2015 via an interagency transfer agreement with the State. OCTA continues to serve in this capacity, providing all necessary administrative support to the LOSSAN Agency.

Other rail systems could also travel through Orange County at some point in the future, including additional intercity rail service. While the status and future of these programs is uncertain, OCTA will be watchful to ensure that funding for these rail systems does not impact other transportation funding sources. Key advocacy efforts will emphasize the following:

- a) Support legislation that encourages commercial, commuter-based development around passenger rail corridors that includes permanent job creation;
- b) Support efforts to create additional efficiency in rail program oversight, including consideration of possible program consolidation;
- c) Monitor and evaluate plans and progress of high-speed rail and its funding;
- d) Support efforts to provide resources for safety improvements on the rail network in Southern California, including for the implementation, operation, and maintenance of Positive Train Control safety technology;
- e) Support studying the policies, funding options, and need for rail/highway grade separations, including any impact on existing state highway and transit funding sources;
- f) Support policies that facilitate the development and construction of needed infrastructure projects that support modernization, connectivity, and general system-wide improvements to California's rail network.

## **X. GOODS MOVEMENT**

The Ports of Los Angeles and Long Beach, the nation's two busiest ports, are vital to California's economy and the surrounding region because goods are shipped to and through the surrounding counties. While the State's goods movement system is the most robust in the nation, it is continually challenged by competing goods movement systems in other states. In order to continue to compete and engage in the global marketplace, California must continue to enhance its goods movement system, while at the same time be cognizant of taking the necessary actions to mitigate any negative impacts to local communities. Key positions include:

- a) Support improvements in major trade gateways in California to facilitate the movement of intrastate, interstate, and international trade beneficial to the State's economy;
- b) Support legislation that will aid in the development, approval, and construction of projects to expand goods movement capacity and reduce congestion;
- c) Ensure that control of goods movement infrastructure projects and funding retained at the local level;

- d) Seek mitigation for the impacts of goods movement on local communities;
- e) Pursue ongoing, stable sources of funding for goods movement infrastructure.

## **XI. ACTIVE TRANSPORTATION**

Active transportation projects and programs, which encourage greater mobility through walking and bicycling, have grown in popularity due to the environmental, health, and cost savings benefits. Through local planning efforts such as Orange County's Regional Bikeways Planning Collaborative, the Pacific Coast Highway Corridor Study, and the development of OCTA's Commuter Bikeways Strategic Plan, OCTA continues to study, plan, and fund active transportation projects and programs as part of its mission to provide Orange County with an efficient and multi-modal transportation system. Key positions include:

- a) Support legislation that increases the visibility and safety of users engaged in active transportation;
- b) Support creative use of paths, roads, and abandoned rail lines using existing established rights-of-way to promote bike trails and pedestrian paths;
- c) Support policies that encourage the safe interaction and operation of integrated multi-modal systems, including roadways, rail lines, bikeways, and pedestrian ways, and the users of those facilities;
- d) Support efforts to streamline active transportation funding programs;
- e) Support legislation and regulatory changes to streamline and simplify the review and approval by the California Public Utilities Commission of lease agreements between sponsors of active transportation projects and public utility companies.

## **XII. ADMINISTRATION/GENERAL**

General administrative issues arise every session that could impact OCTA's ability to operate efficiently. Key positions include:

- a) Oppose legislation and regulations adversely affecting OCTA's ability to efficiently and effectively contract for goods and services, conduct business of the agency, and limit or transfer the risk of liability;
- b) Support legislation to provide greater protection of OCTA's computer and information security systems;

- c) Support legislation that establishes reasonable liability for non-economic damages in any action for personal injury, property damage, or wrongful death brought against a public entity based on principles of comparative fault;
- d) Support legislation that would provide for consistency of campaign contribution limits applied to both elected and appointed bodies;
- e) Monitor the effect of Brown Act legislation on OCTA Board operations as it relates to the use of new technologies for communication with the public.

### **XIII. EMPLOYMENT ISSUES**

As a public agency and one of the largest employers in Orange County, OCTA balances its responsibility to the community and the taxpayers to provide safe, reliable, cost-effective service with its responsibility of being a reasonable, responsive employer. Key advocacy positions include:

- a) Oppose efforts to impose state labor laws on currently exempt public agencies;
- b) Oppose legislation that circumvents the collective bargaining process;
- c) Oppose legislation and regulations adversely affecting OCTA's ability to efficiently and effectively deal with labor relations, employee rights, benefits including pension benefits, Family Medical Leave Act, and working conditions, including health, safety, and ergonomic standards for the workplace;
- d) Support legislation that reforms and resolves inconsistencies in the workers' compensation and unemployment insurance systems, and labor law requirements that maintain protection for employees and allow businesses to operate efficiently;
- e) Support workforce development policies that facilitate a more efficient talent acquisition process.

### **XIV. TRANSPORTATION SECURITY AND EMERGENCY PREPAREDNESS**

As natural and man-made disasters continue to threaten transportation systems around the world, significant improvements have been, and continue to be, carried out to enhance the safety, security, and resilience of transportation infrastructure in the United States. As Orange County's bus provider and a Metrolink partner, OCTA comprehends the importance of ensuring the safety and security of our transportation network and protecting our customers. Presently, OCTA maintains a partnership with the Orange County Sheriff's Department to provide OCTA Transit Police Services for the bus and train systems in Orange County and continues to be actively involved in a variety of state and regional preparedness exercises in support of first responders. OCTA is also currently working with its community partners on an effort to install video surveillance systems at Metrolink stations and on its fleet of buses and throughout its bus facilities.

The development of a new Transit Security and Operations Center is also underway to enhance security efforts and further the resiliency of the Orange County transit system.

Heightened security awareness, an active public safety campaign, and greater surveillance efforts, all require additional financial resources. Consequently, OCTA's advocacy positions will highlight:

- a) Support state homeland security and emergency preparedness funding and grant programs to local transportation agencies to alleviate financial burden placed on local entities;
- b) Support legislation that balances retention mandates of video surveillance records to reflect current reasonable technological and fiscal capabilities;
- c) Support the use of new technology to increase the safety of public transportation passengers and operators.

With over three million residents, Orange County is the third most populous county in California and the sixth most populous county in the nation. Orange County is one of the most densely populated areas in the country and is served by one of the nation's busiest transit systems. In addition, Orange County provides highway and rail corridors that facilitate the increasing level of international trade entering the Southern California ports.

The 20219-220 State Legislative Platform serves as a framework document to guide the Orange County Transportation Authority's (OCTA) legislative, regulatory, and administrative activities in the coming legislative session. The Key Policy Issues section offers guidance on the policy issues that will likely be the focus of the upcoming legislative session. The later sections present guiding policy statements for other major issue areas that may arise during the session. Positions on individual items not directly in this document will be brought to the OCTA Board of Directors (Board) for formal action.

## **Key Policy Issues in 20219-220**

A number of significant transportation issues are expected to be discussed in the 20219-220 legislative session. *OCTA will focus its advocacy efforts on the following principles. A few of these key issues are highlighted in this section, including: Transportation Funding and the Implementation of Environmental Regulations and Cap-and-Trade.*

### **Transportation Funding**

*Securing stable transportation funding that provides long-term operational certainty continues to be one of OCTA's top priorities. It is anticipated that transportation funding will be affected by legislative and regulatory efforts requiring OCTA's close attention in the upcoming session. As such, OCTA will:*

- a) Support funding and policy flexibilities that allow OCTA to provide essential multimodal mobility improvements and services during the unprecedented coronavirus (COVID-19) pandemic;*
- b) Encourage policies and guidance that rebuild public confidence in public transit, as well as other measures that both protect the public health and facilitate essential transit trips;*
- c) Support transportation funding investments, economic stimulus measures, and other recovery efforts that will prepare OCTA to meet the changing mobility needs of Orange County after the COVID-19 pandemic subsides;*
- d) Support equitable policies to ensure that the inclusive public engagement, planning, and delivery of mobility improvements best serve all residents of Orange County;*

- e) *Support flexibility in the application of “disadvantaged” and “low-income” communities to ensure that transportation funding flows to each region’s most impacted areas, allowing OCTA to best meet the needs of its local communities; (moved from subsection (i))*
- fa) *Support efforts to maximize OCTA’s share of transportation and transit funding, especially through distribution formulas and more equitable competitive funding processes;*
- ~~b) *Advocate for a continued strong state role in providing funding for transit operations rather than shifting responsibility to local transportation entities. No additional requirements should be created for operation levels beyond existing capacity, unless agreed to by that entity or otherwise appropriately funded; (moved to Section V)*~~
- ~~c) *Oppose efforts to divert or reclassify transportation revenue sources for other purposes, such as General Fund transfers or for debt service; (moved to Section II)*~~
- gd) *Oppose efforts to link or reprioritize local and state transportation funding to programs not primarily intended to help the State meet its transportation needs;*
- h) *Support efforts to maintain the promises self-help counties have made to taxpayers in the implementation of local sales tax measures, specifically regarding the sequencing and delivery of transportation improvements; (moved from Section VII)*
- i) *Support funding and incentives to develop or phase-in free- or reduced-fare transit pilot programs, that comply with all statutory and regulatory requirements, in order to encourage an increase in transit ridership;*
- j) *Support policies that encourage ridesharing, teleworking, vanpool and related congestion relief programs for Orange County commuters;*
- k) *Support workforce development and training policies that allow OCTA to hire and retain personnel ready to implement the next generation of mobility;*
- ~~e) *Support legislation to implement the provisions of the federal reauthorization, Fixing America’s Surface Transportation Act, in an equitable manner that promotes traditional funding levels, programming roles, and local discretion in allocation decisions; (moved to Section II)*~~
- ~~f) *Support the development of greater efficiencies within the Transportation Development Act’s performance metrics while maintaining existing eligibility parameters and realigning administrative rules and farebox recovery requirements to eliminate any unnecessary or overly burdensome mandates in order to streamline the administration of transit funding; (moved to Section V)*~~

- ~~g) — Support legislation protecting or expanding local decision-making in programming expenditures of transportation funds; (moved to Section II)~~
- ~~h) — Support the retention of existing and future local revenue sources; (moved to Section III)~~
- ~~i) — Support efforts to develop alternative definitions of “disadvantaged” and “low-income” communities to ensure that transportation funding flows to each region’s most impacted areas; (moved to subsection (e))~~
- ~~j) — Support maintaining the current State Transportation Improvement Program (STIP) formula, which provides 75 percent of the STIP funding to the locally nominated Regional Transportation Improvement Program (RTIP) and 25 percent to the Interregional Transportation Improvement Program (ITIP) Program; (moved to Section IV)~~
- ~~k) — Support efforts to provide secure transit funding for capital and operating expenses;~~
- ~~l) — Flexibility should be included in any state transit funding source, allowing transit operators to use the funding for both operations and capital expenditures; (moved to Section V)~~
- ~~m) — Monitor the study and development of alternative transportation funding proposals, including the state’s road charge pilot program and ensure that efforts are made to address concerns related to equitability, privacy, and public support of such proposals; (moved to Section III)~~
- ~~lA) — Monitor implementation of Executive Order N-19-19, and any related legislative or regulatory efforts, to ensure that transportation funds are used for their intended purposes.~~

## **~~I. IMPLEMENTATION OF ENVIRONMENTAL POLICIES Regulations and Cap-and-Trade~~**

~~In 2016, the state expanded upon its greenhouse reduction initiatives with the passage of SB 32 (Chapter 249, Statutes of 2016) and AB 197 (Chapter 250, Statutes of 2016), which set a new statewide emissions target of 40 percent below 1990 levels by the year 2030. In 2017, the state continued its commitment to these strategies with the passage of AB 398 (Chapter 135, Statutes of 2017), extending the market-based cap-and-trade system until January 1, 2031. The passage of AB 398 ensures the long-term stability of the cap-and-trade system. However, approximately 40 percent of annual cap-and-trade revenues are still subject to annual appropriations. As such, OCTA will advocate for as much transportation funding as possible from these revenues.~~

In order to ensure that the State's environmental regulations and cap-and-trade program are implemented in an equitable manner, which will both help to reduce emissions and encourage the development of necessary infrastructure to serve California's growing population, ~~in 2019-20~~ OCTA will:

- a) Support efforts to ensure local flexibility in meeting the goals of the State's greenhouse gas reduction initiatives, including the creation of incentive-based measures and grant programs to assist with compliance;
- b) Support *the creation of formula-based cap-and-trade programs, including maintaining on-going appropriations for transit, and the prioritization of cap-and-trade funding for transportation projects that achieve greenhouse gas emission reduction* ~~the eligibility of the transportation sector and inclusion of county transportation commissions as eligible recipients of any funding mechanism created for implementation of the State's greenhouse gas reduction initiatives, including the cap-and-trade program; (combined with subsections (d) and (g))~~
- ~~c) Support efforts to ensure the availability of proven technology and adequate funding prior to the implementation of any mandated purchase requirements for zero-emission bus technology; (combined into Section V, subsection (d))~~
- ~~d) Support the prioritization of transportation projects and programs that achieve greenhouse gas emissions reductions for cap-and-trade funding while maintaining ongoing appropriations for transit; (combined into subsection (b))~~
- ~~e) Oppose policies that significantly increase costs, threatening OCTA's ability to deliver projects and provide transit service; (moved to Section II)~~
- cf) Support legislation to streamline the environmental review and permitting processes for transportation projects and programs to avoid potentially duplicative and unnecessary analysis, while still maintaining traditional environmental protections;
- ~~g) Support the creation of formula-based funding programs under the cap-and-trade program to assist with compliance of any adopted regulations; (combined into subsection (b))~~
- ~~h) Support efforts to mitigate costs associated with the operation of zero-emission transit buses, including an alternative electricity rate structure, tax incentives, or other forms of financial assistance; (combined into Section V, subsection (d))~~
- d4) Ensure that air quality determinations and policies do not constrain funding availability or otherwise undermine OCTA's ability to deliver transportation improvements;

- e) *Oppose efforts to lengthen the California Environmental Quality Act process in a manner that would delay mobility improvements; (moved from what was Section XII)*
- f) *Oppose legislation that restricts road construction by superseding existing broad-based environmental review and mitigation processes; (moved from what was Section XII)*
- g) *Oppose legislation that would limit lead agency discretion in the management and oversight of lands set aside for environmental mitigation purposes, while encouraging policies that promote advance mitigation planning programs. (moved from what was Section XII)*

### **Sponsored Legislation**

~~Each year, OCTA may consider sponsoring legislation to clarify or address various transportation policy areas that require additional attention. This session, the following major initiative will be emphasized as sponsor legislation:~~

- a) ~~Co-sponsor legislation to clarify roles and responsibilities related to toll enforcement policies to allow for interoperability between toll facilities while affirming user privacy protections. (moved to Section VIII)~~

### **~~II. I. TRANSPORTATION FUNDING STATE BUDGET~~**

~~As the Legislature continues to move forward in developing solutions to close the State's structural deficit, OCTA continues to monitor the status of transportation funding in California, promoting the continued stability of existing programs and efforts to address future funding deficiencies to meet transportation infrastructure needs. As a proven method to help rebuild the economy through investments in vital transportation infrastructure projects and critical transit services, OCTA will also work to promote methods of expediting such projects to allow for such stimulus. Key actions by OCTA will include:~~

- a) ~~Oppose unfunded mandates for transportation agencies, transit providers, and local governments in providing transportation improvements and services;~~
- b) ~~Oppose cost shifts or changes in responsibility for projects funded by the State to the local transportation entities;~~
- c) ~~Support legislation to treat the property tax of single-county transit districts the same as multi-county districts and correct other Educational Revenue Augmentation Fund inequities between like agencies;~~
- d) ~~Support the constitutional protection of all transportation funding resources;~~

- e) *Support legislation protecting or expanding local decision-making in programming expenditures of transportation funds; (moved from "Key Policy Issues in 2021-22" Section)*
- f) *Oppose efforts to reduce local prerogative over regional program funds; (moved from Section III)*
- g) *Support legislation to involve county transportation commissions in the development and prioritization of State Highway Operation and Protection Program projects; (moved from Section IV)*
- ~~e) *Seek additional funding for paratransit operations and transit accessibility capital improvements that support persons with disabilities and senior citizens; (moved to Section V)*~~
- h) *Oppose efforts to redirect or reclassify transportation revenue sources, including earned interest, for anything other than their intended purposes; (moved from "Key Policy Issues" Section)*
- i) *Support the implementation of federal transportation programs in an equitable manner that promotes traditional funding levels, programming roles, and local discretion in allocation decisions; (moved from "Key Policy Issues" Section)*
- j) *Oppose policies that significantly increase costs, threatening OCTA's ability to deliver projects and provide transit service; (moved from what was Section XII)*
- k) *Support removing the barriers for funding transportation projects, including allowing local agencies to advance projects with local funds when state funds are unavailable due to budgetary reasons, and allowing regions to pool federal, state, and local funds in order to limit lengthy amendment processes and streamline project delivery time.*

### **III. II. FISCAL REFORMS AND ISSUES**

In recent years, the Legislature and Governor have worked collaboratively during the budget process to pass funding bills in a timely manner, ~~providing some degree of certainty to the state-funded programs that OCTA relies upon.~~ Unfortunately, uncertainties over future changes remain due to a continued structural deficit and the ~~potential for an economic downturn~~ *consequences resulting from COVID-19.* Therefore, OCTA will:

- ~~a) *Oppose efforts to reduce local prerogative over regional program funds; (moved Section II)*~~

- a) *Monitor the study and development of alternative transportation funding proposals, including the State's road charge pilot program and ensure that efforts are made to address concerns related to equity, privacy, and public support of such proposals; (moved from "Key Policy Issues" Section)*
- b) Oppose levying new and/or increase in gasoline taxes or user fees, including revenue increases on fuel consumption categorized as charges, fees, revenue enhancements, or similar classifications. Consideration of such efforts shall occur when a direct nexus is determined to exist between revenues and transportation projects, and additional revenues are to be controlled by the county transportation commission;
- c) Oppose efforts to decrease the voter threshold requirement for local tax measures for transportation purposes and/or mandating specific uses of future local sales tax revenues;
- d) Oppose efforts to increase administrative fees charged by the California Department of Tax and Fee Administration on the collection of local sales tax measures;
- ~~e) Support efforts to ease or simplify local matching requirements for state and federal grants and programs;~~
- ~~f) Support legislation to protect the flexibility of the federal aid highway funds by requiring state compliance with federal highway safety requirements;~~
- ~~g) Support flexibility for obligating regional federal transportation funds through interim exchange instead of loss of the funds by the local agency;~~
- eh) Support efforts that ensure that all users of the State's transportation system pay their "fair share" to maintain and improve the system;
- hi) Support efforts to restore equity with regards to the generation and disbursement of sales tax revenues that support the Local Transportation Fund;:-
- i) *Support the retention of existing and future local revenue sources. (moved from "Key Policy Issues" Section)*

#### **IV. III. STATE TRANSPORTATION IMPROVEMENT PROGRAM STREAMLINING**

The *State Transportation Improvement Program* (STIP), substantially amended by SB 45 (Chapter 622, Statutes of 1997), is a programming document that establishes the funding priorities and project commitments for transportation capital improvements in California. SB 45 placed decision-making authority closest to the problem by providing project selection for 75 percent of the funding in the *Regional Transportation Improvement Program* (RTIP). This funding is distributed to counties based on an allocation formula.

The remaining 25 percent of the funds is programmed by the California Department of Transportation (Caltrans) in the *Interregional Transportation Improvement Program* (ITIP). ~~SB 1 is expected to promote increased stability for future STIP fund estimates.~~ OCTA will seek to ensure that the regional focus of the program is preserved. Key provisions to be sought by OCTA include:

- a) *Support maintaining the current STIP formula, which provides 75 percent of STIP funding to the locally-nominated RTIP and 25 percent to the ITIP; (moved from “Key Policy Issues” Section with updated parenthetical references)*
- ba) Support legislation that maintains equitable allocations of transportation funding, such as the north/south formula distribution of county shares and ITIP allocations;
- cb) Support legislation to clarify that programming of current period county shares has priority over advancement of future county shares;
- de) Support a formula-based guaranteed disbursement of the ITIP;
- ~~d) Support legislation to involve county transportation commissions in the development and prioritization of State Highway Operation and Protection Program projects; (moved to Section II)~~
- e) Support efforts to allow a mode-neutral STIP;
- f) Support increased flexibility for the use of STIP funds to support alternative projects, including, but not limited to, transit and goods movement improvement projects.

#### **V. IV. TRANSIT PROGRAMS**

~~In 2019-20,~~ OCTA will continue with its focus on providing safe, reliable, and efficient transit services in Orange County. While state transit funding has recently become more stable, future demand increases due to environmental regulations and increased fuel prices may put further strain on existing resources. Thus, OCTA will make every effort to minimize additional state obligations to transit operations which lack a sufficient and secure revenue source. To that end, OCTA will focus on the following:

- a) *Advocate for a continued strong state role in providing funding for transit operations rather than shifting responsibility to local transportation entities. No additional requirements should be created for operation levels beyond existing capacity, unless agreed to by that entity or otherwise appropriately funded; (moved from “Key Policy Issues” Section)*
- b) *Support the development of greater efficiencies within the Transportation Development Act’s performance metrics while maintaining existing eligibility parameters and realigning administrative rules and farebox recovery requirements*

*to eliminate any unnecessary or overly burdensome mandates in order to streamline the administration of transit funding; (moved from “Key Policy Issues” Section)*

- c) Flexibility should be included in state transit funding sources, allowing transit operators to use the funding for both operations and capital expenditures; (moved from “Key Policy Issues” Section)*
- d) Support efforts to mitigate costs associated with the development, testing, purchase, and operation of zero-emission transit buses, including an alternative electricity rate structure, tax incentives, and other forms of financial assistance; (combined with what was Section XII, subsections (c) and (d))*
- e) Seek additional funding for paratransit operations and transit accessibility capital improvements that support persons with disabilities and senior citizens; (moved from Section II)*
- fa) Support legislation to encourage and incentivize the interoperability of transit and rail systems within California;*
- gb) Support legislation to limit the liability of transit districts for the location of bus stops (Bonanno v. Central Contra Costa Transit Authority);*
- he) Support the citing of transit-oriented development projects (i.e. authorize extra credit towards housing element requirements for these developments), including incentives for development;*
- id) Support legislation and or/regulations which aim to enhance transit services, and the overall safety and security of transit riders, coach operators, and on-road vehicles.*

## **VI. ~~V~~. ROADS AND HIGHWAYS**

OCTA’s commitment to continuously improve mobility in Orange County is reflected through a dynamic involvement in such innovative highway endeavors as the ownership of the 91 Express Lanes and the use of design-build authority on the State Route 22 project and Interstate 405 (*I-405*) Improvement Project. OCTA will continue to seek new and innovative ways to deliver road and highway projects to the residents of Orange County and, to that end, ~~in 2019-20~~, OCTA will focus on the following:

- a) Oppose efforts to create a conservancy that would inhibit the delivery of transportation projects under study or being implemented in the region;
- b) Support efforts to expand, extend, and preserve new and existing alternative project delivery methods such as design-build, public-private partnership authority, and construction manager/general contractor authority, including expanding mode

and funding eligibility, while allowing the appropriate balance of partnership between the State and local agencies;

- c) Support legislation that would authorize local agencies to advertise, award, and administer contracts for state highway projects;
- d) Oppose duplicative reporting mandates and efforts to impose additional requirements, beyond what is required in statute, on lead agencies awarding contracts using alternative project delivery mechanisms;
- e) Support streamlining of the Caltrans review process for projects, simplification of processes, and reduction of red tape, without compromising environmental safeguards;
- f) Support administrative policy changes to lower the oversight fee charged by Caltrans to ensure that project support costs are equivalent whether the project is administered by Caltrans or a local agency;
- ~~g) Support studying the policies, funding options, and need for rail/highway grade separations, including any impact on existing state highway and transit funding sources; (moved to Section IX)~~
- gh) Support policies that improve signal synchronization programs in order to facilitate street signal coordination, prioritization, and preemption, as well as encouraging the use of intelligent transportation system measures;
- hi) Support policies that expand utilization of continuous access of high-occupancy vehicle (HOV) lanes;
- ij) Monitor efforts to increase fines for HOV lane violations and, if implemented, ensure fines are dedicated to enforcement purposes;
- jk) Support legislation that provides for equitable enforcement of regulations governing transportation network companies;
- kl) Support efforts to study the development and safe operation of autonomous vehicles and related technologies;
- lm) Oppose legislation that fails to preserve local discretion and flexibility in the development of the congestion management program.

## **VII. VI. ROLES AND RESPONSIBILITIES**

In recent years, there have been many efforts to reorganize or restructure transportation programs and local agency responsibilities. In 2019-20, OCTA will continue to monitor

legislation or regulations that would significantly affect the way in which it operates, with a focus on the following principles:

- a) Support efforts to preserve the role of county transportation commissions, as consistent with existing law, in the administration of transportation programs;
- b) Oppose proposals that reduce the rights and responsibilities of county transportation commissions in planning, funding, and delivering transportation programs;
- c) Oppose efforts to unnecessarily subject projects to additional reviews and project selection approvals that could adversely affect delivery timelines and processes;
- d) Support efforts to facilitate a partnership with alternative mobility providers that allows for adequate information sharing while also respecting the planning efforts of local agencies;
- e) ~~Support efforts to improve local oversight and create operational improvements in the administration of the Orange County Taxi Administration Program;~~
- ef) Support efforts to increase the flexibility of funds used for motorist service programs.;
- g) ~~Support efforts to maintain the promises self-help counties have made to taxpayers in the implementation of local sales tax measures, specifically regarding the sequencing and delivery of transportation improvements. (moved to "Key Policy Issues" Section)~~

## **~~VIII. VII.~~ 91 EXPRESS LANES/MANAGED LANES**

OCTA's commitment to continuously improve mobility in Orange County is reflected through a dynamic involvement in such innovative highway endeavors as the ownership of the 91 Express Lanes, a ten-mile managed lane facility on State Route 91 (SR-91), extending from State Route 55 to the Orange/Riverside County line. Since its purchase in 2003, the 91 Express Lanes has provided drivers an alternative mobility option between Orange and Riverside counties, while also allowing for investment in multi-modal improvements throughout the ~~State Route~~ 91 corridor.

As transportation demands continue to increase, innovative tools must be available to ensure transportation infrastructure projects continue to be built in a reliable, prompt, and efficient manner. OCTA took advantage of one such tool by securing a \$629 million federal loan to supplement state and local funds on the ~~Interstate~~ 405 Improvement Project. The loan, obtained through the Transportation Infrastructure Finance and Innovation Act (TIFIA), will save taxpayers approximately \$300 million in the decades to come. As the TIFIA loan illustrates, OCTA is committed to improving mobility for Orange

County residents using the innovative tools and approaches that are allowing transportation agencies to stretch their dollars further than ever before.

Many agencies are discussing the increased use of managed lane facilities. To ensure not only the continued success of the 91 Express lanes, but also to ensure managed lane policy moving forward allows for local flexibility and input, ~~in 2019-20~~, OCTA will:

- a) Support legislation to ensure revenues from managed lane facilities remain within the corridor from which they are generated, opposing efforts to divert revenues from managed lane facilities for state purposes;
- b) Support policies that allow OCTA and the Riverside County Transportation Commission to efficiently operate and maintain the 91 Express Lanes into Riverside County;
- c) Support efforts to preserve local flexibility in the administration of toll lanes;
- d) Oppose state efforts to construct or operate managed lane facilities that are established without an adopted statewide managed lane strategy or plan;
- e) Oppose state efforts to construct or operate managed lane facilities that fail to respect existing local transportation projects and funding programs;
- f) Support customer privacy rights while maintaining OCTA's ability to effectively communicate with customers and operate the 91 Express Lanes;
- g) Support the use of innovative means to enhance toll agency enforcement efforts, including ways to address toll violations due to protected plates;
- h) Support collaborative solutions to address the degradation of HOV lanes that respect local transportation funding sources and programs, have the support of the relevant regional transportation planning agency, do not redirect existing local transportation funding sources, and analyze the effect of single-occupant, low-emission vehicles, including associated federal requirements triggered by their access allowance.
- i) Support efforts to improve the interoperability of the different toll systems across the State in order to ensure fair and efficient toll operations, ~~including enforcement mechanisms, throughout California~~ while affirming user privacy protections. *(combined with language in "Sponsored Legislation" section)*

## **~~IX. VIII.~~ RAIL PROGRAMS**

Metrolink is Southern California's commuter rail system that links residential communities to employment and activity centers. Orange County is served by three Metrolink lines: the Orange County Line, the Inland Empire-Orange County Line, and the 91/Perris Valley

Line. In support of these routes, OCTA owns 48 miles of rail right-of-way in Orange County on which Metrolink operates. OCTA's rail capital budget supports improvements to the regional commuter rail system in Orange County, and under existing policy, OCTA is the primary construction lead on major capital improvements to the regional commuter rail system on its right-of-way.

In addition to Metrolink services, Orange County is also served by the state-supported Pacific Surfliner intercity passenger rail service traveling between San Luis Obispo and San Diego. The Pacific Surfliner is operated by Amtrak and managed by the Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency (LOSSAN Agency). OCTA has served as the managing agency for the LOSSAN Agency since 2013 and assumed full administrative and management responsibility for the Pacific Surfliner service in June 2015 via an interagency transfer agreement with the State of California. OCTA continues to serve in this capacity, providing all necessary administrative support to the LOSSAN Agency.

Other rail systems could also travel through Orange County at some point in the future, including additional intercity rail service. While the status and future of these programs is uncertain, OCTA will be watchful to ensure that funding for these rail systems does not impact other transportation funding sources. Key advocacy efforts will emphasize the following:

- a) Support legislation that encourages commercial, commuter-based development around passenger rail corridors that includes permanent job creation;
- b) Support efforts to create additional efficiency in rail program oversight, including consideration of possible program consolidation;
- c) Monitor and evaluate plans and progress of high-speed rail and its funding;
- d) Support efforts to provide resources for safety improvements on the rail network in Southern California, including for the implementation, *operation, and maintenance* of Positive Train Control safety technology;
- e) *Support studying the policies, funding options, and need for rail/highway grade separations, including any impact on existing state highway and transit funding sources; (moved from Section VI)*
- fe) Support policies that facilitate the development and construction of needed infrastructure projects that support modernization, connectivity, and general system-wide improvements to California's rail network.

## **X. ~~IX.~~ GOODS MOVEMENT**

The Ports of Los Angeles and Long Beach, the nation's two busiest *ports in terms of container volume and value*, are vital to California's economy and the surrounding region

because goods are shipped to and through the surrounding counties. ~~Our state's goods movement-related industries account for more than \$700 billion in revenue and more than five million jobs.~~ While the State's goods movement system is the most robust in the nation, it is continually challenged by competing goods movement systems in other states. In order to continue to compete and engage in the global marketplace, California must continue to enhance its goods movement system, while at the same time be cognizant of taking the necessary actions to mitigate any negative impacts to local communities. Key positions ~~for 2019-20~~ include:

- a) Support improvements in major trade gateways in California to facilitate the movement of intrastate, interstate, and international trade beneficial to the State's economy;
- b) Support legislation that will aid in the development, approval, and construction of projects to expand goods movement capacity and reduce congestion;
- c) Ensure that control of goods movement infrastructure projects and funding retained at the local level;
- d) Seek mitigation for the impacts of goods movement on local communities;
- e) Pursue ongoing, stable sources of funding for goods movement infrastructure.

## **~~XI. X.~~ ACTIVE TRANSPORTATION**

Active transportation projects and programs, which encourage greater mobility through walking and *bicycling*, have grown in popularity due to the environmental, health, and cost savings benefits. Through local planning efforts such as Orange County's Regional Bikeways Planning Collaborative, the Pacific Coast Highway Corridor Study, and the development of OCTA's Commuter Bikeways Strategic Plan, OCTA continues to study, plan, and fund active transportation projects and programs as part of its mission to provide Orange County with an efficient and multi-modal transportation system. Key positions include:

- a) Support legislation that increases the visibility and safety of users engaged in active transportation;
- b) Support creative use of paths, roads, and abandoned rail lines using existing established rights-of-way to promote bike trails and pedestrian paths;
- c) Support policies that encourage the safe interaction and operation of integrated multi-modal systems, including roadways, rail lines, bikeways, and pedestrian ways, and the users of those facilities;
- d) Support efforts to streamline active transportation funding programs;

- e) Support legislation and regulatory changes to streamline and simplify the review and approval by the California Public Utilities Commission of lease agreements between sponsors of active transportation projects and public utility companies.

## **~~XII. XI. ADMINISTRATION/GENERAL~~**

General administrative issues arise every session that could impact OCTA's ability to operate efficiently. Key positions include:

- a) Oppose legislation and regulations adversely affecting OCTA's ability to efficiently and effectively contract for goods and services, conduct business of the agency, and limit or transfer the risk of liability;
- b) Support legislation to provide greater protection of OCTA's computer and information security systems;
- c) Support legislation that establishes reasonable liability for non-economic damages in any action for personal injury, property damage, or wrongful death brought against a public entity based on principles of comparative fault;
- d) Support legislation that would provide for consistency of campaign contribution limits applied to both elected and appointed bodies;
- e) Monitor the effect of Brown Act legislation on OCTA Board operations as it relates to the use of new technologies for communication with the public.

## **~~XII. ENVIRONMENTAL POLICIES~~**

~~Changes in environmental laws can affect OCTA's ability to plan, develop, and build transit, rail, and highway projects. While OCTA has been a leading advocate for new, cleaner transit technologies and the efficient use of transportation alternatives, it also remains alert to new, conflicting, or excessive environmental statute changes.~~

~~Key positions include:~~

- a) ~~Oppose efforts to grant special interest groups or new bureaucracies control, oversight, or influence over the California Environmental Quality Act process; (moved to Section I)~~
- b) ~~Oppose legislation that restricts road construction by superseding existing broad-based environmental review and mitigation processes; (moved to Section I)~~
- c) ~~Support incentives for development, testing, and purchase of clean fuel commercial vehicles; (combined into Section V, subsection (d))~~

- d) ~~Support efforts to seek funding and flexibility for the retrofit or re-powering of transit buses and locomotives with cleaner engines to attain air quality standards; (combined into Section V, subsection (d))~~
- e) ~~Oppose legislation that would limit lead agency discretion in the management and oversight of lands set aside for environmental mitigation purposes, while encouraging policies that promote advance mitigation planning programs; (moved to Section I)~~
- f) ~~Support efforts to ensure that Caltrans can continue to review and approve transportation projects under the National Environmental Policy Act;~~
- g) ~~Monitor the development, adoption, and implementation of the Air Quality Management Plan (AQMP) to avoid cost increases and prevent any potential conflicts between AQMP implementation, the adopted Regional Transportation Plan, and OCTA's projects or programs.~~

### **XIII. EMPLOYMENT ISSUES**

As a public agency and one of the largest employers in Orange County, OCTA balances its responsibility to the community and the taxpayers to provide safe, reliable, cost-effective service with its responsibility of being a reasonable, responsive employer. Key advocacy positions include:

- a) Oppose efforts to impose state labor laws on currently exempt public agencies;
- b) Oppose legislation that circumvents the collective bargaining process;
- c) Oppose legislation and regulations adversely affecting OCTA's ability to efficiently and effectively deal with labor relations, employee rights, benefits including pension benefits, Family Medical Leave Act, and working conditions, including health, safety, and ergonomic standards for the workplace;
- d) Support legislation that reforms and resolves inconsistencies in the workers' compensation and unemployment insurance systems, and labor law requirements that maintain protection for employees and allow businesses to operate efficiently;
- e) Support workforce development policies that facilitate a more efficient talent acquisition process.

### **XIV. TRANSPORTATION SECURITY AND EMERGENCY PREPAREDNESS**

As natural and man-made disasters continue to threaten transportation systems around the world, significant improvements have been, and continue to be, carried out to enhance the safety, security, and resilience of transportation infrastructure in the United States. As Orange County's bus provider and a Metrolink partner, OCTA comprehends the

importance of ensuring the safety and security of our transportation network and protecting our customers. Presently, OCTA maintains a partnership with the Orange County Sheriff's Department to provide OCTA Transit Police Services for the bus and train systems in Orange County and continues to be actively involved in a variety of state and regional preparedness exercises in support of first responders. OCTA is also currently working with its community partners on an effort to install video surveillance systems at Metrolink stations and on its fleet of buses and throughout its bus facilities. The development of a new Transit Security and Operations Center is also underway to enhance security efforts and further the resiliency of the Orange County transit system.

Heightened security awareness, an active public safety campaign, and greater surveillance efforts, all require additional financial resources. Consequently, in 2019-20, OCTA's advocacy positions will highlight:

- a) Support state homeland security and emergency preparedness funding and grant programs to local transportation agencies to alleviate financial burden placed on local entities;
- b) Support legislation that balances retention mandates of video surveillance records to reflect current reasonable technological and fiscal capabilities;
- c) Support the use of new technology to increase the safety of public transportation passengers and operators.

With over three million residents, Orange County is the third most populous county in California and the sixth most populous county in the nation. Orange County is one of the most densely populated areas in the country and is served by one of the nation's busiest transit systems. In addition, Orange County provides highway and rail corridors that facilitate the increasing level of international trade entering the Southern California ports.

The 2021-22 Federal Legislative Platform serves as a framework document to guide the Orange County Transportation Authority's (OCTA) statutory, regulatory, and administrative goals and objectives in Washington, D.C. The Key Policy Issues section offers guidance on the policy issues that will likely be the focus of the 117<sup>th</sup> Congress, and the later sections present guiding policy statements for the other major issues that may arise. Positions on individual items not directly addressed in this document will be brought to the OCTA Board of Directors for formal action.

### **Key Policy Issues in the 117<sup>th</sup> Congress**

A number of significant transportation issues will be discussed in the 117<sup>th</sup> Congress. OCTA will focus its advocacy efforts on the following principles:

- a) Support funding and policy flexibilities to support OCTA in providing essential multimodal mobility improvements and services during the unprecedented coronavirus (COVID-19) pandemic;
- b) Encourage policies and guidance that rebuild public confidence in public transit, as well as other measures that both protect the public health and facilitate essential transit trips;
- c) Support transportation funding investments, economic stimulus measures, and other recovery efforts that will prepare OCTA to meet the changing mobility needs of Orange County after the COVID-19 pandemic subsides;
- d) Enact and implement long-term surface transportation reauthorization legislation that provides sustainable funding levels for transportation programs in order to meet our county's critical infrastructure needs;
- d) Support equitable policies to ensure that the inclusive public engagement, planning, and delivery of mobility improvements best serves all the residents of Orange County;
- e) Seek responsible revenue solutions to fund future transportation projects without adversely affecting an agency's ability to provide services;
- f) Advocate for full funding of transportation programs without placing new limitations or conditions on the distribution of funds that would impede the delivery of infrastructure projects;

- g) Ensure that funding for any new infrastructure initiatives does not replace or adversely affect existing transportation programs;
- h) Ensure that Highway Trust Fund (HTF) revenues continue to be used for transit expenditures;
- i) Ensure that air quality determinations and policies do not constrain funding availability or otherwise undermine OCTA's ability to deliver transportation improvements.
- j) Support policies that encourage ridesharing, teleworking, vanpool and related congestion relief programs for Orange County commuters;
- k) Support efforts to clarify roles and responsibilities related to toll enforcement policies to allow for interoperability between toll facilities while affirming user privacy.

## **I. TRANSPORTATION FUNDING**

Current federal law does not require the appropriation of authorized HTF dollars. Therefore, the annual appropriations process will continue to play an important role in funding OCTA's programs and projects. OCTA will continue to advocate for the largest possible amount and share of appropriations funding to ensure adequate resources to meet the infrastructure needs of Orange County.

OCTA will continue to aggressively pursue discretionary funding for transportation projects within the statutory and regulatory requirements of funding programs and the current funding status of OCTA's capital program. Other funding priorities for OCTA include:

- a) Support sustainable transportation funding levels that allow OCTA to continue to improve mobility in and around Orange County;
- b) Oppose efforts to redirect, reduce, or eliminate existing transportation funding programs;
- c) Support funding for the Capital Investment Grants program to allow for an expansion of bus and rail transit projects;
- d) Ensure that federal funding is available for capital purposes to the extent not needed for direct operating costs;
- e) Support funding, with increased flexibility, for safety and security grant programs in order to protect Orange County's transportation system, including highways, transit facilities, rail lines, and related software systems;

- f) Support funding for regional and intercity passenger rail corridors in California;
- g) Support funding for the Southern California Regional Training Consortium to develop bus maintenance training information for the transit agencies throughout Southern California.

## **II. REAUTHORIZATION PRIORITIES**

The Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) authorized \$305.5 billion over five years for public transportation, rail, highway, safety, research, and technology programs. The legislation preserved the federal focus on safety, kept intact the established structure of the various highway programs, and continued efforts to streamline project delivery.

The FAST Act was extended through September 30, 2021. In the 117<sup>th</sup> Congress, OCTA will focus much of its advocacy efforts on enacting long-term reauthorization legislation that allows state and local government agencies to move forward with a federal partner on critical transportation projects. As such, OCTA will advocate for the following policies:

- a) Support the greatest possible share of funding for California and OCTA, focusing on increasing formula funds;
- b) Support increased flexibility in transportation funding programs to promote greater local decision-making in the planning process;
- c) Ensure a long-term partnership with the federal government that helps OCTA address capital and operating revenue shortfalls;
- d) Support a stable source of proposed future revenues that provides adequate resources for future transportation needs;
- e) Oppose efforts to subject public transportation providers to gas tax liability or other fees that increase operating costs;
- f) Oppose unfunded federal mandates that further stretch the resources of state and local transportation agencies;
- g) Oppose policies that undermine or limit local control over land use decisions;
- h) Ensure fair suballocations of funding to account for additional costs, increased administrative responsibilities, and the potential for increased liabilities to which the agency may be subject;

- i) Support efforts to ensure that all users of the national transportation system pay their “fair share” to maintain and improve the system;
- j) Oppose limitations or other arbitrary conditions on discretionary transportation grant programs that prevent an equitable distribution of transportation resources;
- k) Support efforts to clarify roles for state and local transportation agencies, as well as for the private sector, in developing innovative approaches to improving mobility;
- l) Support additional funding flexibility to facilitate the use of alternative mobility providers;
- m) Support policies to encourage the safe development, demonstration, deployment, and operation of connected and automated vehicle technologies;
- n) Support a collaborative approach to understanding the capital infrastructure and operational needs of local and state transportation agencies, as well as those of private sector partners, in the testing and deployment of autonomous vehicles and related technologies;
- o) Oppose rescissions or other arbitrary funding cuts to transportation programs.

### **III. IMPLEMENTING FEDERAL TRANSPORTATION PROGRAMS**

In the 117<sup>th</sup> Congress, OCTA will continue to support finalizing the implementation of the FAST Act while finding ways to complement the programs and provisions authorized under federal law. During this time, OCTA will advocate for the following issues:

- a) Oppose any effort to further reduce transportation funding for OCTA or California, advocating for a fair and equitable share;
- b) Pursue continued eligibility of Congestion Mitigation Air Quality program funding for three-to-five years of operating expenses associated with any fixed-guideway or eligible bus projects;
- c) Support expanded use of alternative delivery methods for federally-funded transportation projects;
- d) Support environmental process improvements and stewardship efforts by the relevant federal agencies to expedite project delivery and accelerate the creation of jobs;

- e) Support expedited review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities;
- f) Support efforts to authorize, fund, and streamline the delivery of bicycle and pedestrian projects in Orange County;
- g) Advocate for policies to encourage, when possible, a “complete streets” approach to multimodal project planning in order to expedite project delivery;
- h) Encourage the Federal Highway Administration (FHWA) to utilize the Regional Transportation Plan (RTP) as a long-range planning and vision document rather than a detailed 30-year financial plan;
- i) Support shifting the approval of RTP amendments involving Transportation Control Measures from the Environmental Protection Agency back to the FHWA while allowing for an adequate consultation process;
- j) Support flexibility and increased local decision-making authority regarding the operation of high-occupancy vehicle (HOV) lanes in order to reduce or eliminate the unintended consequences resulting from Section 166 of the Federal Highway Act or any similar policy regulating degradation of HOV lanes;
- k) Encourage cooperation between state and federal partners to mitigate or eliminate any policy that requires direct actions within 180 days of realized degradation on federally-funded highways;
- l) Support streamlining of Federal Buy America requirements to increase certainty while also advocating for greater flexibility in their application.

#### **IV. FISCAL REFORMS AND ISSUES**

Several legislative and regulatory proposals would have economic impacts, both positive and negative, affecting the delivery of transportation infrastructure projects that create jobs and spur further business development in Orange County. Regarding these developments, OCTA will:

- a) Oppose legislation and regulations that would divert revenues generated by locally-approved sales taxes to programs and projects that are not included in the sales tax ordinance;
- b) Support removing barriers to the release of transportation funding, including allowing local agencies to advance projects with local funds in order to limit lengthy amendment processes that delay project delivery;

- c) Support expansion, streamlining, and further development of innovative project finance methods, including the Transportation Infrastructure Finance and Innovation Act loan program;
- d) Support fiscally sound legislation that adequately addresses the HTF's structural deficit, including initiatives to address the impact of low- and zero-emission vehicles on transportation funding;
- e) Support the equitable collection and distribution of sales tax revenue from out-of-state, online retailers (*South Dakota v. Wayfair, Inc.*);
- f) Support tax policies that reduce costs or provide additional flexibility in OCTA's financial and operational activities;
- g) Support legislation or regulations that expedite the delivery of transportation improvements or the development of business opportunities in order to create jobs and economic activity in Southern California.

## **V. RAIL PROGRAMS**

Metrolink is Southern California's commuter rail system that links residential communities to employment and activity centers. Orange County is served by three Metrolink lines: the Orange County Line, the Inland Empire-Orange County Line, and the 91/Perris Valley Line. OCTA owns 48 miles of rail right-of-way in Orange County on which Metrolink operates. OCTA's rail capital budget supports improvements to the regional commuter rail system in Orange County, and under existing policy, OCTA is the primary construction lead on major capital improvements to the regional commuter rail system on its right-of-way.

In addition to Metrolink services, Orange County is also served by the state-supported Pacific Surfliner intercity passenger rail service traveling between San Luis Obispo and San Diego. The Pacific Surfliner is operated by Amtrak and managed by the Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency (LOSSAN Agency). OCTA has served as the managing agency for the LOSSAN Agency since 2013 and assumed full administrative and management responsibility for Pacific Surfliner service in June 2015 via an interagency transfer agreement with the State of California. OCTA continues to serve in this capacity, providing all necessary administrative support to the LOSSAN Agency.

Other rail systems could also travel through Orange County at some point in the future, including additional intercity rail service. OCTA will continue to monitor the development of additional service to ensure that it does not adversely affect other transportation funding sources. Other rail policy priorities include the following:

- a) Support funding for rail safety programs, including funding for implementation, operation, and maintenance of Positive Train Control (PTC) safety technology and other safety enhancements;
- b) Support efforts to ensure that any alternative safety technology is interoperable with, and contains the same safety benefits as, the PTC system implemented on passenger rail corridors in Southern California;
- c) Support the availability of technical resources, such as wireless spectrum, to fully implement rail safety technology;
- d) Oppose increasing the current rail passenger liability cap and work with regional partners to ensure that any changes to the cap take into account the limited resources of passenger rail providers.

## **VI. GOODS MOVEMENT**

The twin Ports of Los Angeles and Long Beach are considered “America’s Gateway” and the nation’s busiest ports. The maintenance and improvement of our region’s goods movement infrastructure must continue to be a national priority if our region is to remain competitive with the rest of the world and responsive to the consumer needs of Southern California. The need for the Southern California region to remain competitive is further underscored by the expansion and modernization efforts of foreign competitors. Even though the FAST Act provided dedicated funding for goods movement projects and programs, revenue streams remain insufficient to fund the projects needed to offset the costs of moving these goods considering the many years of underinvestment. OCTA’s advocacy efforts regarding goods movement will continue to emphasize the following:

- a) Pursue new, stable, dedicated, and secure sources of funding for goods movement infrastructure;
- b) Ensure that the benefits of newly-funded projects also take into account mitigation factors to impacted communities;
- c) Support a collaborative approach, including engaging with private sector partners, in developing and implementing the needed sustainable goods movement infrastructure programs and projects;
- d) Support regionally-significant grade separation projects that improve the flow of goods and people throughout Southern California;
- e) Support local control of goods movement infrastructure and freight mobility projects.

## **VII. TRANSPORTATION SECURITY AND EMERGENCY PREPAREDNESS**

OCTA continues cooperative efforts with neighboring transit agencies, Urban Area Security Initiative partners, state and federal Homeland Security and Emergency Preparedness grant partners, and local jurisdictions to enhance the security and resiliency of Orange County's transportation system. OCTA will pursue the following priorities to ensure that the agency's safety, security, and emergency preparedness needs are met:

- a) Support increased funding for training, increased surveillance, and emergency preparedness improvements with adequate flexibility to ensure that local agencies can effectively use the resources to ensure a more resilient transportation system;
- b) Support a funding distribution that considers all risk threats, including natural disasters, acts of terrorism, and other man-made disasters, as estimated by the Department of Homeland Security, in cooperation with state and local officials;
- c) Support programs that facilitate cooperation with security and emergency preparedness officials to refine and improve information exchange protocols, emergency preparedness systems, and regional data coordination.
- d) Support efforts to provide funding incentives and policy flexibility to facilitate programs to provide safe working conditions for coach operators and transit personnel.

## **VIII. ENVIRONMENTAL AND ENERGY ISSUES**

Federal environmental policies affecting OCTA include the National Environmental Protection Act, the Clean Air Act, the Clean Water Act, and the Endangered Species Act. Therefore, legislation or regulations to further develop environmental goals and energy-efficient policies will likely have an impact on OCTA's operations. With such proposals in mind, OCTA will:

- a) Seek opportunities to expedite and improve the efficiency of the environmental process without impairing substantive environmental requirements;
- b) Seek funding to meet state and local environmental quality requirements, including requirements for zero-emission buses, alternative fueling stations, and future greenhouse gas reduction requirements;
- c) Support the continuation and expansion of tax incentives for using compressed natural gas, hydrogen, and other zero-emission transit fuels;

- d) Monitor proposals to address the environmental impacts of greenhouse gases to ensure that any new environmental requirements are accompanied by additional funding necessary to implement those requirements;
- e) Support expedited review for project development, right-of-way acquisition, and construction activities.

## **IX. REGULATORY REQUIREMENTS**

OCTA must also monitor several other administrative requirements, including new and expanded regulatory definitions that may affect the agency's operations. As such, OCTA will:

- a) Oppose regulatory efforts to extend the statutory requirements of the Americans with Disabilities Act;
- b) Support expedited and improved federal reporting and monitoring requirements to ensure efficiency and usefulness of data while also eliminating redundant state and federal requirements;
- c) Oppose regulatory proposals that unreasonably subject OCTA to burdensome bureaucratic requirements or increase operational costs, making it harder to deliver projects and improve mobility in Orange County.
- d) Oppose policies adversely affecting the agency's ability to effectively address labor relations, employee rights, benefits, and working conditions, such as health, safety, and ergonomic standards;
- e) Oppose policies that limit state or local pension benefit reforms.

With over three million residents, Orange County is the third most populous county in California and the sixth most populous county in the nation. Orange County is one of the most densely populated areas in the country and is served by one of the nation's busiest transit systems. In addition, Orange County provides highway and rail corridors that facilitate the increasing level of international trade entering the Southern California ports.

The 2021-22 Federal Legislative Platform serves as a framework document to guide the Orange County Transportation Authority's (OCTA) statutory, regulatory, and administrative goals and objectives in Washington, D.C. The Key Policy Issues section offers guidance on the policy issues that will likely be the focus of the 117<sup>th</sup> Congress, and the later sections present guiding policy statements for the other major issues that may arise. Positions on individual items not directly addressed in this document will be brought to the OCTA Board of Directors (~~Board~~) for formal action.

### **Key Policy Issues in the 117<sup>th</sup> Congress**

A number of significant transportation issues will be discussed in the 117<sup>th</sup> Congress. OCTA will focus its advocacy efforts on the following principles:

- a) *Support funding and policy flexibilities to support OCTA in providing essential multimodal mobility improvements and services during the unprecedented coronavirus (COVID-19) pandemic;*
- b) *Encourage policies and guidance that rebuild public confidence in public transit, as well as other measures that both protect the public health and facilitate essential transit trips;*
- c) *Support transportation funding investments, economic stimulus measures, and other recovery efforts that will prepare OCTA to meet the changing mobility needs of Orange County after the COVID-19 pandemic subsides;*
- d) *Enact and implement long-term surface transportation reauthorization legislation that provides sustainable funding levels for transportation programs in order to meet our county's critical infrastructure needs;*
- e) *Support equitable policies to ensure that the inclusive public engagement, planning, and delivery of mobility improvements best serves all the residents of Orange County;*
- f) *Seek responsible revenue solutions to fund future transportation projects without adversely affecting an agency's ability to provide services;*
- g) *Advocate for full funding of transportation programs without placing new limitations or conditions on the distribution of funds that would impede the delivery of infrastructure projects;*

- gd) Ensure that funding for any new infrastructure initiatives does not replace or adversely affect existing transportation programs;
- he) Ensure that Highway Trust Fund (*HTF*) revenues continue to be used for transit expenditures;
- fi) Ensure that air quality determinations and policies do not constrain funding availability or otherwise undermine OCTA's ability to deliver transportation improvements.
- j) *Support policies that encourage ridesharing, teleworking, vanpool and related congestion relief programs for Orange County commuters; (moved from what was Section XI)*
- k) *Support efforts to clarify roles and responsibilities related to toll enforcement policies to allow for interoperability between toll facilities while affirming user privacy.*

## **I. TRANSPORTATION FUNDING**

Current federal law does not require the appropriation of authorized ~~Highway Trust Fund~~ *HTF* dollars. Therefore, the annual appropriations process will continue to play an important role in funding OCTA's programs and projects. OCTA will continue to advocate for the largest possible amount and share of appropriations funding to ensure adequate resources to meet the infrastructure needs of Orange County.

~~Funding limitations enacted with bipartisan support effectively prohibit funding specifically directed to individual projects, commonly called earmarks. It is expected that appropriators will continue this practice for the foreseeable future. Accordingly, this platform does not contain any earmark requests. Should Congress once again allow earmarks, OCTA staff will seek the guidance from the Legislative and Communications Committee regarding project requests.~~

~~Even in the absence of earmarks, OCTA will continue to aggressively pursue discretionary funding for transportation projects within the statutory and regulatory requirements of funding programs and the current funding status of OCTA's capital program. Other funding priorities for OCTA include:~~

- a) Support sustainable transportation funding levels that allow OCTA to continue to improve mobility in and around Orange County;
- b) Oppose efforts to redirect, reduce, or eliminate existing transportation funding programs;
- c) Support funding for the Capital Investment Grants program to allow for an expansion of ~~fixed-guideway bus and rail transit~~ projects;

- d) Ensure that federal funding is available for capital purposes to the extent not needed for direct operating costs;
- e) Support funding, with increased flexibility, for safety and security grant programs in order to protect Orange County's transportation system, including highways, transit facilities, rail lines, and related software systems;
- ~~f) Support policies that encourage ridesharing and related congestion relief programs for Orange County commuters;~~
- g) Support funding for regional and intercity passenger rail corridors in California;
- h) Support funding for the Southern California Regional Training Consortium to develop bus maintenance training information for the transit agencies throughout Southern California.

## II. REAUTHORIZATION PRIORITIES

The Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) authorized \$305.5 billion over five years for public transportation, rail, highway, safety, research, and technology programs. ~~These funding levels provided modest increases in all major existing surface transportation programs over the life of the bill. It also added new formula and discretionary freight programs, a new discretionary bus capital program, and new funding for intercity rail.~~ The legislation also preserved the federal focus on safety, kept intact the established structure of the various highway programs, and continued efforts to streamline project delivery.

The FAST Act ~~was extended through~~ expires on September 30, 2021~~0~~. In the 117<sup>th</sup> Congress, OCTA will focus much of its advocacy efforts on enacting long-term reauthorization legislation that allows state and local government agencies to move forward with a federal partner on critical transportation projects. As such, OCTA will advocate for the following policies:

- a) Support the greatest possible share of funding for California and OCTA, focusing on increasing formula funds;
- b) Support increased flexibility in transportation funding programs to promote greater local decision-making in the planning process;
- c) Ensure a long-term partnership with the federal government that helps OCTA address capital and operating revenue shortfalls;
- d) Support a stable source of proposed future revenues that provides adequate resources for future transportation needs;

- e) Oppose efforts to subject public transportation providers to gas tax liability or other fees that increase operating costs;
- f) Oppose unfunded federal mandates that further stretch the resources of state and local transportation agencies;
- g) Oppose policies that undermine or limit local control over land use decisions;
- h) Ensure fair suballocations of funding to account for additional costs, increased administrative responsibilities, and the potential for increased liabilities to which the agency may be subject;
- i) Support efforts to ensure that all users of the national transportation system pay their “fair share” to maintain and improve the system;
- j) Oppose limitations or other arbitrary conditions on *discretionary* transportation *grant* programs that prevent an equitable distribution of transportation resources;
- k) Support efforts to clarify roles for state and local transportation agencies, as well as for the private sector, in developing innovative approaches to improving mobility;
- l) Support additional funding flexibility to facilitate the use of alternative mobility providers;
- m) Support policies to encourage the safe development, demonstration, deployment, and operation of connected and automated vehicle technologies;
- n) Support a collaborative approach to understanding the capital infrastructure and operational needs of local and state transportation agencies, as well as those of private sector partners, in the testing and deployment of autonomous vehicles and related technologies;
- ~~o) Support proposals consistent with the recommendations contained in OCTA's Breaking Down Barriers Report and subsequent Follow-on Study;~~
- op) Oppose rescissions or other arbitrary funding cuts to transportation programs.

### **III. IMPLEMENTING FEDERAL TRANSPORTATION PROGRAMS**

In the 117<sup>th</sup> Congress, OCTA will continue to support finalizing the implementation of the FAST Act while finding ways to complement the programs and provisions authorized under federal law. During this time, OCTA will advocate for the following issues:

- a) Oppose any effort to further reduce transportation funding for OCTA or California, advocating for a fair and equitable share;
- b) Pursue continued eligibility of Congestion Mitigation Air Quality (CMAQ) program funding for three-to-five years of operating expenses associated with any ~~new start~~ fixed-guideway or eligible bus projects;
- c) Support expanded use of alternative delivery methods for federally-funded transportation projects;
- d) Support environmental process improvements and stewardship efforts by the relevant federal agencies to expedite project delivery and accelerate the creation of jobs;
- e) Support expedited review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities;
- ~~f) Support efforts that direct state departments of transportation to consider the condition and effectiveness of local evacuation routes in high-risk areas when setting priorities for the disbursement of highway funding;~~
- ~~g)~~ Support efforts to authorize, fund, and streamline the delivery of bike and pedestrian projects in Orange County;
- ~~h)~~ Advocate for policies to encourage, when possible, a “complete streets” approach to multimodal project planning in order to expedite project delivery;
- ~~i)~~ Encourage the Federal Highway Administration (FHWA) to utilize the Regional Transportation Plan (RTP) as a long-range planning and vision document rather than a detailed 30-year financial plan;
- ~~j)~~ Support shifting the approval of RTP amendments involving Transportation Control Measures from the Environmental Protection Agency back to the FHWA while allowing for an adequate consultation process;
- ~~k)~~ Support flexibility and increased local decision-making authority regarding the operation of high-occupancy vehicle (HOV) lanes in order to reduce or eliminate the unintended consequences resulting from Section 166 of the Federal Highway Act or any similar policy regulating degradation of HOV lanes;
- ~~l)~~ Encourage cooperation between state and federal partners to mitigate or eliminate any policy that requires direct actions within 180 days of realized degradation on federally-funded highways;
- ~~m)~~ Support streamlining of Federal Buy America requirements to increase certainty while also advocating for greater flexibility in their application.

#### IV. FISCAL REFORMS AND ISSUES

Several legislative and regulatory proposals would have economic impacts, both positive and negative, affecting the delivery of transportation infrastructure projects that create jobs and spur further business development in Orange County. Regarding these developments, OCTA will:

- a) Oppose legislation and regulations that would divert revenues generated by locally-approved sales taxes to programs and projects that are not included in the sales tax ordinance;
- b) Support removing barriers to the release of transportation funding, including allowing local agencies to advance projects with local funds in order to limit lengthy amendment processes that delay project delivery;
- c) Support expansion, *streamlining*, and further development of innovative project finance methods, including the Transportation Infrastructure Finance and Innovation Act loan program;
- d) Support fiscally-sound legislation that adequately addresses the ~~Highway Trust Fund~~ *HTF's* structural deficit, including initiatives to address the impact of low- and zero-emission vehicles on transportation funding;
- e) ~~Support Seek methods to ensure~~ the equitable collection and distribution of sales tax revenue from out-of-state, online retailers (*South Dakota v. Wayfair, Inc.*);
- f) Support tax policies that reduce costs or provide additional flexibility in OCTA's financial and operational activities;
- g) Support legislation or regulations that expedite the delivery of transportation improvements or the development of business opportunities in order to create jobs and economic activity in Southern California.

#### V. RAIL PROGRAMS

Metrolink is Southern California's commuter rail system that links residential communities to employment and activity centers. Orange County is served by three Metrolink lines: the Orange County line, the Inland Empire-Orange County Line, and the 91/Perris Valley Line. OCTA owns 48 miles of rail right-of-way in Orange County on which Metrolink operates. OCTA's rail capital budget supports improvements to the regional commuter rail system in Orange County, and under existing policy, OCTA is the primary construction lead on major capital improvements to the regional commuter rail system on its right-of-way.

In addition to Metrolink services, Orange County is also served by the state-supported Pacific Surfliner intercity passenger rail service traveling between San Luis Obispo and San Diego. The Pacific Surfliner is operated by Amtrak and managed by the Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency (LOSSAN Agency). OCTA has served as the managing agency for the LOSSAN Agency since 2013 and assumed full administrative and management responsibility for Pacific Surfliner service in June 2015 via an interagency transfer agreement with the State of California. OCTA continues to serve in this capacity, providing all necessary administrative support to the LOSSAN Agency.

Other rail systems could also travel through Orange County at some point in the future, including additional intercity rail service. OCTA will continue to monitor the development of additional service to ensure that it does not adversely affect other transportation funding sources. Other rail policy priorities include the following:

- a) Support funding for rail safety programs, including funding for implementation, ~~and operation, and maintenance~~ of Positive Train Control (PTC) safety technology and other safety enhancements;
- ~~b) Support ongoing PTC implementation efforts that allow for adequate consideration of technological, fiscal, and logistical challenges;~~
- be) Support efforts to ensure that any alternative safety technology is interoperable with, and contains the same safety benefits as, the PTC system implemented on passenger rail corridors in Southern California;
- cd) Support the availability of technical resources, such as wireless spectrum, to fully implement rail safety technology;
- ~~de) Oppose increasing the current rail passenger liability cap of \$295 million per incident and work with regional partners to ensure that any changes to the cap take into account the limited resources of passenger rail providers.~~

## VI. GOODS MOVEMENT

The twin Ports of Los Angeles and Long Beach are considered “America’s Gateway” and the nation’s busiest ports, ~~handling more than \$180 billion dollars’ worth of cargo each year.~~ The maintenance and improvement of our region’s goods movement infrastructure must continue to be a national priority if our region is to remain competitive with the rest of the world and responsive to the consumer needs of ~~the nearly 18 million people living in~~ Southern California. The need for the Southern California region to remain competitive is further underscored by the expansion and modernization efforts of foreign competitors. Even though the FAST Act provided \$10 ~~billion dedicated funding~~ for goods movement projects and programs, revenue streams remain insufficient to fund the projects needed to offset the costs of moving

these goods considering the many years of underinvestment. OCTA's advocacy efforts regarding goods movement will continue to emphasize the following:

- a) Pursue new, stable, dedicated, and secure sources of funding for goods movement infrastructure;
- b) Ensure that the benefits of newly-funded projects also take into account mitigation factors to impacted communities;
- c) Support a collaborative approach, including engaging with private sector partners, in developing and implementing the needed sustainable goods movement infrastructure programs and projects;
- d) Support regionally-significant grade separation projects that improve the flow of goods and people throughout Southern California;
- e) Support local control of goods movement infrastructure and freight mobility projects.

## **VII. TRANSPORTATION SECURITY AND EMERGENCY PREPAREDNESS**

OCTA continues cooperative efforts with neighboring transit agencies, Urban Area Security Initiative partners, state and federal Homeland Security and Emergency Preparedness grant partners, and local jurisdictions to enhance the security and resiliency of Orange County's transportation system. OCTA will pursue the following priorities to ensure that the agency's safety, security, and emergency preparedness needs are met:

- a) Support increased funding for staff training, increased surveillance, and emergency preparedness improvements with adequate flexibility to ensure that local agencies can effectively use the resources to ensure a more resilient transportation system;
- b) Support a funding distribution that considers all risk threats, including natural disasters, acts of terrorism, and other man-made disasters, as estimated by the Department of Homeland Security, in cooperation with state and local officials;
- c) Support programs that facilitate cooperation with security and emergency preparedness officials to refine and improve information exchange protocols, emergency preparedness systems, and regional data coordination.
- d) Support efforts to provide funding incentives and policy flexibility to facilitate programs to provide safe working conditions for coach operators and transit personnel.

## **VIII. ENVIRONMENTAL AND ENERGY ISSUES**

~~The transportation sector is one of the largest consumers of petroleum in the nation. Federal environmental policies affecting OCTA include the National Environmental Protection Act, the Clean Air Act, the Clean Water Act, and the Endangered Species Act. Therefore, legislation or regulations to further develop environmental goals and energy-efficient policies will likely have an impact on OCTA's operations. With such proposals in mind, OCTA will:~~

- ~~a) Monitor legislation and rulemakings that address new or emerging energy policies;~~
- ~~b) Encourage industry associations to comment on proposals affecting the public transportation sector;~~
- a) *Seek opportunities to expedite and improve the efficiency of the environmental process without impairing substantive environmental requirements; (moved from what was Section IX)*
- b) *Seek funding to meet state and local environmental quality requirements, including requirements for zero-emission buses, alternative fueling stations, and future greenhouse gas reduction requirements; (moved from what was Section IX)*
- c) *Support the continuation and expansion of tax incentives for using compressed natural gas, hydrogen-liquefied natural gas, and other alternative zero-emission transit fuels;*
- ~~d) Provide reports to the Board outlining any energy-related legislation introduced in the 116<sup>th</sup> Congress potentially affecting OCTA.~~
- d) *Monitor proposals to address the environmental impacts of greenhouse gases to ensure that any new environmental requirements are accompanied by additional funding necessary to implement those requirements; (moved from what was Section IX)*
- e) *Support expedited review for project development, right-of-way acquisition, and construction activities. (moved from what was Section IX)*

## **~~IX. ENVIRONMENTAL POLICY~~**

~~Federal environmental policies affecting OCTA include the National Environmental Protection Act, the Clean Air Act, the Clean Water Act, and the Endangered Species Act. With regard to these policies, OCTA will:~~

- a) ~~Seek opportunities to expedite and improve the efficiency of the environmental process without impairing substantive environmental requirements; (moved to Section X)~~
- b) ~~Seek funding to meet state and local environmental quality requirements, including anticipated requirements for zero-emission buses, alternative fueling stations, and future greenhouse gas reduction requirements; (moved to Section X)~~
- c) ~~Monitor proposals to address the environmental impacts of greenhouse gases to ensure that any new environmental requirements are accompanied by additional funding necessary to implement those requirements; (moved to Section X)~~
- d) ~~Support expedited review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities. (moved to Section X)~~

## **~~IX.~~ REGULATORY REQUIREMENTS**

OCTA must also monitor several other administrative requirements, including new and expanded regulatory definitions that may affect the agency's operations. As such, OCTA will:

- a) Oppose regulatory efforts to extend the statutory requirements of the Americans with Disabilities Act;
- b) Support expedited and improved federal reporting and monitoring requirements to ensure efficiency and usefulness of data while also eliminating redundant state and federal requirements;
- c) Oppose regulatory proposals that unreasonably subject OCTA to burdensome bureaucratic requirements or increase operational costs, making it harder to deliver projects and improve mobility in Orange County.

## **~~XI.~~ EMPLOYMENT ISSUES**

~~Federal employment laws affecting OCTA include the Fair Labor Standards Act, Family and Medical Leave Act, Occupational Safety and Health Act, and the Omnibus Transportation Employee Testing Act of 1991. OCTA's historical positions regarding labor and employment issues have included:~~

- a) ~~Support tax incentives for employer-provided transit passes, vanpool benefits, parking spaces, or other commuter benefits; (moved to "Key Policy Issues in the 117<sup>th</sup> Congress Section)~~

- ~~d~~b) Oppose policies adversely affecting the agency's ability to effectively address labor relations, employee rights, benefits, and working conditions, such as health, safety, and ergonomic standards;
- e~~e~~) Oppose policies that limit state or local pension benefit reforms.



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** *RW*  
Laurena Weinert, Clerk of the Board  
**Subject:** Agreement for Locker Room Expansion at Santa Ana Bus Base Maintenance Building

### Transit Committee Meeting of October 8, 2020

**Present:** Directors Davies, Do, Jones, Pulido, Shaw, and Sidhu  
**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 5-0 by the Members present.

Director Pulido was not present to vote on this item.

### **Committee Recommendation**

Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2467 between the Orange County Transportation Authority and Thomco Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$339,123, for locker room expansion at the Santa Ana Bus Base maintenance building.



**October 8, 2020**

**To:** Transit Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Agreement for Locker Room Expansion at Santa Ana Bus Base Maintenance Building

### **Overview**

The Orange County Transportation Authority's Santa Ana Bus Base requires modifications to the maintenance building locker rooms. An invitation for bids was issued on August 5, 2020. Bids were received in accordance with Board of Directors-approved procedures for public works projects. Board of Directors' approval is requested to execute the agreement.

### **Recommendation**

Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2467 between the Orange County Transportation Authority and Thomco Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$339,123, for locker room expansion at the Santa Ana Bus Base maintenance building.

### **Discussion**

The Orange County Transportation Authority (OCTA) completed construction of the Santa Ana Bus Base in 2005. In support of operations, the maintenance building contains two locker rooms for bus maintenance staff, with one locker room each for women and men. The space provided for the men's locker room is undersized for maintenance employees, resulting in inadequate space, locker size, and quantity. Facility modifications are needed to expand the size of the locker room footprint using adjacent, underutilized space. The project scope includes minor demolition, framing a new locker room adjacent to the existing men's locker room, installation of lockers, benches, lighting, ventilation, fire protection appurtenances, finishes, and related work. The locker room expansion will increase efficiency and provide an improved work environment for bus maintenance staff.

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***Procurement Approach***

This procurement was handled in accordance with OCTA's Board of Directors-approved procedures for public works projects. These procedures, which conform to both state and federal requirements, require that contracts are awarded to the lowest responsive, responsible bidder after a sealed bidding process.

Invitation for Bids (IFB) 0-2467 was electronically released on August 5, 2020, through OCTA's CAMM NET system. The project was advertised on August 5 and 12, 2020, in a newspaper of general circulation. A pre-bid conference was held on August 11, 2020, and was attended by 14 firms. Three addenda were issued to provide the pre-bid conference registration sheets and handle administrative issues related to the IFB. On September 3, 2020, 11 bids were received and publicly opened.

All bids were reviewed by staff from both the Contracts Administration and Materials Management and Facilities Engineering departments to ensure compliance with the contract terms and conditions, and technical specifications. The list of bidders and bid amounts is presented below:

<u>Firm and Location</u>	<u>Bid Amount</u>
Thomco Construction, Inc. Anaheim, California	\$339,123
A2Z Construct, Inc. Rancho Santa Margarita, California	\$340,000
Golden Gate Steel, Inc., dba Golden Gate Construction Norwalk, California	\$362,560
Reed Family Enterprises, Inc. Temecula, California	\$378,833
Corner Keystone Construction Corporation Walnut, California	\$383,870
Model Builders, Inc. Westminster, California	\$398,765

R. Dependable Construction, Inc. San Bernardino, California	\$520,000
Horizons Construction Company International, Inc. Orange, California	\$527,724
Kazoni Inc. dba Kazoni Construction Costa Mesa, California	\$534,142
Fast-Track Construction Corporation Culver City, California	\$545,000
Two Brothers Construction Corporation Buena Park, California	\$548,000

The engineer's estimate for this project was \$400,000. The recommended firm's bid is 15 percent below the engineer's estimate and is considered by staff to be fair and reasonable.

State law requires award to the lowest responsive, responsible bidder. As such, staff recommends award to Thomco Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$339,123, for the locker room expansion at the Santa Ana Bus Base maintenance building.

#### **Fiscal Impact**

The project was approved in OCTA's Fiscal Year 2020-21 Budget, Capital Programs Division, Account 1722-9022-D3126-00G, and is funded through Local Transportation Funds.

#### **Summary**

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2467 between the Orange County Transportation Authority and Thomco Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$339,123, for the locker room expansion at the Santa Ana Bus Base maintenance building.

***Attachment***

None.

**Prepared by:**



George Olivo, P.E.  
Program Manager  
(714) 560-5872



Pia Veasapen  
Interim Director, Contracts  
Administration and Materials  
Management  
(714) 560-5623

**Approved by:**



James G. Beil, P.E.  
Executive Director, Capital Programs  
(714) 560-5646



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** *RW*  
Laurena Weinert, Clerk of the Board

**Subject:** Agreement for Replacement of Light Poles and Luminaires at Golden West Transportation Center

### Transit Committee Meeting of October 8, 2020

**Present:** Directors Davies, Do, Jones, Pulido, Shaw, and Sidhu  
**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 5-0 by the Members present.

Director Pulido was not present to vote on this item.

### **Committee Recommendations**

- A. Find KDC, Inc., dba Dynalectric, the apparent low bidder and Elecnor Belco Electric, Inc., the apparent second low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2363 between the Orange County Transportation Authority and Crosstown Electrical & Data, Inc., the lowest responsive, responsible bidder, in the amount of \$223,789, for the replacement of light poles and luminaires at the Golden West Transportation Center.



**October 8, 2020**

**To:** Transit Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Agreement for Replacement of Light Poles and Luminaires at Golden West Transportation Center

### **Overview**

The Golden West Transportation Center requires the replacement of light poles and luminaires in order to maintain a safe environment and state of good repair. An invitation for bids was released on July 22, 2020. Bids were received in accordance with Board of Directors-approved procedures for public works projects. Board of Directors' approval is requested to execute the necessary agreement.

### **Recommendations**

- A. Find KDC, Inc., dba Dynalectric, the apparent low bidder and Elecnor Belco Electric, Inc., the apparent second low bidder, as non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2363 between the Orange County Transportation Authority and Crosstown Electrical & Data, Inc., the lowest responsive, responsible bidder, in the amount of \$223,789, for the replacement of light poles and luminaires at the Golden West Transportation Center.

### **Discussion**

The Orange County Transportation Authority (OCTA) completed construction of the Golden West Transportation Center (GWTC) in 1994. Each of the light poles originally installed at the GWTC is beyond its useful life and requires replacement. The project will replace the original parking lot and bus dock platform safety lighting poles and luminaires, and related work, including required phasing, traffic control, and safety compliance in the active transportation center environment. The project is needed for public safety, state

of good repair compliance, and will increase energy efficiency with use of light emitting diode (LED) luminaires.

***Procurement Approach***

This procurement was handled in accordance with OCTA's Board of Directors-approved procedures for public works projects. These procedures, which conform to both state and federal requirements, require that contracts are awarded to the lowest responsive, responsible bidder after a sealed bidding process.

Invitation for Bids (IFB) 0-2363 was electronically released on July 22, 2020, through OCTA's CAMM NET system. The project was advertised on July 22 and 27, 2020, in a newspaper of general circulation. A pre-bid conference was held on July 28, 2020 and was attended by six firms. Four addenda were issued to provide the pre-bid conference registration sheets and handle administrative issues related to the IFB. On August 19, 2020, ten bids were received and publicly opened.

All bids were reviewed by staff from both the Contracts Administration and Materials Management and Facilities Engineering departments to ensure compliance with the contract terms and conditions, and technical specifications. The list of bidders and bid amounts is presented below:

<u>Firm and Location</u>	<u>Bid Amount</u>
KDC, Inc., dba Dynalectric Los Alamitos, California	\$190,855
Elecnor Belco Electric, Inc. Chino, California	\$195,229
Crosstown Electrical & Data, Inc. Irwindale, California	\$223,789
RMF Contracting, Inc., dba R&M Electrical Contracting Lake Forest, California	\$228,364
AMTEK Construction Orange, California	\$323,333
Comet Electric, Inc. Chatsworth, California	\$357,800

A2Z Construct, Inc. Rancho Santa Margarita, California	\$370,000
California Professional Engineering, Inc. La Puente, California	\$397,800
Baker Electric, Inc. Escondido, California	\$404,000
PUB Construction, Inc. Diamond Bar, California	\$438,000

KDC, Inc., dba Dynalectric and Elecnor Belco Electric, Inc., were deemed non-responsive for failure to meet the federal requirement for Disadvantaged Business Enterprise participation or demonstrate sufficient good faith efforts as required by the bid instructions and regulations from the United States Department of Transportation, which is providing funding for this project.

State law requires award to the lowest responsive, responsible bidder. As such, staff recommends award to Crosstown Electrical & Data, Inc., the lowest, responsive, responsible bidder, in the amount of \$223,789, for the replacement of light poles and luminaires at the GWTC.

The engineer's estimate for this project was \$400,000. The recommended firm's bid is 44 percent below the engineer's estimate. The bid analysis determined the engineer's estimate for material costs and overhead was higher, resulting in the variance. The Disadvantaged Business Enterprise participation commitment form shows \$84,240 for lighting materials, while the engineer's estimate was \$142,874, which is a difference of \$58,624. The firm included minimal overhead in its bid and appears to be absorbing the project overhead under its overall company business operations. The firm allocated \$10,000 to mobilization, whereas the engineer's estimate included \$33,000 for mobilization. Similarly, the firm allocated minimal costs for general conditions, making the overall bid price to engineer's estimate variance. The bidder is a general engineering and electrical contractor licensed and in business for over 20 years. Reference checks received from the California Department of Transportation noted successful delivery of work on similar projects. The bidder indicated that it will be self-performing the work, which accounts for aggressive pricing by the bidder due to no subcontractor markups. The bid includes all the required work components and has been determined to be fair and reasonable. Crosstown Electrical & Data, Inc., met the requirements of the IFB, as well as all federal and state requirements.

**Fiscal Impact**

The project was approved in OCTA's Fiscal Year 2020-21 Budget, Capital Programs Division, Account 1722-9022-D3118-0M6, and is funded through Federal Transit Administration Section 5337 State of Good Repair Grant Funds, Revenue Code 0030-6041-D3118-MJK.

**Summary**

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-0-2363 to Crosstown Electrical & Data, Inc. in the amount of \$223,789, for the replacement of light poles and luminaires at the Golden West Transportation Center.

**Attachment**

None.

**Prepared by:**



George Olivo, P.E.  
Program Manager  
(714) 560-5872



Pia Veasapen  
Interim Director, Contracts  
Administration and Materials  
Management  
(714) 560-5619

**Approved by:**



James G. Beil, P.E.  
Executive Director, Capital Programs  
(714) 560-5646



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Laurena Weinert, Clerk of the Board

**Subject:** State Transit Assistance Fund and SB 1 (Chapter 5, Statutes of 2017)  
State of Good Repair Claims for Fiscal Year 2020-21

### Finance and Administration Committee Meeting of October 14, 2020

**Present:** Directors Do, Hennessey, Hernandez, Jones, Muller, R. Murphy, and Steel

**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 7-0 by the Members present.

### **Committee Recommendations**

- A. Adopt Resolution No. 2020-281 to authorize the filing of State Transit Assistance Fund claims, in the amount of \$22,592,552, or up to the actual allocation published by the State Controller's Office, to support public transportation.
- B. Authorize the filing of SB 1 State of Good Repair claims, in the amount of \$6,426,478, or up to the actual allocation published by the State Controller's Office, to help sustain and upgrade the Orange County Transportation Authority's bus system.



**October 14, 2020**

**To:** Finance and Administration Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** State Transit Assistance Fund and SB 1 (Chapter 5, Statutes of 2017) State of Good Repair Claims for Fiscal Year 2020-21

### **Overview**

The Orange County Transit District is eligible to receive funding from the State Transit Assistance Fund for providing public transportation services throughout Orange County. In order to receive these funds, the Orange County Transit District, as the public transit and community transit services operator, must file claims with the Orange County Transportation Authority, the transportation planning agency for Orange County.

The Orange County Transportation Authority is also eligible to receive funding from the SB 1 State of Good Repair Program that is funded by the Transportation Improvement Fee on vehicle registrations. Funding recommendations for fiscal year 2020-21 were approved by the Board of Directors on August 24, 2020. Upon approval of the statewide list of fiscal year 2020-21 projects by the California Department of Transportation, the Orange County Transportation Authority must file claims on a quarterly basis to receive the funding.

### **Recommendations**

- A. Adopt Resolution No. 2020-281 to authorize the filing of State Transit Assistance Fund claims, in the amount of \$22,592,552, or up to the actual allocation published by the State Controller's Office, to support public transportation.
- B. Authorize the filing of SB 1 State of Good Repair claims, in the amount of \$6,426,478, or up to the actual allocation published by the State Controller's Office, to help sustain and upgrade the Orange County Transportation Authority's bus system.

### ***Background***

#### **State Transit Assistance Fund (STAF)**

The Transportation Development Act (TDA) of 1971 established a funding source dedicated to transportation projects. The funding source consists of two parts: the Local Transportation Fund, which is derived from 1/4 cent of the general sales tax collected statewide, and the STAF, which is generated from the statewide sales tax on diesel.

STAF revenues are distributed by the State Controller's Office (SCO) on a quarterly basis based on the amount of the appropriation approved in the state budget. Estimates are typically provided in January, with revised estimates provided in August of each year. In Orange County, the STAF funds are administered by the Orange County Auditor-Controller.

#### **State of Good Repair (SGR)**

The SGR Program is funded by a portion of the Transportation Improvement Fee on vehicle registrations. The SCO annually publishes estimates of SGR funding levels in January, with revised estimates provided in August of each year. SGR funds are expected to be allocated quarterly beginning November 2020, upon receipt of the approved recipients from the California Department of Transportation and filing of claims by the Orange County Transportation Authority (OCTA).

### ***Discussion***

#### **STAF**

The Orange County Transit District (OCTD) is required to file a claim with OCTA to receive its STAF allocation for providing public transportation services. OCTA has acknowledged that OCTD has met the required findings as per California Code of Regulations 6754, in order to be eligible to receive STAF funding. AB 90 (Chapter 17, Statutes of 2019) amended the TDA providing transit operators temporary exemption from meeting efficiency standards for fiscal year (FY) 2020-21 and FY 2021-22. This relief is provided considering higher than usual cost of transit services and decline in fare revenues due to the coronavirus. For these two FYs, OCTA can use STAF for capital and operating purposes without demonstrating the eligibility standards.

In August 2020, the SCO determined that OCTA would receive \$22,592,552 of STAF for FY 2020-21. OCTD will utilize STAF revenues of \$12,555,539 to fund ongoing capital requirements and \$10,037,013, to fund operations of the bus program. These amounts may change based on actuals reported by the SCO.

#### **SGR**

In August 2020, the SCO determined that OCTA would receive \$6,426,478 of SGR for FY 2020-21. On August 24, 2020, the OCTA Board of Directors (Board) approved the SB1 SGR Program recommendations for FY 2020-21. The funding recommendations included \$0.574 million for the Power Generator Replacement Project at the Anaheim and Irvine Construction Circle bus bases. The remaining funds will be used to support modifications, upgrades, and the replacement of OCTA's existing bus bases and transit facilities. Funds would be utilized for projects, such as, but not limited to, electrical, fire alarm and elevator upgrades, generators, heating ventilation, air conditioning, roof and concrete replacements, lighting and facility modifications, as well as the future construction of transit security operations center.

SCO is anticipated to begin releasing FY 2020-21 funds to transit agencies, beginning November 2020. OCTA will then be able to submit claims to receive these funds on a quarterly basis.

#### **Summary**

The STAF provides funding to the OCTD for public transit services. In order to receive these funds, OCTD must file the appropriate STAF claims with OCTA. Staff recommends the Board to adopt Resolution No. 2020-281 to file these claims.

The SGR Program provides funding for transit capital projects or services to maintain or repair a transit operator's existing transit vehicle fleet or transit facilities that improve existing transit services, and transit services that complement local efforts. Staff recommends the Board to authorize filing of claims to receive SGR funds.

***Attachment***

- A. Resolution 2020-281 of the Orange County Transit District, Authorizing the Filing of State Transit Assistance Fund Claims

**Prepared by:**

A handwritten signature in blue ink, appearing to read "S. Kaur".

Sam Kaur  
Department Manager,  
Revenue Administration  
(714) 560-5889

**Approved by:**

A handwritten signature in blue ink, appearing to read "A. Oftelie".

Andrew Oftelie  
Chief Financial Officer,  
Finance and Administration  
(714) 560-5649

**RESOLUTION 2020-281 OF THE  
ORANGE COUNTY TRANSIT DISTRICT**

**AUTHORIZING THE FILING OF  
STATE TRANSIT ASSISTANCE FUND CLAIMS**

**WHEREAS**, the Orange County Transportation Fund was created by the Transportation Development Act (SB 325:1971) to aid in meeting the public transportation and community transit needs that exist in Orange County; and

**WHEREAS**, the Orange County Transit District is submitting transportation claims for funds from the Orange County Transportation Fund; and

**WHEREAS**, the Orange County Transportation Authority has the authority to review claims and allocate such funds in accordance with the California Code of Regulations and the California Transportation Development Act.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Orange County Transit District hereby requests the Orange County Transportation Authority, in connection to all findings in California Code of Regulations 6754, allocate funds to the Orange County Transit District for the purpose of providing the support of a public transportation system as described under Article 6.5 of the California Transportation Development Act.

**BE IT FURTHER RESOLVED** that the Orange County Transit District agrees to provide the Orange County Transportation Authority with such information as may be necessary to support these transportation claims.

ADOPTED, SIGNED AND APPROVED this 26th day of October, 2020.

AYES:

NOES:

ABSENT:

ATTEST:

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Laurena Weinert  
Clerk of the Board


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Steve Jones, Chairman  
Orange County Transit District



**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Darrell E. Johnson, Chief Executive Officer 

**Subject:** Approval to Release Request for Proposals for Preliminary Engineering and Environmental Services for the Irvine Station Improvements Project

### **Overview**

The Orange County Transportation Authority has developed a request for proposals to initiate a competitive procurement process to retain consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project.

### **Recommendations**

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 0-2604 for consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project.
- B. Approve the release of Request for Proposals 0-2604 for consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project.

### **Discussion**

The Orange County Transportation Authority (OCTA), in coordination with the Southern California Regional Rail Authority (SCRRA), proposes the Irvine Station Improvements Project (Project). Improvements include reconfiguring the Irvine Station (Station) with additional rail infrastructure to support future expansion of passenger service as part of SCRRA's Southern California Optimized Rail Expansion (SCORE) Program. The Project Definition Report (PDR) was completed in June 2019 by SCRRA, and the Project is ready to advance into the environmental phase. A multidisciplinary firm is needed to complete the environmental phase that includes the preparation of preliminary engineering and environmental documentation.

The Station is served by both commuter and intercity passenger rail services through Metrolink's Orange County (OC) and Inland Empire-OC lines, as well as Amtrak's Pacific Surfliner. The railroad corridor south of Laguna Niguel is generally constrained by the availability of the railroad right-of-way; therefore, the service growth envisioned in the SCORE Program is north of the Laguna Niguel/Mission Viejo Station. The Station will serve as a transfer point between Pacific Surfliner trains running to/from San Diego and local Metrolink trains running to/from Los Angeles or the Inland Empire. The Project improvements identified in the PDR include the addition of third and fourth tracks between Milepost (MP) 184 and MP 186.7 (approximately 2.7 miles), and station reconfiguration to allow for better-timed transfers and improve accessibility. The existing configuration at the Station, with two main tracks and side platforms, provides limited capacity due to the depth of the platforms and right-of-way constraints that prevent expanding them and does not allow for operating more passenger trains in and out of the Station with more frequent headways.

The Project requires a cooperative agreement between OCTA and SCRRA to define roles, responsibilities, and funding for the preliminary engineering and environmental phase. OCTA is the lead on the preliminary engineering and environmental phase and will coordinate this work with SCRRA and the City of Irvine. OCTA staff is working with SCRRA to finalize the draft cooperative agreement for the Project, which is anticipated to be provided to the Board for approval by February 2021.

### ***Procurement Approach***

OCTA Board of Directors (Board)-approved procurement policies and procedures require Board approval for all requests for proposals (RFP) over \$1,000,000, as well as approval for the evaluation criteria and weightings. Staff is submitting the draft RFP and evaluation criteria and weightings for Board approval, which will be used to evaluate proposals received in response to the RFP. The recommended evaluation criteria and weightings are as follows:

- |                                     |            |
|-------------------------------------|------------|
| • Qualifications of the Firm        | 20 percent |
| • Staffing and Project Organization | 40 percent |
| • Work Plan                         | 40 percent |

Several factors were considered in developing the criteria weightings. The qualifications of the firm was assigned a 20 percent weighting, as performing work of similar scope and size are important to the success of the Project. Staff assigned a high level of importance to staffing and project organization, as the

qualifications of the project manager and other key task leaders are important to the timely delivery of the Project. Work plan was also weighted equally high as the technical approach to the Project is critical to the successful delivery of the Project. As this is an architectural and engineering procurement, price is not an evaluation criterion pursuant to state and federal laws.

This RFP will be released upon Board approval of these recommendations.

#### **Fiscal Impact**

The Project was approved in OCTA's Fiscal Year 2020-21 Budget, Capital Programs Division, Account 0018-7519-TR215-0SV, and will be funded with Transit and Intercity Rail Capital Program grant funds granted by the California State Transportation Agency through SCRRA's SCORE Program.

#### **Summary**

Board of Directors' approval is requested to release Request for Proposals 0-2604 for consultant services for preliminary engineering and environmental services for the Irvine Station Improvements Project, as well as approval of the proposed evaluation criteria and weightings.

**Approval to Release Request for Proposals for Preliminary Engineering and Environmental Services for the Irvine Station Improvements Project**

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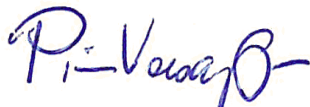
***Attachments***

- A. Project Location Map
- B. Draft Request for Proposals (RFP) 0-2604, Preliminary Engineering and Environmental Services for the Irvine Station Improvements Project

**Prepared by:**



Jason Lee  
Project Manager, Capital Programs  
(714) 560-5833



Pia Veasapen  
Interim Director, Contracts  
Administration and Materials  
Management  
(714) 560-5619

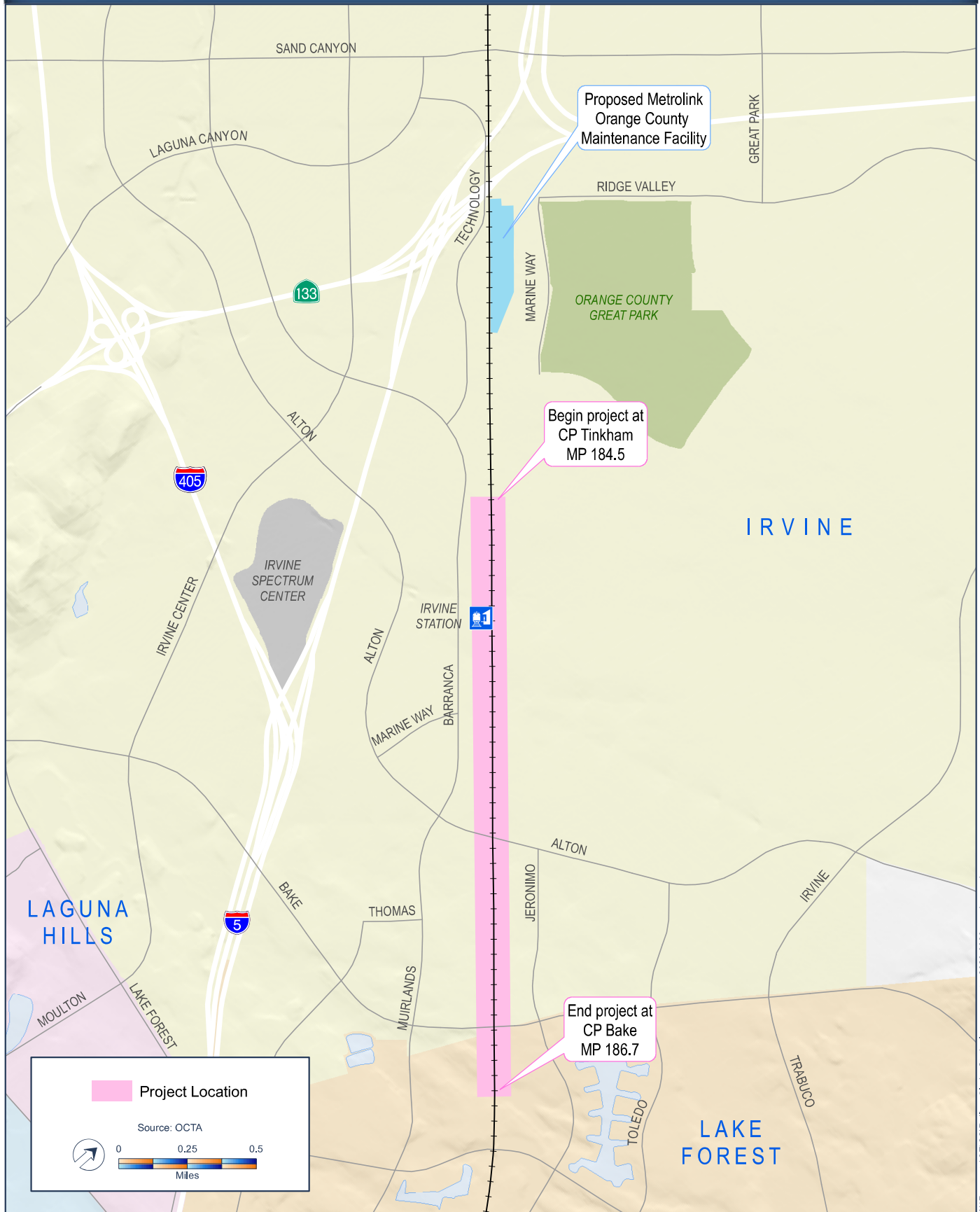
**Approved by:**



James G. Beil, PE  
Executive Director, Capital Programs  
(714) 560-5646



# Irvine Station Improvements Project (RFP 0-2604)



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**DRAFT REQUEST FOR PROPOSALS (RFP) 0-2604**

# **PRELIMINARY ENGINEERING AND ENVIRONMENTAL SERVICES FOR THE IRVINE STATION IMPROVEMENTS PROJECT**



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

## **Key RFP Dates**

<b>Issue Date:</b>	<b>October 26, 2020</b>
<b>Pre-Proposal Conference Date:</b>	<b>November 9, 2020</b>
<b>Question Submittal Date:</b>	<b>November 12, 2020</b>
<b>Proposal Submittal Date:</b>	<b>December 1, 2020</b>
<b>Interview Date:</b>	<b>January 18, 2021</b>

**TRANSIT AND INTERCITY RAIL CAPITAL FUNDS**

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October 26, 2020

**NOTICE OF REQUEST FOR PROPOSALS**

**(RFP): 0-2604: "PRELIMINARY ENGINEERING AND ENVIRONMENTAL SERVICES FOR THE IRVINE STATION IMPROVEMENTS PROJECT"**

**TO: ALL OFFERORS**

**FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY**

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants for Preliminary Engineering and Environmental Services for the Irvine Station Improvements Project.

**Proposals must be received in the Authority's office at or before 2:00 p.m. on December 1, 2020.**

**To prevent potential conflicts of interest the prime Consultant and all subconsultants (at any tier), who have overseen or are overseeing engineering, technical services and/or construction-related work for projects on behalf of Authority's regional rail programs are precluded from participating in the RFP.**

The Authority has made the following documents available on CAMMNET for review.

- Project Definition Report (PDR)
- Project Location Map

The Authority intends to award a single contract as a result of this procurement.

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). 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 Certification of Indirect Costs and Financial Management System", a copy of which is attached to this RFP as Exhibit F. As part of this certification, the prime and all subconsultants must show their financial system's ability to segregate cost elements.

Proposals must be received in the Authority's office at or before **2:00 p.m. on December 1, 2020.**

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management  
600 South Main Street, (Lobby Receptionist)  
Orange, California 92868  
Attention: Marjorie Morris Threats, Senior Contract Administration**

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management  
P.O. Box 14184  
Orange, California 92863-1584  
Attention: Marjorie Morris Threats, Senior Contract Administration**

Proposals and amendments to proposals received after the date and time specified above will be returned to the Offerors unopened.

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 0-2604, 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:

Category:

Professional Consulting

Professional Services

Construction

Commodity:

Architectural & Engineering  
 Design Consulting  
 Consultant Services - General  
 Consultant Services - Transit  
 Planning  
 Consultant Services -  
 Transportation Planning  
 Buildings - Architectural Design  
 Engineering - Architectural  
 Engineering - Civil  
 Environmental - Architectural  
 General Construction -  
 Architectural  
 Land Development and  
 Planning - Architectural  
 Railroad; Rapid Transit;  
 Monorail - Architectural  
 Land Surveying  
 Engineering - Right of Way  
 Right of Way Services

A pre-proposal conference will be held on **November 9, 2020, at 1:00 p.m..** All prospective Offerors are encouraged to participate in the pre-proposal conference call-in using the following credentials:

- Call-in number: 714-558-5200 or 717-560-5666
- Conference ID: 424238

No on-site meeting will be held. 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.

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 **January 18, 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 **November 9, 2020**, at 1:00 p.m., attendance will be strictly limited to **attendance via tele-conference**. All prospective Offerors are encouraged to participate in the pre-proposal conference **via teleconference using the following credentials**:

- Call-in number: 714-558-5200 or 717-560-5666
- Conference ID: 424238

**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:

Marjorie Morris Threats, Senior Contract Administration  
Contracts Administration and Materials Management Department  
600 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584  
Phone: 714.560. 5552, Fax: 714.560.5792  
Email: mthreats@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 must be received by the Authority no later than 5:00 p.m., on **November 12, 2020**.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
  - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
  - (2) Personal Delivery: Contracts Administration and Materials Management Department, 600 South Main Street, Lobby Receptionist, Orange, California 92868.
  - (3) Facsimile: (714) 560-5792.
  - (4) Email: [mthreats@octa.net](mailto:mthreats@octa.net)

### **3. Authority Responses**

Responses from the Authority will be posted on CAMM NET, no later than **November 17, 2020**. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via U.S. Mail by

emailing or faxing the request to Marjorie Morris Threats, Senior Contract Administration.

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>	<u>Commodity:</u>
Professional Consulting	Architectural & Engineering Design Consulting Consultant Services - General Consultant Services - Transit Planning
Professional Services	Consultant Services - Transportation Planning Buildings - Architectural Design Engineering - Architectural Engineering - Civil Environmental - Architectural General Construction - Architectural
Construction	Land Development and Planning - Architectural Railroad; Rapid Transit; Monorail - Architectural Land Surveying Engineering - Right of Way Right of Way Services

Inquiries received after 5:00 p.m. on **November 12, 2020**, will not be responded to.

## **F. SUBMISSION OF PROPOSALS**

### **1. Date and Time**

Proposals must be received in the Authority's office at or before 2:00 p.m. on **December 1, 2020**.

Proposals received after the above-specified date and time will be returned to Offerors unopened.

### **2. Address**

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management (Camm)  
600 South Main Street, (Lobby Receptionist)  
Orange, California 92868  
Attention: Marjorie Morris Threats, Senior Contract Administration**

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management (Camm)  
P.O. Box 14184  
Orange, California 92863-1584  
Attention: Marjorie Morris Threats, Senior Contract Administration**

**3. Identification of Proposals**

Offeror shall submit an **original and 6 copies** of its proposal in a sealed package, addressed as shown above in F.2. The outer envelope must show the Offeror's name and address and clearly marked with RFP number. In addition to the above, **Proposers shall also include one (1) electronic copy of their entire RFP submittal package in "PDF" format, on a CD, DVD, or flash drive.**

**4. 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. 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. 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.

**M. 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.

**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. NONDISCRIMINATION**

The Authority hereby notifies all Offerors that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this

invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

**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 "Certification of Contract 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**

To prevent potential conflicts of interest the prime Consultant and all subconsultants (at any tier), who have overseen or are overseeing engineering, technical services and/or construction-related work for projects on behalf of Authority's regional rail programs are precluded from participating in the RFP.

**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 on 8 1/2" x 11" size paper, using a single method of fastening. 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 Marjorie Morris Threats, Senior Contract Administration 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 E, Public Records Act Indemnification – Proposal Documents, and submit it with the proposal. Failure to complete Exhibit E 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 E, 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. 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.

**4. 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.

**5. Certification of Contract Costs and Financial Management System  
"Exhibit 10-K"**

This exhibit entitled "Exhibit 10-K Certification of Contract Costs and Financial Management System (RFP Exhibit F) 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.

**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 January 18, 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 appropriate Transit Committee, the Offeror(s) with the highest ranking. The Transit 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 will be required to submit to an audit of its financial records to confirm its financial stability and the Offeror's accounting system.

**D. THE SELECTED OFFEROR WILL BE REQUIRED TO SUBMIT TO THE AUTHORITY'S ACCOUNTING DEPARTMENT A CURRENT IRS W-9 FORM PRIOR TO COMMENCING WORK.**

**E. 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**

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**SCOPE OF WORK**  
**Preliminary Engineering and Environmental Services for**  
**the Irvine Station Improvements Project**

Orange County Transportation Authority (AUTHORITY) in cooperation with the Southern California Regional Rail Authority (SCRRA) proposes to construct improvements at the Irvine Metrolink Station including trackwork between west of CP Tinkham at Milepost (MP) 184.0 and east of CP Bake at MP 186.9.

The Scope of Work (SOW) for the improvements includes anticipated work elements necessary for the various tasks related to the conceptual design, value engineering and project phasing determination, preliminary engineering (30% design) and environmental phase of the Irvine Station Improvements Project (PROJECT) as part of the SCRRA's Southern California Optimized Rail Expansion (SCORE) Program. The desired services shall be provided by what is herein referred to as the "The CONSULTANT" in the course of this consulting relationship shall work directly for the AUTHORITY which is serving as the lead agency for the improvements.

The PROJECT will be funded using local, state and/or potentially federal funds. Major project components of this SOW include the following:

**30% Preliminary Engineering of:**

- Trackwork
- Grading and drainage
- Structures (platforms, station canopies, pedestrian underpass, retaining walls, bridges and culverts)
- Civil improvements to facilitate new signals and relocation of signals including electrical service needs
- Modifications to the existing Irvine Station Park and Ride facility
- Landscape, irrigation, fencing, lighting and security
- Station electrical, mechanical, plumbing, and communications systems for new platforms (fare vending and passenger information signs) and pedestrian underpass
- Station shelters and other amenities including but not limited to seating, fare vending/validation, and passenger information systems

**Studies and Reports:**

- Alternatives Analysis Report
- Value Engineering Report
- Preliminary Drainage Report
- Draft Water Quality Management Plan
- Preliminary Geotechnical Exploration Plan, Geotechnical Design Report and Foundation Report
- Bridge and Retaining Wall Type Selection Report
- 30% Project Design Submittal Report
- Phase I Environmental Site Assessment Report
- Limited Phase II Environmental Site Assessment Report
- Aerial Mapping, Topographic Surveys and Design Surveys
- Construction Sequencing and Phasing Memorandum

- Design Exception(s) to SCRRRA Engineering Standards Memorandum
- Environmental technical studies/memoranda and documentation for California Environmental Quality Act (CEQA)
- Optional Task: Environmental documentation and agency support for National Environmental Policy Act (NEPA) clearance.

CONSULTANT shall utilize the documents identified below. 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 the use of the most recent version of all reference materials, including any addenda and errata.

- Southern California Regional Railroad Authority (SCRRRA) Engineering Standards (ES) and Standard Specifications
- SCRRRA Design Criteria Manual
- SCRRRA Design Procedures Manual
- SCRRRA CADD Standards
- SCRRRA Track Maintenance Manual
- FRA Track Safety Standards
- A Policy on Geometric Design of Highways and Streets (AASHTO 2011)
- California Public Utilities Commission (CPUC) General Orders Requirements
- California Regional Water Quality Control Board Requirements
- State of California Division of Occupational Safety and Health Safety Orders (Cal OSHA)
- Manual of Uniform Traffic Control Devices (MUTCD 2012)
- MUTCD California Supplement (2012)
- Standard Specifications for Public Works Construction (SSPWC)
- AUTHORITY Right of Way Manual
- Applicable Local Codes and Manuals
- Construction Best Management Practices (BMP's)
- American Railway Engineering and Maintenance-of-Way Association (AREMA) Recommended Practice
- CEQA and NEPA Handbooks
- Utility Agreement and Plans
- California Building Code (CBC) and Division of the State Architect (DSA) Access Compliance Reference Materials Provisions
- Uniform Building Code (UBC), including seismic requirements
- Americans with Disabilities Act (ADA)
- SCRRRA Excavation Support Guidelines
- SCRRRA Landscape Design Guidelines
- Project Definition Report – Orange Corridor Southern California Regional Rail Authority; Irvine Station and 4<sup>th</sup> Main Track (June 28, 2019)

CONSULTANT deliverables shall conform to the following:

- All electronic data produced and supporting the Preliminary Engineering/Environmental Document (PE/ED) shall be provided on electronic media (portable hard drive or an acceptable cloud drive) in PDF and native file formats consistent with AUTHORITY and SCRRRA requirements.

- All drafting shall be in conformance with the SCRRA CADD User's Manual and shall be delivered electronically in CADD file formatting.
- All railroad base mapping will utilize SCRRA stationing and record of survey data.

## **Project Background**

In January 2018, SCRRA issued a Preliminary Study Report (PSR) for SCRRA's SCORE program titled PSR: SCORE Integrated Services and Capital Investments that identified several improvements in the Inland Empire-Orange County (IEOC) Line and the Orange County Subdivisions. SCRRA was awarded a Transit and Intercity Rail Capital Program (TIRCP) grant from the California Transportation Commission (CTC) for the SCORE program. TIRCP receives funding from Senate Bill 1 and the Greenhouse Gas (GHG) Reduction Fund to support transformative capital improvements that have GHG emissions objectives. Funding from this grant will be used to support the implementation of SCRRA planned double track and general improvements along the Inland Empire-Orange County (IEOC) Line and Orange County Subdivisions to enable increased service.

The Irvine Station, also called Irvine Transportation Center, is located on the southwest end of the decommissioned Marine Corps Air Station El Toro. It is served by Amtrak California's Pacific Surfliner route, two SCRRA commuter rail lines, and multiple Orange County Transportation Authority bus routes. Considering that the Irvine Station is planned by SCRRA to be a main transfer station between rail lines, additional track and station improvements are proposed to increase operational flexibility at this location. The ultimate goals of the PROJECT are to provide a higher frequency Metrolink service to this station, achieve same-platform transfers between same-directional services among different lines with minimum speed impacts and timely transfers, and to provide operational flexibility for train movements through the station including a future direct connection to the future Orange County Maintenance Facility (OCMF). The Irvine Station improvements are programmed as part of Phase 1 of the SCORE program.

A Project Definition Report (PDR) was prepared by AECOM for SCRRA in June 2019 proposing several conceptual station alternatives. The PDR produced three (3) PROJECT alternatives:

Alternative 1A - four main tracks from CP Tinkham to CP Bake, signal improvements, two center station platforms, a new station pedestrian underpass to replace the existing pedestrian overpass, new bridges and modified drainage structures, retaining walls and the modification of the existing station park and ride facility.

Alternative 1B (part of a phased implementation of Alternative 1A) – three main tracks from CP Tinkham to CP Bake, one center station platform between MT3 and MT1, an extension of the existing side-boarding platform on existing MT2 track, a new bridge and modified drainage structures, retaining walls and modification of the existing pedestrian overpass for the new center platform.

Alternative 2 - four main tracks from CP Tinkham to CP Bake, signal improvements, two center station platforms, a new station pedestrian underpass to replace the existing pedestrian overpass, new bridges and modified drainage structures, retaining walls. All improvements will not impact the existing southerly right of way or the existing station park and ride facility.

Although Alternative 1A was selected as the preferred alternative by SCRRRA in the PDR, CONSULTANT shall evaluate the three PDR alternatives and other options or variations of the PROJECT to establish and document the single build alternative that will be adopted as the Preferred Alternative which will be used as a basis for Preliminary Engineering (30% Design) and environmental clearance phase of the PROJECT. As part of the evaluation, the CONSULTANT shall consider construction phasing of alternatives to minimize impacts to existing operations.

The AUTHORITY is currently advancing the PE/ED for an adjacent project, the Orange County Maintenance Facility (OCMF) on a 21.3 acre parcel located on the north side of the railroad corridor, to the south of the I-405/SR-133 interchange. CONSULTANT shall anticipate coordinating railroad operations and the limits of track improvements with the OCMF project as directed by AUTHORITY.

## **Task 1 – Administration and Management**

This task includes the Project management services including the requirements for meetings, schedules, cost control, quality management, progress reports, invoicing and administration of all CONSULTANT work.

**1.1 Project Management Plan:** The CONSULTANT shall provide a comprehensive plan for project management to communicate the scope of work, constraints, and technical requirements to all project participants. The plan shall include coordination strategies with appropriate agencies to ensure timely completion of preliminary engineering and environmental documentation. The plan shall also include an organization chart with description of participant responsibilities, a baseline schedule, and work breakdown structure that identifies the duration and completion of key project activities milestones. The budgeted hours and resource allocation for each task and subtask shall also be defined. The CONSULTANT shall submit a copy of the Project Management Plan (PMP) for this project within twenty (20) calendar days of receipt of Notice to Proceed (NTP). Elements of the PMP shall include:

- Project description and map
- Scope of Work and task listing
- Project organization with names of key staff/sub-consultants and their responsibilities
- Key staff directory
- Project controls including schedule and budget
- Document management procedures including electronic document filing index
- Applicable design standards and codes listing
- Applicable computer software
- Communications procedures
- Quality management procedures (reference Quality Management Plan)
- Risk Management procedures including a risk register

The PMP shall be distributed to each project participant at the start of the project and a kick-off meeting shall be held with project participants to review the plan requirements within thirty (30) calendar days of NTP.

- 1.2 Quality Management Plan:** The CONSULTANT shall submit to AUTHORITY for review and acceptance a Quality Management Plan (QMP) for this project within thirty (30) calendar days of receipt of NTP. The plan shall be developed in accordance with SCRRA's Design Quality Assurance Plan. All CONSULTANT team members shall receive training and acknowledge receipt of the QMP. In addition to AUTHORITY staff, City, SCRRA and its member agencies, consultants, and affected third parties may be requested to review deliverables submitted by the CONSULTANT during the course of the project. However, in no way shall review by these parties relieve the CONSULTANT's responsibility of maintaining quality control and quality assurance in accordance with AUTHORITY, the City and all applicable federal/state/local standards and procedures.
- 1.3 Project Safety Plan:** The CONSULTANT shall submit a project specific safety plan a minimum of 30 calendar days prior to any field visits or site survey/investigation work. The plan shall be developed in accordance with AUTHORITY's and SCRRA's established safety management practices and in particular, shall describe how the CONSULTANT will manage safety of its staff during the field work and site visits. CONSULTANT staff shall be Roadway Worker Protection (RWP) trained and certified to access the railroad right-of-way and shall maintain/renew the RWP certification throughout the duration of this contract. Please refer to AUTHORITY's and SCRRA's safety specifications, manuals, and guidelines.
- 1.4 Permit Applications:** The CONSULTANT shall prepare and submit encroachment permit applications, for surveying, geotechnical and utility investigations. Possible permits for this Project include:
- SCRRA and City of Irvine Encroachment Permit for surveying and utility potholing
- 1.5 Monthly Progress Status Reports and Schedule Updates:** The CONSULTANT shall prepare and submit an initial Project Master Schedule twenty (20) days following NTP. Upon approval by AUTHORITY, the schedule will become the Project Baseline Schedule. The following elements must be included by CONSULTANT in the Baseline Schedule:
- Work Items and deliverables identified in accordance with a Work Breakdown Structure (WBS) reflecting the requirements of this scope of work developed by CONSULTANT and approved by AUTHORITY;
  - Work items of agencies and third parties that may affect to be affected by CONSULTANT's activities;
  - Resource loading of work items in work hours to show effort required to perform the work. Resource loading shall be used to develop the planned curve;
  - The Project Master Schedule shall include all data necessary to represent the total Project and the critical path shall be clearly identified; and
  - The order, sequence and interdependence of significant work items shall be reflected in the Project Master Schedule.

The CONSULTANT shall prepare and submit monthly progress reports to the AUTHORITY Project Manager including updates on key milestones, project schedule, and percent complete detail for each task, particularly worked on during the reporting

period. The project progress and schedule updates shall be reported as Earned Value (percent complete) against the Baseline Schedule. The report will also describe anticipated activities to be undertaken in the next reporting period, and any new or changed, challenges or risks that may affect schedule, scope and budget. This report shall be received no later than the tenth (10<sup>th</sup>) calendar day of the month following the month being reported.

Should 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 the cause is found to be due to CONSULTANT performance, payment to CONSULTANT may be withheld pending the submittal of an action/recovery plan outlining the steps which will be taken to correct the identified delay(s).

***Deliverables:***

- Resource Loaded Project Master Schedule
- Monthly Progress Reports with Project Earned Value vs. Baseline Schedule updates

- 1.6 Project Development Team (PDT) meetings:** The CONSULTANT shall schedule, coordinate, and attend monthly PDT meetings. The CONSULTANT shall prepare meeting materials on design related issues discussed, including agendas, power point presentations, handouts, progress plans, meeting minutes and notations for specific or directed follow-up action items.

***Deliverables*** (One hard copy and an electronic PDF version of each):

- Project Management Plan
- Quality Management Plan
- Project Safety Plan
- Monthly Progress Reports
- PDT meeting materials and minutes

**Task 2 – Baseline Analysis**

- 2.1 Field Review of Project Site:** Upon issuance of the NTP and acceptance of the CONSULTANT'S Safety Plan, the CONSULTANT shall conduct a project site visit verifying and familiarizing themselves with the Project Definition Report and the conceptual engineering design. CONSULTANT shall provide a Technical Memo summarizing findings from the field review and identifying any potential errors or omissions in the PDR and accompanying survey data.

- 2.2 Surveys and Review of Existing Information:** The CONSULTANT will collect and review existing data and information relevant to this project, project location, and railroad segment. Potential sources for existing data include the City, AUTHORITY, PDR, and SCRRRA. CONSULTANT shall research existing utilities information from Dig Alert and coordinate utility data as applicable with the adjacent OCTA Orange County Maintenance Facility project and SCRRRA setout track project..

***Deliverables*** (An electronic PDF version):

- Baseline Analysis Technical Memo

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### Task 3 – Agency Coordination

- 3.1 Local/State Agencies:** The preliminary plans shall be developed in coordination with the SCRRA and City. Adherence to local standards will be required as applicable. Communications with SCRRA and City staff regarding design requirements and/or interpretation of standards shall be documented and submitted to the SCRRA and City for written concurrence. CONSULTANT shall coordinate modifications to the bus stops, stalls, road, and electric car chargers with the City and AUTHORITY. CONSULTANT shall closely coordinate utility relocation plans with the AUTHORITY and SCRRA before coordination with any utility owners.
- 3.2 SCRRA:** The CONSULTANT shall be required to maintain coordination and communication with SCRRA in addressing issues involving access to the railroad right of way, permits, safety considerations and training, design standards and practices, signal communications, positive train control (PTC), and other items of concern that arise during the design process. Communications with SCRRA on design requirements and/or interpretation of standards shall be documented and submitted to SCRRA for written concurrence. Where deviation from SCRRA Design Criteria and/or Standards are requested, a formal Request for Special Design Considerations (RFSDC) shall be filled out and approved by SCRRA. Verbal and email concurrence of any design variances from SCRRA Design Criteria and Standards shall not be considered official approval. All RFSDC's may not be approved at the 30% design phase. CONSULTANT shall maintained a proper log of all RFSDC's for the Project to ensure that all the RFSDC's discussed as part of the 30% design phase will be carried forward into the final design phase for continued discussion, modification, and approval or elimination of the RFSDC. Coordination with SCRRA on signals and communications shall be required during the preliminary engineering and environmental documents in so far that this work would affect the Project Description, site civil design and environmental analysis for the project. SCRRA shall be responsible for the final design of railroad signaling, communications, and PTC.
- 3.3 Orange County Flood Control District:** The CONSULTANT will coordinate with the Orange County Flood Control District (OCFCD) for the new bridge(s) over Borrego Wash (F20) and RCB modifications at Agua Chinon Channel (F18).
- 3.4 Meetings and correspondence:** In addition to regular monthly PDT meetings, the CONSULTANT may be required to attend issue specific focused coordination/technical meetings, as necessary (estimate up to 12 meetings), with the various agencies involved in this project. Coordination meetings/technical workshops with stakeholders shall be held to discuss issues pertinent to the analysis, design and effects of the Project. During these meetings, AUTHORITY, SCRRA, City, and other key stakeholders may provide directions for the development of the preliminary engineering and environmental documents. The CONSULTANT shall prepare meeting materials on technical issues for discussion, including agendas, power point presentations, handouts, progress plans, meeting minutes and notations for specific or directed follow-up action items. The printed format of meeting materials shall be appropriate to the purpose of the meeting and could include scaled black and with and/or color roll plots, 11" x 17" and/or 8.5" x 11" handouts and/or presentation boards.

**Deliverables** (One electronic PDF version of each):

- Coordination meeting/technical workshop materials
- Meeting minutes

**3.5 Presentations and Visuals:** AUTHORITY and the project management team shall lead community outreach activities; however, technical support and visual displays shall be required to support these activities. The CONSULTANT shall provide presentation materials (such as site plan drawings, underpass and shelter structure sections and elevations and general 3D renderings of the station improvements) as needed for presentations.

**Deliverables** (Five hard copies and one electronic PDF version)

- Site plans, building elevations and renderings.

#### Task 4 – Initial Engineering Studies

**4.1 Topographic Surveys:** The CONSULTANT shall be responsible for obtaining and verifying the required topographic survey necessary for this project. *It is noted that railroad survey data may be tied to a different coordinate system and must be reconciled by the CONSULTANT as appropriate including, but not limited to combining into SCRRA's Survey Network.* Please review and comply with the SCRRA Geodetic Control Survey Network. The CONSULTANT shall produce and provide 24" x 36" survey drawing(s) to include but not limited to at least two permanent Orange County benchmarks per the Orange County Surveyor's Office, existing right of ways, property lines, centerline stationing, point numbers, North & East coordinates, and elevations; and a TIN or DTM file. All survey data and TIN/DTM shall be given to AUTHORITY in hard copy and digital format, on separate sheets from the preliminary design plans.

4.1.1 The CONSULTANT shall provide high-accuracy ground control for design level photogrammetry. Mapping prepared for SCRRA shall be in conformance with National Map Accuracy Standards (NMAS). The SCRRA geodetic control network is based upon NAD 83 and NSRA and all geodetic surveying work performed for SCRRA shall adhere to this datum. The vertical datum for SCRRA projects shall be GEOID12A, as established by National Geodetic Survey (NGS). Aerial mapping and photogrammetry shall meet all the requirements shown on SCRRA Design Criteria Manual Section 20.0, Right-of-Way Mapping and Surveying. The aerial photography will include the Irvine Metrolink Station and 1,500 ft. to the east and west of the station, and the railroad corridor between Bake Parkway and CP tinkham, an approximate 500 ft. width centered on railroad right-of-way to facilitate design and planning work.

4.1.2 The CONSULTANT shall prepare topographic mapping and perform design surveys in U.S. Customary Units at 1" = 40' scale and 1-foot contours. Existing features shall be shown, including but not limited to the railroad (top of rail) and all railroad features, roadways, pavement markers/stripping, curb and gutter, buildings, bridge structure limits, vegetation, signs, lighting, signals, above ground utilities, manholes, drainage inlets, ground water monitoring equipment (DON infrastructure) and any other visible features. CONSULTANT shall establish SCRRA railroad stationing based on SCRRA record surveys and prepare its track survey in accordance

with SCRRA standards. Track stationing shall align with SCRRA Milepost for the Orange subdivision minus 100 miles (i.e. MP 185 stationing =  $(185-100)*5280 = 4488+00$ ).

4.1.3 The CONSULTANT shall verify the physical existence of Monumental Control Points and, if necessary, re-establish such Control Points. The CONSULTANT shall perform detailed field surveys of existing street and drainage features. The CONSULTANT shall verify survey results and then transmit them in Microstation format, along with ASCII point and station-offset files of all field survey ties. The CONSULTANT shall survey any Geotechnical Boring and utility pothole locations, as necessary, to verify these locations.

**4.2 Right-of- Way Engineering Services:** Temporary and Permanent right-of-way may be necessary for the design and construction of the PROJECT as shown in the PDR. The CONSULTANT shall perform record data search, acquire title reports, perform land net recovery and field ties, prepare land net map, prepare right-of-way maps, prepare right-of-way data sheets, and cost estimates as necessary for the station improvements. Activities related to this task shall be closely coordinated with the AUTHORITY through focus meetings (estimate up to three meetings).

**4.3 Geotechnical and Geophysical (HazMat) Investigations:** The CONSULTANT shall be solely responsible for obtaining geotechnical and hazmat data for the areas involved and required for preliminary design of the project. The soil report shall contain soil classification, in-place density, relative compaction, sand equivalency, depth to groundwater (if any), soil stability related to trench excavation, testing for sulfuric compounds and pavement section thickness. The soils report shall be reviewed and approved by a registered Geotechnical Engineer. The subsurface investigation shall be performed to obtain and present sufficient information about the soil and foundation conditions including seismic conditions of the project to allow for adequate design and construction of the proposed improvements.

Specific and detailed recommendations with supporting data shall be included for such items as, but not limited to:

- Evaluations of the seismologic conditions.
- Evaluations of the engineering properties of the on-site soils.
- Types of materials to be encountered in the proposed excavations.
- Evaluation of excavation and construction problems.
- Location and extent of required over-excavation.
- Bearing capacity and settlement characteristics of subgrade materials.
- Slope and excavation stability.
- Stability analysis for grade control structures.
- Analysis of the temporary stability of the trench excavations and shoring pressures, including allowable lateral earth pressures and allowable passive pressures.
- Compaction characteristics of the predominant soil.
- Fill material and compaction requirements, including bedding and pipe zone material, and suitability of on-site soils for trench backfill.
- Provide information for groundwater level, groundwater fluctuation and potential of dewatering required during construction.

- Substances in the groundwater or the native soils deleterious to concrete, steel, or other construction materials.
- Potential hazardous materials/contaminants within the groundwater or in native soils.
- Determination of applicable geotechnical related data, properties, coefficients, etc. required for design of shoring.
- Provide recommendations for Special Provisions related to the California Department of Transportation (Caltrans) and Greenbook Standard Specifications for construction.

**4.3.1** The CONSULTANT shall prepare and submit a geotechnical exploration plan on the basis of the Preferred Alternative for review. The CONSULTANT shall obtain all necessary right of entry or encroachment permits prior to exploration; private properties should be avoided. The CONSULTANT shall conduct subsurface investigation, analyze the results, and present them in the Geotechnical Design Report. The CONSULTANT shall prepare a Preliminary Foundation Report. 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 and pedestrian underpass, if appropriate.

**4.3.2** The CONSULTANT shall prepare and submit a Phase I Environmental Site Assessment (ESA) Report for the project. The Phase I ESA report is to be prepared in accordance with the ASTM E1527 - 13 Standard Practice for Environmental Site Assessments. The Phase I ESA full report and findings are intended to support the Environmental Document(s) as per CEQA and NEPA requirements. If appropriate, applicable minimization measures are to be included in the Environmental Commitments Record (ECR) for the Environmental Document(s), such as construction related HazMat issues.

- The Phase I ESA report's purpose is to identify Recognized Environmental Conditions (REC). The term REC means the presence or likely presence of any hazardous substances or petroleum products in, on, or at the property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment (e.g. fueling systems including Underground Storage Tanks, industrial and commercial use of chemicals, etc.). RECs drive the development of the ECR as well as development of a recommended scope of work for Phase II Preliminary Site Investigation (Phase II) services.
- The Phase I ESA activities through report preparation shall be performed under the supervision of a Certified Engineering Geologist, or a California Professional Engineer.
- A Phase II ESA activities, including soil, soil vapor, and/or groundwater analysis (depending upon the ESA findings) shall include a sampling and laboratory analysis program, sufficient to provide characterization of suspected contaminants of concern (COCs) at detection levels appropriate to regulatory guidance concentrations and other appropriate sampling and analysis. If COCs are determined by the Phase II to be present in actionable concentrations, the CONSULTANT shall provide recommendations for appropriate mitigation actions, considering the scope and schedule of the project. Any chosen minimization measures shall be performed following

consultation with and agreement from the regulatory agency with jurisdiction. Phase II ESA activities and the report including findings and recommendations shall be prepared shall be performed under the supervision of a Certified Engineering Geologist, or a California Professional Engineer.

- 4.4 Drainage Evaluation:** The CONSULTANT shall prepare a preliminary drainage report of the existing and proposed drainage systems within the project area to include the peak Q100, Q25, & Q10-year storm durations based upon the 1986 Revision & 1996 Addendum to the Orange County Hydrology Manual, the City Hydrology and Hydraulics Drainage Manual, and all applicable City Storm Drain Master Plans. On the basis of the Preferred Alternative, the CONSULTANT shall conduct an evaluation of on-site and off-site drainage flows tributary to the project area and identify shortcomings or deficiencies of the existing systems. The CONSULTANT shall analyze proposed flows to determine impacts to the downstream systems. If existing downstream systems are found to be deficient, or the project makes the systems become deficient, appropriate mitigation measures shall be presented by the CONSULTANT. The CONSULTANT shall provide capacity calculations, inlet sizing calculations and Water Surface Pressure Gradient (WSPG) storm drain hydraulic calculations to support the proposed storm drain improvements. The CONSULTANT shall perform research and coordinate with other public agencies (as needed) such as the OCFCD (for example, in a case where a bridge, culvert, connection to or modification of an Orange County Flood Control Facility is required). The CONSULTANT is not responsible for any permit application fee for the coordination process.
- 4.5 Preliminary Water Quality Management Plan (WQMP):** Since the proposed project anticipates an increase in the impervious surface and/or storm water runoff and would be considered a "Priority" New Development Project, the CONSULTANT shall develop a Preliminary WQMP on the basis of the Preferred Alternative which will address the required elements of the City Treatment Control Water Quality Management Plan (TCWQMP) which provides a complete and comprehensive strategy for meeting onsite Treatment Control requirements that will be used to treat predictable pollutant runoff as defined under the current Orange County Stormwater Program Drainage Area Management Plan. The Project may be subject to the state, federal, and local water quality requirements under the National Pollutant Discharge Elimination System (NPDES) program. Local surface and groundwater water quality requirements are regulated in this region by the Santa Ana Regional Water Quality Control Board and its Basin Plan water quality standards. A Preliminary WQMP will be prepared to support the environmental document. The Preliminary WQMP will qualitatively assess the Project's impacts on receiving water quality during construction and post-construction conditions based on the region's applicable storm water regulations and consistent with the NPDES permit requirements in Order No. 2012-0011-DWQ. The Conceptual/Preliminary WQMP will assess the baseline water quality conditions from available information and beneficial uses of receiving waters downstream of the Project. The Preliminary WQMP will also identify the potential water quality issues from Project construction, post-construction and operation activities, and identify applicable mitigation measures (Best Management Practices and hydro modification measures) to address the short-term and long- term impacts.

Up to one submittal of the Preliminary WQMP will be required. The Preliminary WQMP will discuss the following with respect to the template requirements:

- The approach for the water quality assessment and the evaluation of the potential impacts related to implementing the Project.
- Regional Hydrology, Local Hydrology, Floodplains, Groundwater Resources, Topography, Climate, and Soils/Erosion Potential.
- The applicable requirements of the Federal Clean Water Act (CWA), State Water Quality Regulations (Statewide General Construction Permit), State Requirements under Section 402 of the Federal CWA, Beneficial Uses, Groundwater and Surface Water Quality Objectives, and Impaired Waters. The WQMP will discuss the risk analysis that will be conducted as part of the Storm Water Pollution Prevention Plan consistent with the California Statewide General Construction Permit (Order 2009-0009-DWQ). The appropriate Risk Level based on planned construction schedule duration and the condition of the receiving waters will be determined.
- Potential storm water quality mitigation measures (Best Management Practices) that may be needed per the water quality requirements applicable to the Project to address urban runoff treatment, Total Maximum Daily Loads (TMDLs)/watershed mandates, and hydro modification management shall be incorporated in the WQMP.
- Receiving waters will be confirmed as to status of being impaired water which may be subject to addressing measures to comply with 303(d) listed water bodies and/or TMDL.

**4.6 Alternatives Analysis:** The CONSULTANT will critically review project alternatives 1A, 1B and 2 in the PDR and develop other feasible project alternatives where possible using information from Metrolink operations, project design data, and initial engineering studies. The CONSULTANT will compile an Alternatives Analysis Report that summarizes the findings and recommendations of the PDR and additional alternatives including the documentation of major impacts and constraints associated with each. The report will include a narrative project description, graphics and summary tables for all alternatives studied to clearly demonstrate the advantages and disadvantages of each. The merits of each alternative will be evaluated against Metrolink operational goals, cost and other relevant criteria approved by AUTHORITY and SCRRA. The CONSULTANT will present findings for each alternative in a decision matrix and provide a recommendation for the Preferred Alternative to be advanced into Preliminary Engineering (30% Design) and environmental studies/clearance. The CONSULTANT will solicit input and concurrence from the PDT through focus meetings and Alternative Analysis workshops. Comments from review of alternatives will be documented in a log which will include CONSULTANT responses and resolutions.

**4.7 Value Analysis:** Value Analysis (VA) of the Preferred Alternative will be conducted for this project utilizing a function-oriented, structured team approach to solving problems and reducing life-cycle costs through the application of techniques that align with a formal VA job plan. The CONSULTANT will utilize the Caltrans Project Development Procedures Manual (PDPM) VA procedures or other AUTHORITY approved VA process to perform a VA study for the Project. The CONSULTANT will provide a VA team lead/facilitator, a certified VA specialist to facilitate a VA workshop, prepare workshop materials and submit a VA Study Report. The VA Study will include the following elements:

- Provide team leadership and final report documentation for a five-day Project VA Study
- Provide a qualified, independent Certified Value Specialist (CVS), certified by SAVE International and a registered Professional Engineer (PE) with civil/transportation (rail) engineering background.

**Deliverables** (Five hard copies and an electronic PDF version of each):

- Topographic mapping – hard copy and digital format
- Survey data – binder and ASCII electronic format
- Geotechnical Exploration Plan
- Draft and Final Geotechnical Design Report
- Draft and Final Foundation Report
- Draft and Final Phase I Environmental Site Assessment Report
- Draft and Final Phase II Environmental Site Assessment Report
- Draft and Final Preliminary Drainage Report
- Draft and Final Preliminary Water Quality Management Plan
- Draft and Final VA Study Report
- VA Workshop (assume 5 days remote meeting)
- Draft and Final Alternatives Analysis Report
- Alternative Analysis Workshops (assume 2)

**4.8 Level Boarding Report:** In accordance with 49 CFR Part 37.42, CONSULTANT shall prepare and submit a report on level boarding for the Irvine Station Improvements platforms with operations of Metrolink, Amtrak, and Burlington Northern Santa Fe (BNSF) freight trains. CONSULTANT shall support AUTHORITY, who will be the lead in obtaining acceptance of the report from the Federal Transit Administration (FTA) and Federal Railroad Administration (FRA). The approach to the approval process shall meet the requirements of 49 CFR PART 37 AND 38 – Americans with Disabilities Act Accessibility Guidelines (ADAAG) for Transportation Vehicles and Appendix D to 49 CFR Part 37 – CONSTRUCTION AND INTERPRETATION OF PROVISIONS OF 49 CFR PART 37.

Tasks will include the following:

- Perform a comparison of the costs (capital, operating, and life-cycle costs) of car-borne lifts and the means chosen by the SCRRA and Amtrak, as well as a comparison of the relative ability of each alternative to provide service to individuals with disabilities in an integrated, safe, timely, and reliable manner.
- Submit a report to FTA and FRA, describing its proposed means to meet the performance standard at this station. The plan shall demonstrate how boarding equipment would be deployed, maintained, and operated; and how personnel would be trained and deployed to ensure that service to individuals with disabilities is provided in an integrated, safe, timely, and reliable manner.
- Level Boarding Alternatives Report  
CONSULTANT will review and consider the Irvine Station location and the current planned and existing passenger or freight rail operations through or included at this location. A DRAFT report will be prepared that identifies potential solutions that meet

the requirements of the Federal Code of Regulations and the intent of the American's with Disabilities Act for implementation with the project. A rough order of magnitude of the cost of each solution will also be included along with sketches to support the description of the alternatives.

CONSULTANT will present and review the alternatives with AUTHORITY and SCRRA and identify their preferred solutions from the alternatives presented. To the extent that exceptions to full compliance with level boarding or deviations of a standard would be required of CPUC General Order 26-D or other regulatory requirements, CONSULTANT will support AUTHORITY and SCRRA in discussions with CPUC and FTA or FRA to explore the acceptability of individual solutions at stations or system-wide, as applicable. CONSULTANT will consult with Amtrak and BNSF staff during the preparation of the draft report. Any input obtained from Amtrak and BNSF will be included in the draft report.

A final report documenting the decision process and the selected solution will be prepared and circulated for approval by AUTHORITY and SCRRA and implementation in the final design.

CONSULTANT will submit the final report to AUTHORITY for transmission to FRA for approval. CONSULTANT will provide clarifications and provide answers to any questions raised by FRA during the review process.

***Deliverables***

- DRAFT Level Boarding Alternatives Report
- FINAL Level Boarding Report
- Meeting notes from meetings with CPUC, FTA, FRA, Amtrak, and BNSF

## Task 5 – Preliminary Plans, Specifications & Estimates

The CONSULTANT shall perform preliminary architectural and engineering (30% Design) to meet the goals and objectives of this phase of engineering as provided in the SCRRA Design Procedures Manual. The design criteria/special design considerations will continue to be refined progressively as the design advances. Deliverables of this task will include at a minimum the drawings, outline specifications, cost estimates and exhibits, calculations and reports that are required by the SCRRA Design Procedures Manual.

- 5.1 Preliminary Track Plans:** The CONSULTANT shall develop plans at 1" = 40', profiles and typical sections for all tracks including any modified mainline tracks and crossovers. In addition to typical sections, specific cross sections shall be provided every 100' and at critical locations. All tracks and other pertinent railroad components shall be designed in accordance with SCRRA standards. Track design will also include tabular curve data (track no., degree of curve, overall length, super-elevation, speed and spiral data) per SCRRA ES2202. Special track work shall be included with the track plans and turnout type and geometry details shall also be provided. A Track Schematic shall be provided and color coded, illustrating existing and proposed conditions with the project limits.
- 5.2 Preliminary Roadway, Bus Loop, and Station Surface Parking Modification Plans:** The CONSULTANT shall prepare preliminary roadway layout plans at 1" = 40', crossing details at 1" = 5', roadway profile, typical sections, and signing and striping plans, indicating existing roadway modifications necessary for this project. These plans will show existing right of way boundaries and any additional right of way required for ingress/egress, road improvements, utilities and Temporary Construction Easements (TCE) required for utility relocation. Roadway plans will include details of the modifications needed to City streets and also all passenger circulation sidewalks.
- 5.3 Preliminary Structural Design** (retaining walls, bridge(s) reinforced box culvert (RCB) modifications and pedestrian underpass): The CONSULTANT shall develop plans for retaining walls, RCB modifications and new bridge(s) required to support new main tracks. The bridge design shall define deck type and dimensions, span length, abutment, foundations, and any transition structures required.
- 5.4 Passenger Station Development and Architecture:** CONSULTANT will develop preliminary design plans the modifications of two existing side platforms into two new island platforms. CONSULTANT will advance the station architecture, structure, electrical, wayfinding and landscape to align the Fire Life Safety (FLS) requirements. An Accessible Path of Travel Plan demonstrating that the design aligns with accessibility and egress requirements shall be prepared in compliance with the latest edition of Title 24 Part 2, Vol. 1 California Building Code (CBC) Chapter 11. Station canopy shade studies and development of design concepts, including plans and elevations shall be developed in this phase.
- 5.5 Fencing and Security:** The CONSULTANT shall develop plans for the perimeter fencing, access gates and security systems. CONSULTANT shall work with AUTHORITY and SCRRA maintenance and safety department to evaluate the entire project limits to determine if the existing ROW fencing is adequate or if a more robust fence is required and if new fences are required where they do not currently exist.

**5.6 Grading and Drainage Plans:** The CONSULTANT shall provide preliminary grading and drainage plans prepared at a scale of 1" = 40' horizontally and 1" = 1' vertically. Typical sections, storm drain profiles, and drainage details may be provided to demonstrate the design concept. The grading and drainage plans shall show hydraulic elements. Profiles will be prepared for cross drainage systems, and shall show the hydraulic grade line, the storm frequency used in the calculation, etc. As-built plans of city drainage system are assumed to be readily available.

**5.7 Utility Plans:** The CONSULTANT shall utilize the existing utility base map information provided by AUTHORITY's "Existing Utilities Plan" and the utility matrix provided in the PDR to confirm the location of all utilities by performing potholing investigation. The potholing investigation report should document the presence/absence of each utility identified as a potential conflict on the Existing Utilities Plan and Utilities Matrix. The Southern California Gas Company has a 30" high pressure gas line within the project limits and this will be crossed by the proposed tracks at the eastern and western limits of the site. The CONSULTANT shall determine whether this utility can be protected in place or if a utility relocation is required as well as relocation cost responsibility. Treatment of all other utilities identified shall be defined by the CONSULTANT. Concept designs for utility protection or utility relocations shall be provided by the CONSULTANT. AUTHORITY shall provide coordination of utility relocations.

CONSULTANT shall provide subsurface utility location services (probing and ground penetrating radar in combination with air vacuum excavators or similar) to determine horizontal and vertical underground utility positions of all potential conflicts. CONSULTANT shall submit a potholing plan for AUTHORITY's review and concurrence prior to commencing potholing activities. Up to 20 potholes are assumed be needed for the preparation of utility plans during this phase.

**5.8 Construction Staging Plans:** The CONSULTANT shall develop a preliminary stage construction plan that minimizes construction impacts on the operations of facilities, rail, bus, parking, taxi, Transportation Network Companies (TNC), accessible pedestrian traffic, local traffic, city functions, business, and residences. Work shall be coordinated with the affected agencies and jurisdictions. The construction plan shall estimate the required number, type and duration of work windows required for work that directly impacts the SCRRA mainlines. Street closures or detours are not anticipated. Preliminary contractor laydown areas shall be identified along with construction site access routes. Turnout construction pads per SCRRA ES2005 shall be identified and shown. Any TCE's required shall be identified and associated work be performed per Task 4.2.

**5.9 Lighting Plans:** The CONSULTANT shall provide plans showing the roadway, walkways, parking lot, platform and underpass lighting. The location of lighting shall be prepared in accordance with applicable local agency and SCRRA requirements. CONSULTANT shall review the existing Alton Pkwy and Bake Pkwy overpasses to determine the need of lighting beneath the overpasses per SCRRA requirements. Conceptual designs shall be prepared and shall include potential service connection points.

- 5.10 Electrical and Mechanical Plans:** The CONSULTANT shall provide plans showing the electrical and mechanical design elements for the new pedestrian underpass and sump pump. New or modified electrical service(s) for the signal system as required by SCRRA's signal designer.
- 5.11 Landscape Concept Plans:** The CONSULTANT shall develop landscape concept plans and up to five 11" x 17" color exhibits.
- 5.12 Risk Register/Matrix:** The CONSULTANT shall update the Project Risk Register/Matrix that was initially developed in the PDR to reflect the current status of potential risks with the Project and associated Risk Mitigation Measures. Participation in a Risk Workshop with AUTHORITY and key stakeholders shall be included in this effort.
- 5.13 Design Submittal Report and Cost Estimates:** The CONSULTANT shall develop preliminary project and construction cost estimates. Unit prices and quantities will be prepared in accordance with SCRRA and/or City standards. Soft costs (flagging, final design, contingency, etc.) shall be thoroughly evaluated based on the preliminary design to accurately estimate the total project cost for final design and construction.
- 5.14 Specifications and Standard Drawings:** The CONSULTANT shall prepare a list of the required City and SCRRA standard drawings and specifications required for the project.
- 5.15 Design Standard Exceptions:** The CONSULTANT will prepare and submit to AUTHORITY, SCRRA and City a Design Standards Exceptions Memorandum evaluating any non-standard design features of Preferred Alternative with coordination and in accordance with the relevant jurisdictional agency's criteria. Completed design exception forms from the applicable agencies will be appended to the memorandum. The CONSULTANT will be responsible for providing technical support during the review and acceptance process. See Task 3.2 for additional information on SCRRA requirements for design standard exceptions.
- Deliverables** (Five hard copies of the 11" x 17" plan set and an electronic PDF file shall be submitted with each milestone identified below):
- Preliminary plans designed to 30% including the plan sheets described in Task 5, project and construction cost estimate.
  - Google Earth KMZ file of the project design
  - One hardcopy of the Design Submittal Report in accordance with the requirements of SCRRA Design Procedures Manual.
  - Updated utility matrix
  - A Risk Matrix shall be included in the Project Design Submittal Report.
  - List of required City and SCRRA standard drawings and specifications
  - Design Standard Exceptions Memorandum
  - Design Exception Forms (SCRRA and City)
  - Add permit matrix including cost estimate and lead time

## Task 6 – Environmental Documentation

- 6.1** The activities will consist of the development of environmental studies to meet California Environmental Quality Act (CEQA) requirements and to support the evaluation of the Project Build Alternative. The anticipated CEQA document will be an Initial Study (IS) with proposed Negative Declaration (ND) or Mitigated ND (MND). If, throughout the course of the environmental studies, it is found that impacts cannot be mitigated to a level of less than significant or that the Project may contribute to substantial public controversy, then a higher-level document would need to be prepared under a separate contract or contract amendment. CONSULTANT shall coordinate with the AUTHORITY Project Manager at various stages in the environmental preparation process to determine if there is a need to elevate the CEQA document. This assessment shall be done in the following phases: scoping, completion of technical studies, and release of draft environmental document. The CONSULTANT shall build into the Project schedule administrative reviews of the environmental studies by AUTHORITY, SCRRRA, and the City. In addition to adhering to CEQA requirements, the CONSULTANT shall incorporate known agency, regional, and local requirements into the analyses such as those from AUTHORITY, the City, South Coast Air Quality Management District, etc.,

### **6.2 Base Maps for Environmental Studies**

Purpose: To prepare base maps for use in the environmental studies and to establish environmental baseline data in a manner compatible with engineering and topographic mapping.

Methodology: Upon receipt of design files, CONSULTANT shall develop Project Vicinity and Project Location Maps, as well as a set of maps that clearly shows the location and features of each alternative under consideration. Additionally, base mapping of the environmental components/data to be included in the GIS database will be developed. These components/data include Section 4(f) resources, historic properties, 100-year floodplain, hazardous materials sites, sensitive visual features, land uses and right-of-way, and noise receptors. Data from publicly available sources will be used as a starting point and adjusted, where appropriate, based on field surveys and observations conducted by the CONSULTANT.

**Deliverables:**

- GIS mapping of environmental considerations/surveys consistent with AUTHORITY standards.

### **6.3 Issuance of Environmental Notices & Public Information Meeting Notice**

- 6.3.1** Purpose: CONSULTANT will coordinate with the outreach consultant, AUTHORITY, and other PDT members to assist in preparation of a public information meeting and the appropriate public notice.

- 6.3.2** Methodology: Although not required for an IS, to achieve a meaningful and constructive relationship with the local community, comments will be requested

from stakeholders and interested parties. The CONSULTANT will prepare the public notice for the public information meeting and will work with the AUTHORITY public outreach group and/or their consultant to prepare for and attend the public information meeting. The CONSULTANT shall review advertisements for posting in a widely circulated newspaper (e.g., Orange County Register) and in a local Spanish newspaper (e.g., Excelsior and La Opinión). CONSULTANT shall coordinate with AUTHORITY to ensure that the notices are properly posted (e.g., newspaper, mass mailers). CONSULTANT shall designate an individual (with concurrence by AUTHORITY's Project Manager) as the main point of contact with interested parties during the public information meeting process.

***Deliverables:***

- Public Notices for the Public Information Meeting (preparation support)
- Attendance at public information meeting
- Agency letters/notifications

#### **6.4 Conduct Environmental Evaluation**

Environmental analyses shall be prepared to meet CEQA requirements. It will include concise application and enforcement of various regulations governing topic areas, including State and local laws, acts, policies, and ordinances as well as direct, indirect, and cumulative impacts.

Technical memoranda shall be prepared for the following areas:

##### **6.4.1 Visual/Aesthetics**

Purpose: To prepare a Visual Impact Memorandum to identify and analyze visual resource impacts associated with the project. This will be prepared to support the Draft and Final Environmental Document(s).

Methodology: CONSULTANT will conduct a field reconnaissance, at which time, on-site and adjacent visual resources will be documented. CONSULTANT shall also determine if the City has any additional requirements that will need to be incorporated as part of this analysis. Avoidance, minimization, and/or mitigation measures will be recommended to reduce the visual impacts from the project, if warranted.

Photo simulations: CONSULTANT will select the four preliminary Key Views for the proposed project, in consultation with AUTHORITY staff. Key Views represent areas within sensitive viewer locations within and surrounding the project site, which also have views to the project features.

Computer models will be prepared to simulate the project for a total of four (4) Key Views. The rendered subject will be superimposed into a photograph and foreground objects will be masked.

CONSULTANT will analyze the existing and proposed conditions of each photo simulation guidelines to provide an analysis of the visual contrast/change. This

analysis will be included consistent with the Methodology section discussed above.

***Deliverables:***

- Draft Visual/Aesthetics Memorandum and supporting documentation for CEQA/NEPA documents
- Final Visual/Aesthetics Memorandum and supporting documentation

DRAFT

#### 6.4.2 Cultural Resources/Tribal Cultural Resources

Purpose: Due to the anticipated ground disturbing activities, a records search is recommended to minimize potential impacts to cultural and historic resources. If it is determined from the records search that historical and/or archaeological resources are known to have occurred on the project site, then further analysis may be warranted. In compliance with Assembly Bill 52, Native American tribes will be notified of the project. Measures will be employed during the construction phase to address Native American artifacts and encountering of human remains.

Research/Records Search – An archaeological and historical records review and literature search will be conducted at the South Central Coastal Information Center (SCCIC) located at California State University, Fullerton. The SCCIC is the state-designated repository for records concerning cultural resources in Orange County. The records search will provide information on known cultural resources and on previous cultural resources investigations within a one half-mile radius of the Area of Potential Effects (APE). Data sources that will be consulted at the SCCIC will include archaeological site and isolate records, historic maps, reports from previous studies, and the state's Historic Resource Inventory (HRI) for Orange County, which contains listings for National Register of Historic Places (National Register), California Register of Historical Resources (California Register), California Historical Landmarks (CHL), and California Points of Historical Interest (CPHI).

Native Americans Coordination – CONSULTANT team will initiate Native American consultation for the Project. CONSULTANT will contact the Native American Heritage Commission (NAHC), the State Commission concerned with Native American Issues. The NAHC will be asked to review the Sacred Lands File to determine whether any traditional cultural properties or other sacred/religious sites are in or near the APE. The NAHC will also provide a list of Native Americans who may have knowledge of cultural resources that could be impacted by the Project. CONSULTANT shall contact these parties by certified letter to inform them of the Project and request their input. If no response is received, CONSULTANT shall follow up with up to two telephone calls and/or emails to ensure that any concerns Native Americans may have about the Project are addressed.

**Deliverables:**

- Draft Cultural Resources Technical Memoranda
- Final Cultural Resources Technical Memoranda
- Native American Coordination Documented in the Cultural Resources Technical Memoranda

#### 6.4.3 Area of Potential Effects Map

Purpose: To prepare an Area of Potential Effects (APE) map delineating direct and indirect cultural resources impacted areas including signals foundation work limits.

Methodology: The APE map shall be at an appropriate scale (1" = 200'). Archaeological and historic property surveys of the Project's APE will be completed as part of the Cultural Resources Technical Memoranda preparation process.

***Deliverables:***

- Draft Area of Potential Effects map
- Final Area of Potential Effects map

#### **6.4.4 Paleontology**

Purpose: To identify paleontological resources and to evaluate the significance of those resources.

Methodology: A number of federal statutes specifically address paleontological resources, their treatment, and funding for mitigation as a part of federally authorized or funded Projects (e.g., Antiquities Act of 1906 [16 USC 431-433], Federal-Aid Highway Act of 1935 [20 USC 78]). Under California law, paleontological resources are protected by CEQA, the California Code of Regulations, Title 14, Division 3, Chapter 1, Sections 4307 and 4309, and Public Resources Code Section 5097.5.

A paleontology study shall be undertaken, consistent with CEQA to determine the presence/absence of paleontological resources within the project area.

If paleontological resources, or sediments that are conducive to the preservation of paleontological resources, are located within the APE, a Paleontological Mitigation Plan (PMP) shall be prepared. The PMP, if needed, is not part of this scope and is usually prepared after the final Project design elements have been determined.

***Deliverables:***

- Draft Paleontological Technical Memorandum
- Final Paleontological Technical Memorandum

#### **6.4.5 Hazardous Materials**

Purpose: To identify existing hazardous materials and waste sites, extent of contamination and remediation measures.

CONSULTANT will utilize information from the Phase I Environmental Site Assessment prepared under task 4.3 of this scope to support development of CEQA/NEPA documentation and an updated hazardous materials technical memorandum to address the monitoring well as well as any project impacts to the water vaults.

***Deliverable:***

- Draft Hazardous Material Technical Memorandum
- Final Hazardous Material Technical Memorandum

#### 6.4.6 Air Quality

Purpose: To conduct an air quality analysis to satisfy CEQA, state, and federal environmental requirements and conformity provisions of the Clean Air Act Amendments (CAAA) to support the Draft and Final Environmental Document.

Methodology: The proposed project is a rail maintenance facility project located in the South Coast Air Quality Management District (SCAQMD) jurisdiction. Under the Federal Clean Air Act Transportation Conformity Rule, transportation projects located in areas designated “non-attainment” or “maintenance” with respect to National Ambient Air Quality Standards (NAAQS) must conform to the adopted State Implementation Plan (SIP). The proposed project is located in the Orange County portion of the South Coast Air Basin (SCAB), which includes all of Orange County, and the non-desert portions of Riverside, San Bernardino, and Los Angeles Counties. The proposed project is anticipated to require local, state, and federal funds. It is currently not included in the final adopted 2017 Federal Transportation Improvement Program (FTIP). Once it is confirmed that state and/or federal funds will be sought, SCRRRA and AUTHORITY will submit an application to request that the Southern California Associate of Governments (SCAG) add the project to the FTIP. The State of California has designated the Orange County portion of the South Coast Air Basin as being a nonattainment area for ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>). The EPA has designated this area as being a nonattainment area for O<sub>3</sub> (8-hour standard), PM<sub>10</sub> and PM<sub>2.5</sub>. In addition, the area is designated for maintenance for carbon monoxide (CO) and NO<sub>2</sub>.

Analysis:

The Air Quality Technical Memorandum will analyze and discuss the presence/absence of naturally occurring asbestos and will quantify construction-related emissions.

The Air Quality Technical Memorandum will document whether the proposed Project is included in the latest Regional Transportation Plan (RTP), and Federal Transportation Improvement Program (FTIP) for preliminary engineering/environmental documentation. The Air Quality Technical Memorandum will make a final determination whether the build alternative will conform to applicable state and federal air quality plans. Mitigation measures will be defined for any construction and/or operational impacts that are identified.

Construction related emissions will also be quantified using California Emission Estimator Model (CalEEMod), or Air Quality Management Department or another equivalent model in consultation with the AUTHORITY Project Manager. Using Caltrans Standard Specifications for Construction, as well as mitigation measures if necessary, will be recommended to reduce short-term construction related impacts.

The Greenhouse Gas Emissions Analysis shall be based on the latest California Air Resources Board’s methodology. It is assumed the greenhouse gas (GHG)

emissions will be modeled for the following conditions: “existing”, “existing plus Project”, “forecast”, and “forecast plus Project”.

***Deliverable:***

- Draft Air Quality Technical Memorandum
- Final Air Quality Technical Memorandum

#### **6.4.7 Noise and Vibration**

Purpose: To prepare a Noise and Vibration Technical Memorandum that complies with the latest FTA and Caltrans guidelines to assess the temporary construction impacts and the completed PROJECT.

***Deliverable:***

- Draft Noise and Vibration Technical Memorandum
- Final Noise and Vibration Technical Memorandum

#### **6.4.8 Biological Resources**

Purpose: To document and evaluate the natural habitat in the Project area and determine whether the proposed Project would result in impacts on sensitive species/habitat, and waters of the United States.

Methodology: The project area lies within an existing station area and an active railroad corridor which is highly urbanized area and has been subject to multiple decades of continued disturbance.

A high-level biological survey should be conducted to verify the presence or absence of sensitive biological resources and assess the drainages on site. Although not anticipated to occur, if state and/or federal listed species or habitat are found to be present, then a CDFW 2081 Incidental Take Permit or USFWS Section 7 Consultation may be required for potential impacts.

Furthermore, if the project requires removal of vegetation during the migratory bird nesting season (generally March 1-September 15), a preconstruction nesting bird survey would be required. If nesting migratory birds are found, project activity within an appropriate buffer (varying by species) may be required to halt until all nesting activities have ceased or all juveniles have fledged.

A Biological Resources Technical Memorandum shall be prepared summarizing the results of the survey.

***Deliverable:***

- Draft Biological Resources Technical Memorandum
- Final Biological Resources Technical Memorandum

#### 6.4.9 Traffic and Transportation

Purpose: To deliver a Transportation Impact Analysis Technical Memo discussing trip generation and traffic impacts from the proposed station to address the Traffic and Transportation section of the project environmental document.

***Deliverable:***

- Draft Traffic and Transportation Study Technical Memorandum
- Final Traffic and Transportation Study Technical Memorandum

#### 6.5 Screencheck Draft IS/MND

Purpose: CONSULTANT shall prepare the screencheck Draft IS/MND incorporating the environmental checklist, technical analyses, a discussion of critical environmental issues identified, an analysis of the cumulative and indirect effects of the Project, proposed avoidance, minimization and/or mitigation measures, an environmental commitment record (ECR) and a listing of environmental (and related) permits required for implementation of the Project.

Methodology: The screencheck Draft IS shall fully utilize and update as appropriate the previous environmental analyses prepared. This document shall be provided to AUTHORITY/SCRRA for review and comment. Once AUTHORITY/SCRRA provides comments on the document, CONSULTANT shall revise the document appropriately. The revised screencheck Draft IS will then be resubmitted to AUTHORITY/SCRRA for approval. CONSULTANT shall prepare a response-to-comments matrix demonstrating how and where the comments have been addressed in the screencheck Draft IS.

In addition to the technical studies/memoranda required in this SOW the environmental issue areas listed in CEQA Appendix G and applicable environmental permits should be discussed in the environmental document.

***Deliverable:***

- Screencheck Draft IS/MND

#### 6.6 Draft IS/MND

Purpose: To prepare a document that incorporates AUTHORITY/SCRRA reviews and comments into the screencheck IS/MND.

Methodology: The revised screencheck Draft IS/MND and response-to-comments matrix shall be resubmitted to AUTHORITY/SCRRA. The approved Draft IS/MND will be distributed to agencies and the public for review and comment. The CONSULTANT's team shall be responsible for updating the distribution list.

***Deliverables:***

- Draft IS/MND

## 6.7 Public Outreach Support/Public Meeting

Purpose: To receive agency and public comments on the Draft IS/MND.

Methodology: CONSULTANT shall support the Public Outreach efforts and support the AUTHORITY Public Outreach Coordinator, who will be the lead on providing a minimum of one public meeting during the Draft IS/MND public review period, following procedures as required by CEQA/NEPA. CONSULTANT shall be responsible for providing the public notice and supporting AUTHORITY in coordinating the public hearing, including handouts, materials, presentation boards, etc. In coordination and consultation with AUTHORITY, the CONSULTANT's team shall also be responsible for ensuring that copies of the Draft IS/MND is available for review/comment at city halls and library(ies) near the Project. CONSULTANT shall be responsible for reviewing and posting a newspaper advertisement in up to four newspapers announcing the availability of the document and public hearing date for the Project in accordance with CEQA (e.g., Orange County Register, Excelsior, La Opinión, and local community papers). The CONSULTANT shall designate an individual (with concurrence by the AUTHORITY Project Manager) as the main point of contact with interested parties during CEQA public review process. CONSULTANT shall prepare a Notice of Availability (NOA) and work with the AUTHORITY Public Outreach consultant on distribution and any necessary agency letters/notifications as needed. In addition, an email contact/general address for receipt of comments will be coordinated with the PDT. CONSULTANT shall also document and gather public comments from the public hearing. All public outreach handouts, materials, notices etc. should be approved by AUTHORITY prior to being released to the public. The cost of a court reporter and translation services is not included. CONSULTANT shall assist AUTHORITY Public Outreach and/or their consultant with coordinating series of community meetings, including handouts, materials, presentation boards, etc. and be available for presentations at up to two community meetings during the public review period for the draft environmental document, as needed.

### ***Deliverables:***

- Draft IS/MND as approved in Task 6.6
- Final Technical Studies as approved in Task 6.4.1 through 6.4.4
- Mailing of IS/MND to distribution list outlined in the document (25 CDs)
- Notice of Availability to project distribution list
- Newspaper advertisement in up to four newspapers for the Draft IS/MND availability and Public Hearing of the Project in accordance with CEQA (e.g., Orange County Register, Excelsior, La Opinión, and local community papers)
- Presentations at community meeting
- Community meeting assistance including handouts, visual displays and other materials
- Documentation and gathering of public comments for the Project records (10 copies)
- Submittal of the Draft IS/MND (as approved in Task 6.6) and Notice of Completion (NOC) to the State Clearinghouse and County Clerk (in an electronic format subject to their guidance and 15 copies)

## 6.8 Response to Comments Matrix

Purpose: To document the responses to comments on the Draft IS/MND.

Methodology: CONSULTANT shall be responsible for maintaining documentation and providing the adequate response to internal, public, and agency comments on the Project and Draft IS/MND. A response-to-comments matrix outlining how and where the revisions to the documents have been made shall be included in the revised screencheck and anticipated Final IS/MND. The response-to-comments matrix shall be provided to AUTHORITY/SCRRA for review and concurrence prior to finalization of the screencheck and anticipated Final IS/MND.

***Deliverables:***

- Draft Response to Comments Matrix
- Final Response to Comments Matrix

## 6.9 Screencheck Final ND or IS/MND

Purpose: A screencheck Final ND or IS/MND shall be prepared. Concurrent with the aforementioned technical response to comments, CONSULTANT shall prepare the screencheck Final ND or IS/MND incorporating the public and agency comments and technical evaluation. Where applicable, a discussion of critical environmental issues identified, an analysis of the cumulative and indirect effects of the Project, proposed mitigation measures, and a listing of environmental (and related) permits required for implementation of the Project. Substantive new technical analysis which requires modification of the approved technical studies and/or technical analysis conducted for the Final ND or IS/MND are not included in this scope.

Methodology: The screencheck anticipated Final ND or IS/MND shall be provided to AUTHORITY/SCRRA for review. The CONSULTANT will be responsible for drafting Native American consultation letters and correspondences on behalf of AUTHORITY and work closely on this coordination effort with the AUTHORITY Project Manager. CONSULTANT shall prepare a response-to-comments matrix indicating how and where the public comments have been addressed in the screencheck anticipated Final ND or IS/MND.

***Deliverable:***

- Screencheck anticipated Final ND or I S / MND

## 6.10 Final ND or IS/MND

Purpose: To document the selection of the Preferred Alternative, timing and responsibility of mitigation measures identified in the ND or IS/MND.

Methodology: Following review by AUTHORITY, CONSULTANT shall revise the screencheck anticipated Final ND or IS/MND. Six copies of the revised anticipated Final ND or IS/MND along with the final environmental documents and response-to-comments matrix shall be resubmitted to AUTHORITY. Following approval by AUTHORITY and FTA, the anticipated Final ND or IS/MND shall be made available

to the public upon request. CONSULTANT will be responsible for updating the distribution list.

***Deliverables:***

- Approved anticipated Final ND or IS/MND

**6.11 Mitigation, Monitoring and Reporting Record (MMRR) / Environmental Commitment Record (ECR)**

Purpose: To ensure environmental commitments are met by 1) recording each environmental mitigation, compensation and enhancement commitment made; 2) specifying how each commitment will be met; and 3) documenting the completion of each commitment.

Methodology: The Mitigation Monitoring and Reporting Record (MMRR)/ Environmental Commitment Record (ECR) brings all relevant environmental compliance information together in a single place, making it easier to track the progress of environmental commitments in the next phases of project development and beyond construction. The MMRR / ECR will be included as part of this scope of work and can be updated during any future project delivery phase.

***Deliverables:***

- Draft MMRR/ECR in Microsoft Excel format including all mitigation measures outlined in the Final Environmental Document
- Final MMRR/ECR

**7. Environmental National Environmental Policy Act (NEPA) Environmental Clearance Optional Tasks**

Work of this task will be authorized by formal Notice to Proceed (NTP) by AUTHORITY. If, during the course of the CEQA process it is anticipated that a NEPA environmental document above an EA would need to be prepared, the scope of this task shall be redefined by contract amendment.

This scope of work is anticipated to take 24 months or less from the effective date of the contract. The NEPA optional task is anticipated to take 6 months to complete from separate NTP.

AUTHORITY shall be the primary point of contact for coordination with FTA. CONSULTANT shall not coordinate directly with FTA unless otherwise authorized by AUTHORITY. The NEPA document for the Project is anticipated to be an Environmental Assessment (EA) with a proposed Finding of No Significant Impact (FONSI). The following tasks are anticipated to fulfil the NEPA process.

- Screencheck Draft EA/FONSI and Final EA/FONSI with up to two Draft EA/FONSI submittals from three rounds of review by FTA. The CONSULTANT effort for each review shall include the preparation of comment matrices and responses to comments. Six hardcopies of the

Draft EA/FONSI, Draft Final and Final EA/FONSI and response-to-comments matrix shall be submitted to AUTHORITY/SCRRRA.

- Public outreach support for public noticing and circulation of the Draft EA for 30-day public review and comment.
- FTA support for Section 106 consultation including preparation of letters, Native American consultation support for phone calls, meetings and documentation of comments received, responses to comments and outreach efforts.
- Additional efforts for Section 4(f) and Section 6(f) analysis.
- Preparation of materials for the FTA to file with the Federal Register.

***Deliverables:***

- Screencheck Draft EA/FONSI
- Draft EA/FONSI
- Draft Final EA/FONSI
- Final EA/FONSI
- Meetings and comment matrices from three rounds of agency reviews
- Materials and support for Section 106 consultation
- Compliance with federal regulations including but not limited to: E.O 12898, Environmental Justice, Clean Air Act, Clean Water Act, Endangered Species Act, Section 4(f)/Section 6(f) research, analyses and conclusions integrated into the EA
- Materials for the FTA to file with the Federal Register

**Work of this task will be authorized by formal Notice to Proceed (NTP) by OCTA. If, during the course of the CEQA process it is anticipated that a NEPA environmental document above an EA would need to be prepared, the scope of this task shall be redefined by contract amendment.**

**Assumptions:**

- 1) The NEPA process will begin within one year of the completion of the Final IS/ND or MND.
- 2) The EA shall rely on the Final IS/ND or MND (CEQA) and associated technical studies listed in Task 6.4 to support its' analyses and conclusions.
- 3) Up to three formal phone conference meetings with AUTHORITY and FTA to discuss comments/responses to submittals.
- 4) FTA will rely on public outreach deliverables from the CEQA process. No additional community meetings will be required for the NEPA process.
- 5) The Project will not impact endangered species. Therefore, no effort to support Section 7 of the Endangered Species Act (ESA) which requires Federal interagency cooperation to conserve Federally listed species and designated critical habitat, is needed.

**EXHIBIT B: PROPOSED AGREEMENT**

1 **PROPOSED AGREEMENT NO. C-0-2604**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5  
6 **THIS AGREEMENT** is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_  
7 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street,  
8 P.O. Box 14184, Orange, CA 92863-1584, a public corporation of the State of California (hereinafter  
9 referred to as "AUTHORITY"), and \_\_\_\_\_, \_\_\_\_\_ (hereinafter referred to as "CONSULTANT").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT to provide Preliminary  
12 Engineering and Environmental Services for the Irvine Station Improvements Project; and

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

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

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

17 **WHEREAS**, the AUTHORITY's Board of Directors authorized this Agreement on \_\_\_\_\_;

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

20 **ARTICLE 1. COMPLETE AGREEMENT**

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

26 /

B. AUTHORITY's failure to insist in any one or more instances upon the performance of any terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's right to such performance by CONSULTANT or to future performance of such terms or conditions and CONSULTANT obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written Amendment to this Agreement and issued in accordance with the provisions of this Agreement.

**ARTICLE 2. AUTHORITY DESIGNEE**

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

**ARTICLE 3. SCOPE OF WORK**

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

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

**Names**

**Functions**

C. No person named in paragraph B of this Article, or his/her successor approved by AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or level of commitment hereunder be changed, without the prior written consent of AUTHORITY. Should the services of any key person become no longer available to CONSULTANT, the resume and

qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key person, unless CONSULTANT is not provided with such notice by the departing employee. AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt of these qualifications concerning acceptance of the candidate for replacement.

**ARTICLE 4. TERM OF AGREEMENT**

This Agreement shall commence upon the effective date of this Agreement, and shall continue in full force and effect through thirty (30) days beyond the date in which AUTHORITY formally approves, in writing, the final as-built drawings prepared and submitted by CONSULTANT, unless earlier terminated as provided hereunder.

**ARTICLE 5. PAYMENT**

A. For CONSULTANT's full and complete performance of its obligations under this Agreement and subject to the maximum cumulative payment obligation provision set forth in Article 6, AUTHORITY shall pay CONSULTANT on a firm fixed price basis in accordance with the following provisions. The following schedule shall establish the firm fixed payment to CONSULTANT by AUTHORITY for each work task set forth in the Scope of Work.

<u>Task</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1	Administration and Management	.00
2	Baseline Analysis	.00
3	Agency Coordination	.00
4	Initial Engineering Studies	.00
5	Preliminary Plans, Specifications & Estimates	.00
6	Environmental Documentation	.00
7	Environmental National Environmental Policy Act (NEPA) Environmental	.00
	Clearance Optional Tasks (Only if Authorized by Authority)	
<b>TOTAL FIRM FIXED PRICE PAYMENT</b>		<b><u>.00</u></b>

B. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the work actually completed by CONSULTANT. Percentage of work completed shall be documented in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to make full payment for any task listed in paragraph 0 of this Article until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required under the task. AUTHORITY's payment in full for any task completed shall not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task; final acceptance shall occur only when AUTHORITY's release of the retention described in paragraph C.

C. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations under this Agreement, AUTHORITY shall retain ten percent (10 %) of the amount of each invoice submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY and shall be paid to CONSULTANT within sixty (60) calendar days of payment of final invoice, unless AUTHORITY elects to audit CONSULTANT's records in accordance with Article 16 of this Agreement. If AUTHORITY elects to audit, retained funds shall be paid to CONSULTANT within thirty (30) calendar days of completion of such audit in an amount reflecting any adjustment required by such audit. During the term of the Agreement, at its sole discretion, AUTHORITY reserves the right to release all or a portion of the retained amount based on CONSULTANT's satisfactory completion of certain milestones. CONSULTANT shall invoice AUTHORITY for the release of the retention in accordance with Article 5.

D. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices electronically to AUTHORITY's Accounts Payable Department at [vendorinvoices@octa.net](mailto:vendorinvoices@octa.net). Each invoice shall be accompanied by the monthly progress report specified in paragraph B of this Article. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include the following information:

1. Agreement No. C-0-2604;
2. Specify the task number for which payment is being requested;
3. The time period covered by the invoice;
4. Total monthly invoice (including project-to-date cumulative invoice amount); and retention;
5. Monthly Progress Report;
6. Weekly certified payroll for personnel subject to prevailing wage requirements;
7. Certificate signed by the CONSULTANT or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The invoice is a true, complete and correct statement of reimbursable costs; c) The backup information included with the invoice is true, complete and correct in all material respects; d) All payments due and owing to subcontractors and suppliers have been made; e) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; f) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
8. Any other information as agreed or otherwise requested by AUTHORITY to substantiate the validity of an invoice.

#### **ARTICLE 6. MAXIMUM OBLIGATION**

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

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**ARTICLE 7. 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: Marjorie Morris-Threats

Senior Contract Administrator

(714) 560 - 5552

**ARTICLE 8. 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.

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

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**ARTICLE 9. INSURANCE**

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

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

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

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

4. Employers' Liability with minimum limits of \$1,000,000.00; and

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

B. Proof of such coverage, in the form of a certificate of insurance, with the AUTHORITY, its officers, directors, employees and agents, designated as additional insureds for the commercial general liability and auto liability policies as required by contract. In addition, provide an insurance policy blanket additional insured endorsement. Both documents must be received by AUTHORITY prior to commencement of any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective date of this Agreement. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by the AUTHORITY. Furthermore, AUTHORITY reserves the right to request certified copies of all related insurance policies.

C. CONSULTANT shall include on the face of the certificate of insurance the Agreement Number C-0-2604; and, the Contract Administrator's Name, Marjorie Morris-Threats.

D. CONSULTANT shall also include in each subcontract the stipulation that subcontractors shall maintain insurance coverage in the amounts required from CONSULTANT as provided in this Agreement.

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

**ARTICLE 10. ORDER OF PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 0-2604; (3) CONSULTANT's technical proposal dated , CONSULTANT's cost proposal dated , and (4) all other documents, if any, cited herein or incorporated by reference.

**ARTICLE 11. CHANGES**

A. By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work suspension or change causes an increase or decrease in the price of this Agreement or in the time required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT from proceeding immediately with the Agreement as changed.

B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed by AUTHORITY.

**ARTICLE 12. DISPUTES**

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

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

### **ARTICLE 13. TERMINATION**

A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or part, by giving CONSULTANT written notice thereof. Upon said notice, AUTHORITY shall pay CONSULTANT its allowable costs incurred to date of termination and those allowable costs determined by AUTHORITY to be reasonably necessary to effect such termination. Thereafter, CONSULTANT shall have no further claims against AUTHORITY under this Agreement.

B. In the event either Party defaults in the performance of any of their obligations under this Agreement or breaches any of the provisions of this Agreement, the non-defaulting Party shall have the option to terminate this Agreement upon thirty (30) days' prior written notice to the other Party. Upon receipt of such notice, CONSULTANT shall immediately cease work, unless the notice from AUTHORITY provides otherwise. Upon receipt of the notice from AUTHORITY, CONSULTANT shall submit an invoice for work and/or services performed prior to the date of termination. AUTHORITY shall pay CONSULTANT for work and/or services satisfactorily provided to the date of termination in compliance with this Agreement. Thereafter, CONSULTANT shall have no further claims against AUTHORITY under this Agreement. AUTHORITY shall not be liable for any claim of lost profits or damages for such termination.

### **ARTICLE 14. INDEMNIFICATION**

CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, its officers, directors, employees and agents from and against any and all claims (including attorneys' fees and reasonable expenses for litigation or settlement) for any loss, costs, penalties, fines, damages, bodily injuries, including death, damage to or loss of use of property, arising out of, resulting from, or in connection with

the performance of CONSULTANT, its officers, directors, employees, agents, subconsultants or suppliers under the Agreement. Notwithstanding the foregoing, such obligation to defend, hold harmless, and indemnify AUTHORITY, its officers, directors, employees and agents shall not apply to such claims or liabilities arising from the sole or active negligence or willful misconduct of AUTHORITY. Notwithstanding the foregoing, to the extent that Consultant's duty to indemnify arises out of a claim to which Civil Code section 2782.8 would apply, Consultant shall indemnify and defend the Indemnitees to the maximum extent permitted by Civil Code section 2782.8.

**ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

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

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

<b><u>Subcontractor Name/Address</u></b>	<b><u>Subcontractor Amounts</u></b>
1.	.00
2.	.00

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**ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to CONSULTANT's accounting books, records, work data, documents and facilities, as AUTHORITY deems necessary. CONSULTANT shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONSULTANT's performance hereunder and for a period of four (4) years from the date of final payment by AUTHORITY. AUTHORITY's right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 15 of this Agreement. CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

**ARTICLE 17. 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 18. 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 19. PROHIBITED INTERESTS**

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.

**ARTICLE 20. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

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

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

**ARTICLE 21. PATENT AND COPYRIGHT INFRINGEMENT**

A. In lieu of any other warranty by AUTHORITY or CONSULTANT against patent or copyright infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any claim or suit against AUTHORITY on account of any allegation that any item furnished under this Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any

presently existing U.S. letters patent or copyright and CONSULTANT shall pay all costs and damages finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in writing of the suit or claim and given authority, information and assistance at CONSULTANT's expense for the defense of same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim results from: (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by CONSULTANT when such use in combination infringes upon an existing U.S. letters patent or copyright.

B. CONSULTANT shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and copyright indemnity thereto.

## **ARTICLE 22. DESIGN WITHIN FUNDING LIMITATIONS**

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

1 result of conditions beyond its reasonable control.

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

12 **ARTICLE 23. REQUIREMENTS FOR REGISTRATION OF DESIGNERS**

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

19 **ARTICLE 24. FINISHED AND PRELIMINARY DATA**

20 A. All of CONSULTANT's finished technical data, including but not limited to illustrations,  
21 photographs, tapes, software, software design documents, including without limitation source code,  
22 binary code, all media, technical documentation and user documentation, photoprints and other graphic  
23 information required to be furnished under this Agreement, shall be AUTHORITY's property upon  
24 payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary restriction  
25 except as elsewhere authorized in this Agreement. CONSULTANT further agrees that it shall have no  
26 interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said data is subject

to the provisions of the Freedom of Information Act, 5 USC 552.

B. It is expressly understood that any title to preliminary technical data is not passed to AUTHORITY but is retained by CONSULTANT. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by CONSULTANT solely for the purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given for preparation of finished artwork. Preliminary data title and right thereto shall be made available to AUTHORITY if CONSULTANT causes AUTHORITY to exercise ARTICLE 11, and a price shall be negotiated for all preliminary data.

**ARTICLE 25. GENERAL WAGE RATES**

A. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices employed by CONSULTANT or subcontractor at any tier for any work hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent deduction or rebate on any account (except such payroll deductions as are permitted or required by federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates and rates of payments, contributions or costs for any fringe benefits contained in the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial Relations of the State of California, (as set forth in the Labor Code of the State of California, commencing at Section 1770 et. seq.), or as established by the Secretary of Labor (as set forth in Davis-Bacon Act, 40 U.S.C. 267a, et. seq.), regardless of any contractual relationship which may be alleged to exist between CONSULTANT or subcontractor and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on file at AUTHORITY's offices and will be made available to CONSULTANT upon request. CONSULTANT shall post a copy thereof at each job site at which work hereunder is performed.

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B. In addition to the foregoing, CONSULTANT agrees to comply with all other provisions of the Labor Code of the State of California, which is incorporated herein by reference, pertaining to workers performing work hereunder including, but not limited to, those provisions for work hours, payroll records and apprenticeship employment and regulation program. CONSULTANT agrees to insert or cause to be inserted the preceding clause in all subcontracts which provide for workers to perform work hereunder regardless of the subcontractor tier.

**ARTICLE 26. CONTRACTOR PURCHASED EQUIPMENT**

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

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

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

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

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**ARTICLE 27. CONFLICT OF INTEREST**

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

**ARTICLE 28. CODE OF CONDUCT**

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

**ARTICLE 29. 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 30. HEALTH AND SAFETY REQUIREMENTS**

CONSULTANT shall comply with all the requirements set forth in EXHIBIT B, Level 1 SAFETY SPECIFICATIONS. As used therein, "Contractor" shall mean "Consultant," and "Subcontractor" shall mean "Sub-consultant."

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**ARTICLE 31. PROHIBITION**

The prime Consultant and all subconsultants (at any tier), who have overseen or are overseeing engineering, technical services and/or construction-related work for projects on behalf of Authority's regional rail programs are precluded from participating in this Agreement at any tier.

**ARTICLE 32. FORCE MAJEURE**

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

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**ORANGE COUNTY TRANSPORTATION AUTHORITY**

Darrell E. Johnson  
Chief Executive Officer

**APPROVED AS TO FORM:**

James M. Donich  
General Counsel

**APPROVED:**

James G. Biel  
Executive Director, Capital Programs

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**EXHIBIT C: FORMS**

**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:

- |   |           |          |
|---|-----------|----------|
| <input type="radio"/> The Prime Contractor  | Yes _____ | No _____ |
| <input type="radio"/> Subconsultant   | Yes _____ | No _____ |
| <input type="radio"/> Agent/Lobbyist hired by Prime<br>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**

**Steve Jones, Chairman**  
**Andrew Do, Vice Chairman**  
**Lisa A. Bartlett, Director**  
**Doug Chaffee, Director**  
**Laurie Davies, Director**  
**Barbara Delgleize, Director**  
**Michael Hennessey, Director**  
**Gene Hernandez, Director**  
**Joseph Muller, Director**  
**Mark A. Murphy, Director**  
**Richard Murphy, Director**  
**Miguel Pulido, Director**  
**Tim Shaw, Director**  
**Harry S. Sidhu, Director**  
**Michelle Steel, Director**  
**Donald P. Wagner, Director**

**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.

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

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

**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 B). 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:

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Rationale for Requesting Deviation or Exception:

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**Area Below Reserved for Authority Use Only:**


**EXHIBIT D: SAFETY SPECIFICATIONS**

**PRELIMINARY ENGINEERING AND ENVIRONMENTAL SERVICES FOR THE IRVINE  
STATION IMPROVEMENTS PROJECT**

**MODIFIED LEVEL 1, 2 & 3 HEALTH, SAFETY AND ENVIRONMENTAL (HSE)**

**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 followed by a written incident investigation report shall be 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.

### **PART II – SPECIFIC REQUIREMENTS – FIELD DESIGN SURVEY / SURVEY CREWS**

#### **Level 2 Safety Specification Requirements for Survey Crew Field Tasks**

#### **2.0 DESIGNATED SAFETY REPRESENTATIVE**

- A. Before beginning on-site activities, the Contractor shall designate an On-site HSE Representative. This person shall be a Competent or Qualified Individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards, and has the authority to affect changes in work procedures that may have associated schedule and budget impacts.

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

#### **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,
- Safety Trained Supervisor (STS), or,
- Safety Trained Supervisor Construction (STSC)

#### **Experience:**

The Contractor's on-site HSE Representative(s) shall have a minimum of five (5) years of heavy construction or scope agreement experience in administering HSE programs on 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.

- B. A Competent or Qualified Individual means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

## **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 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 GEOTECHNICAL EXPLORATION**

### **Level 3 Safety Specifications for Geotechnical Subsurface Field Task Activities**

#### **3.0A 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 & Risk 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 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.

### **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 2 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. Copies of orientation documents shall be provided to the Authority Project 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 Standards (Cal/OSHA)
- B. CFR Including 1910 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH Standards
- D. Construction Industry Institute (CII)
- E. USACE Construction Quality Management Manuel (EM-385-1-1)

**END**

**EXHIBIT E: 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: \_\_\_\_\_

DRAFT

**EXHIBIT F: 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



**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Darrell E. Johnson, Chief Executive Officer 

**Subject:** Approval to Release Request for Proposals for Construction Management Support Services for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5

### **Overview**

The Orange County Transportation Authority has developed a request for proposals to initiate a competitive procurement process to retain a consultant to provide construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.

### **Recommendations**

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 0-2582 for selection of a consultant to provide construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.
- B. Approve the release of Request for Proposals 0-2582 to provide construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.

### **Discussion**

The Orange County Transportation Authority (OCTA), in partnership with the California Department of Transportation (Caltrans), is implementing the State Route 55 (SR-55) Improvement Project between Interstate 405 (I-405) and Interstate 5 (I-5) (Project). The Project is part of Project F in the Measure M2 (M2) freeway program and is being advanced through the updated Next 10 Delivery Plan approved by the OCTA Board of Directors (Board) in November 2019.

The four-mile long Project will add general purpose and high-occupancy vehicle lanes in each direction between I-405 and I-5, and will also add auxiliary lanes between interchanges. The 100 percent design package was submitted to Caltrans

on April 29, 2020, and is close to being ready for construction. The construction contract is expected to be advertised in mid-2021. OCTA is seeking a qualified firm to provide construction management support services.

OCTA staff proposes to use Caltrans for the administration of the construction contract. As the implementing agency for the construction phase, Caltrans will provide the resident engineer, structures representative, and other field personnel, along with construction administrative support and environmental monitoring. OCTA will provide consultant field staff for construction inspection, the office engineer, scheduling, claims support, materials testing, and field surveying.

### ***Procurement Approach***

OCTA's Board-approved procurement policies and procedures require that the Board approve all requests for proposals (RFP) over \$1,000,000, as well as approve the evaluation criteria and weightings. Staff is submitting for Board approval the draft RFP and evaluation criteria and weightings, which will be used to evaluate proposals received in response to the RFP.

The recommended evaluation criteria and weightings are as follows:

- |                                     |            |
|-------------------------------------|------------|
| • Qualifications of the Firm        | 20 percent |
| • Staffing and Project Organization | 40 percent |
| • Work Plan                         | 40 percent |

In developing the criteria and weightings, several factors were considered. The firm's qualifications and experience in performing relevant work of similar scope, size, and complexity are important to the success of the Project. Next, staff proposes to give a high level of importance to staffing and project organization, as the qualifications of the project manager and other key task leaders are critical to understanding the Project requirements and to the timely delivery and successful performance of the work. An equal level of importance is also assigned to the work plan, as an understanding of freeway construction and other required critical activities, such as utility relocations and coordination, control of the contractor's work within temporary construction easement limits, and management of anticipated critical work elements in the risk register is critical to the success of the Project. As this is an architectural and engineering procurement, price is not an evaluation criterion pursuant to state and federal laws.

The RFP will be released upon Board approval of these recommendations.

**Approval to Release Request for Proposals for Construction Management Support Services for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5** **Page 3**

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**Fiscal Impact**

The Project is included in OCTA's Fiscal Year (FY) 2020-21 Budget and subsequent FY budgets, Capital Programs Division, Account 0017-9085-FF101-1OP, and will be funded with local M2 funds at this time while staff seeks opportunities to include state and federal funds.

**Summary**

Board of Directors' approval is requested to release Request for Proposals 0-2582 for construction management support services for the State Route 55 Improvement Project between Interstate 405 and Interstate 5 and approval of the proposed evaluation criteria and weightings.

**Attachment**

- A. Draft Request for Proposals (RFP) 0-2582, Construction Management Support Services for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5

**Prepared by:**



Ross Lew, P.E.  
Program Manager  
(714) 560-5775



Pia Veasapen  
Interim Director, Contracts Administration  
and Materials Management  
(714) 560-5619

**Approved by:**



James G. Beil, P.E.  
Executive Director, Capital Programs  
(714) 560-5646

**REQUEST FOR PROPOSALS (RFP) 0-2582**

**CONSTRUCTION MANAGEMENT SUPPORT  
SERVICES FOR THE STATE ROUTE 55  
IMPROVEMENT PROJECT BETWEEN  
INTERSTATE 405 AND INTERSTATE 5**



**ORANGE COUNTY TRANSPORTATION AUTHORITY**

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

**Key RFP Dates**

<b>Issue Date:</b>	<b>October 26, 2020</b>
<b>Pre-Proposal Conference Date:</b>	<b>November 3, 2020</b>
<b>Question Submittal Date:</b>	<b>November 12, 2020</b>
<b>Proposal Submittal Date:</b>	<b>December 1, 2020</b>
<b>Interview Date:</b>	<b>January 26, 2021</b>

**SURFACE TRANSPORTATION BLOCK GRANT FUNDS/FEDERAL HIGHWAY  
ADMINISTRATION FUNDED PROJECT  
REQUEST FOR PROPOSALS (RFP) 0-2582**

# **CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE STATE ROUTE 55 IMPROVEMENT PROJECT BETWEEN INTERSTATE 405 AND INTERSTATE 5**



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

## **Key RFP Dates**

<b>Issue Date:</b>	<b>October 26, 2020</b>
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**SURFACE TRANSPORTATION BLOCK GRANT FUNDS/FEDERAL HIGHWAY  
ADMINISTRATION FUNDED PROJECT**

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October 26, 2020

**NOTICE OF REQUEST FOR PROPOSALS**

**(RFP): 0-2582: “CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE STATE ROUTE 55 IMPROVEMENT PROJECT BETWEEN INTERSTATE 405 AND INTERSTATE 5”**

**TO: ALL OFFERORS**

**FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY**

The Orange County Transportation Authority (Authority) invites proposals from qualified firms for Construction Management Support Services for the State Route 55 (SR-55) Improvement Project Between Interstate 405 (I-405) and Interstate 5.

To prevent potential conflicts of interest, the prime consultant and all subconsultants (at any tier) currently under contract with the Authority to provide program management consultant services for the Authority’s highway programs and the design consultant preparing plans, specifications and estimates for the SR-55 Improvement Project Between I-405 and I-5 (Project), are precluded from participating in this solicitation. The selected consultant and subconsultants (at any tier) to provide construction management support services are precluded from participating in the construction contract for this Project. Conflicts of interest will be evaluated on a case by case basis.

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

Roadway Plans  
Structure Plans  
Transportation Management Plans  
Draft Technical Specifications

The Authority has set a 18% 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.

**Proposals must be received in the Authority's office at or before 2:00 p.m. on December 1, 2020.**

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

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

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management  
P.O. Box 14184  
Orange, California 92863-1584  
Attention: Robert Webb, Principal Contract Administrator**

Proposals and amendments to proposals received after the date and time specified above will be returned to the Offerors unopened.

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 0-2582, 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:

Category:

Construction

Professional Consulting

Professional Services

Commodity:

Construction Management  
Services

Inspection Services

Consultant Services - General

Traffic Planning Consulting

Engineering - Civil

Engineering - General

Inspection - Testing & Analysis

Land Surveying

A pre-proposal conference will be held via tele-conference on **November 3, 2020**, at **9:00 a.m.** Prospective Offerors may call-in using the following credentials:

- Call-in number: (714) 560-5666
- Conference ID: 139016

No on-site meeting will be held. 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.

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 **January 26, 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.

DRAFT

**SECTION I: INSTRUCTIONS TO OFFERORS**

**SECTION I. INSTRUCTIONS TO OFFERORS**

**A. PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held via tele-conference on **November 3, 2020**, at **9:00 a.m.** Prospective Offerors may call-in using the following credentials:

Call-in number: (714) 560-5666  
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No onsite meeting will be held. 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:

Robert Webb, Principal Contract Administrator  
Contracts Administration and Materials Management Department  
600 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584  
Phone: 714.560. 5743, Fax: 714.560.5792  
Email: rwebb@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 must be received by the Authority no later than 5:00 p.m., on **November 12, 2020**.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
  - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
  - (2) Personal Delivery: Contracts Administration and Materials Management Department, 600 South Main Street, Lobby Receptionist, Orange, California 92868.
  - (3) Facsimile: (714) 560-5792.
  - (4) Email: [rwebb@octa.net](mailto:rwebb@octa.net)

### 3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than **November 19, 2020**. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via U.S. Mail by emailing or faxing the request to Robert Webb, Principal 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:

Category:

Construction

Professional Consulting

Professional Services

Commodity:

Construction Management Services

Inspection Services

Consultant Services - General

Traffic Planning Consulting

Engineering - Civil

Engineering - General

Inspection - Testing & Analysis

Land Surveying

Inquiries received after 5:00 p.m. on November 12, 2020, will not be responded to.

## F. SUBMISSION OF PROPOSALS

### 1. Date and Time

Proposals must be received in the Authority's office at or before 2:00 p.m. on **December 1, 2020**.

Proposals received after the above-specified date and time will be returned to Offerors unopened.

### 2. Address

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

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

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management (CAMM)  
P.O. Box 14184  
Orange, California 92863-1584  
Attention: Robert Webb, Principal Contract Administrator**

**3. Identification of Proposals**

Offeror shall submit an **original and 6 copies** of its proposal in a sealed package, addressed as shown above in F.2. The outer envelope must show the Offeror's name and address and clearly marked with RFP number. In addition to the above, ***Proposers shall also include one (1) electronic copy of their entire RFP submittal package in "PDF" format, on a CD, DVD, or flash drive.***

**4. 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 with fully burdened labor rates and anticipated expenses for work specified in the scope of work, included in the 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 18 percent (**18%**) 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)
  - Written Confirmation (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 prohibitions apply to this procurement.

The Offeror, including all subconsultants (at any tier) regardless of the level of service provided by said subconsultants, awarded this contract for construction management services is prohibited from submitting a bid for the construction of this Project.

The design Consultant, including all subconsultants (at any tier) regardless of the level of service provided by said subconsultants, awarded the contract to prepare the plans, specifications and estimates for the SR-55 Improvement Project Between I-405 and I-5 is prohibited from participating in this solicitation for construction management support services.

The Consultant, including all subconsultants (at any tier) awarded the Agreement for the Program Management Consultant Services for the Authority’s Highway Programs are prohibited from participating in this solicitation for construction management support services.

**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 on 8 1/2" x 11" size paper, using a single method of fastening. 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 Robert Webb, Principal 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, including oversight of utility agencies during the utility relocation work, control of the contractor's work within the temporary construction easement (TCE) limits, and anticipated elements in the Risk Register. 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 J, 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 Level 1 as included in this RFP as Exhibit G, during the term of the awarded Agreement.

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

Offerors must complete the following forms:

- Consultant Proposal DBE Commitment Form (10-O1)
  - Written Confirmation (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

## **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 **January 26, 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.

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**EXHIBIT A: SCOPE OF WORK**

**CONSTRUCTION MANAGEMENT  
SUPPORT SERVICES**

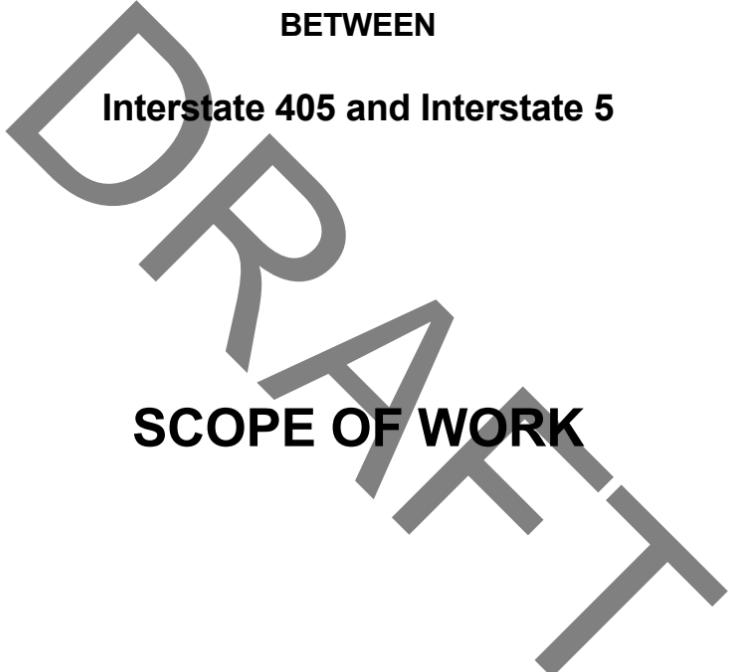
**FOR THE**

**STATE ROUTE 55 (SR-55) IMPROVEMENT PROJECT**

**BETWEEN**

**Interstate 405 and Interstate 5**

**SCOPE OF WORK**

A large, light gray, diagonal watermark with the word "DRAFT" in all caps is overlaid across the center of the page, extending from the middle-left towards the bottom-right.

## **PROJECT DESCRIPTION**

### **1.1 Introduction**

The Orange County Transportation Authority (OCTA) and California Department of Transportation (Caltrans) require inspection and administrative support staff for construction of the State Route 55 (SR-55) between Interstate 405 (I-405) and Interstate 5 (I-5) (Project).

### **1.2 Statement of Intent**

CONSULTANT shall provide qualified personnel to perform the function of construction inspection (including roadway and structures), CPM scheduler, claims support, Office Engineer, field materials testing, surveying, and electrical inspection. These services shall include inspection services, field/office contract administration, and other services as determined necessary by the OCTA Project Manager. Caltrans will lead the construction management and administration of the construction contract and will provide the Senior Resident Engineer (RE), Principal Assistant Resident Engineer, Structural Representative, additional inspection services as needed and other functional support services necessary to administer the construction contract. CONSULTANT inspection personnel shall be assigned full time or part time as needed and shall provide assistance to, and work under the direction of the Caltrans RE. CONSULTANT shall also provide a fully equipped field office for all staff assigned to the project including Caltrans, OCTA, and CONSULTANT'S own staff.

### **1.3 Project Description**

#### **1.3 -1 Background**

Caltrans District 12, in cooperation with OCTA, proposes the construction of State Route 55 between Interstate 405 and Interstate 5. The proposed project is located in Orange County on SR-55 and traverses through the Cities of Irvine, Santa Ana and Tustin. The proposed project limits cover a distance of a 4.0 mile corridor. The Environmental Document, Project Report and Environmental Revalidation were approved on August 31, 2017, September 11, 2017, and April 8, 2020 respectively.

The final design phase for this project is scheduled to be complete in fall-2020 and contract documents will be developed for the construction-bidding phase in late-2020. OCTA is expecting funding for the project from federal funds and Measure M2 funds. As the implementing agency OCTA contracted with WKE, Inc. (WKE) to prepare the final design Plans, Specifications, and Estimates (PS&E) for this project. Caltrans provided oversight up to the completion of the PS&E phase. Caltrans will be the lead agency during the construction phase and will administer the contract for the construction phase.

### **1.3 -2 Location and Limits**

The Project is located in the cities of Irvine, Santa Ana and Tustin. The total length of this project is 4.0 miles.

### **1.3 -3 General Project Description**

Project will add general purpose and high-occupancy vehicle lanes in each direction between I-405 and I-5 and will also add auxiliary lanes between interchanges. The project construction will be in accordance with the Caltrans approved PS&E documents for project EA# 12-0J3404.

## **1.4 Project Delivery**

The design consultant, who prepared the PS&E, WKE will provide construction support services during construction.

Caltrans will advertise, award, and administer the construction contract. Caltrans will provide the Resident Engineer, Principal Assistant RE, Structures Representative and other support as outlined in Section 1.2 "Statement of Intent" above. CONSULTANT shall be responsible for coordinating with Caltrans, design team and other stakeholders as necessary.

OCTA is the lead agency for the right-of-way certification and utility relocation on the project. All utility and right of way issues during construction will be the responsibility of OCTA as defined in the cooperative agreement between Caltrans and OCTA.

## **1.5 Project Schedule and Cost**

Shown below are the Project Ready-To-List (RTL), construction start, and construction completion dates, and estimated cost for construction:

Ready-To-List	May 2021
Construction Start	January 2022
Construction Completion	June 2025
Construction Cost:	\$210,000,000

## **GENERAL CONDITIONS AND REQUIREMENTS**

### **2.1 Project General Conditions and Requirements**

- 2.1-1 The number of project personnel and duration of the assignments will vary depending on the needs of the project. The final number of personnel and exact duration of assignment will be determined by OCTA and Caltrans. CONSULTANT personnel shall be available within two (2) weeks from written notification by OCTA and up to a maximum of 6 months after Caltrans acceptance of the construction project.
- 2.1-2 CONSULTANT shall assist in verifying compliance with the labor standards provisions of the project and the related wage determination decisions of the Secretary of Labor.
- 2.1-3 CONSULTANT shall assist Caltrans in verifying compliance with the safety and accident prevention provisions of the project. Caltrans shall retain jurisdictional control for traffic control but shall receive assistance from CONSULTANT forces in reviewing and monitoring.
- 2.1-4 CONSULTANT shall assist Caltrans in verifying compliance with the equal employment opportunity (EEOC) provisions of the project.
- 2.1-5 All services required hereunder shall be performed in accordance with latest Caltrans regulations, policies, procedures, manuals, and standards. Documents shall be made available upon request.
- 2.1-6 CONSULTANT shall furnish a Project Manager to coordinate the CONSULTANT's operations with Caltrans and OCTA. The Project Manager shall be responsible for all matters related to the CONSULTANT's personnel and operations.
- 2.1.7 CONSULTANT's Project Manager shall be accessible to Caltrans and OCTA at all times during Caltrans normal working hours.
- 2.1-8 CONSULTANT shall provide construction management support services to control quality and manage work. CONSULTANT shall perform the following administrative activities:
  - a. Prepare, circulate, and file correspondence and memos as appropriate.
  - b. At the end of each month, the CONSULTANT shall report the progress of the work. Progress shall be based on actual work accomplished such as estimated progress toward completion. The progress report shall include a staff labor report. Progress payments will be based upon actual time and expenses incurred.

- c. The CONSULTANT shall submit 1 copy of a monthly Progress Report to the OCTA and Caltrans Project Manager consisting of a written narrative and an updated progress and expenditure curve. This report shall be received no later than the last 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.
- 2.1-9 To ensure an understanding of contract objectives, meetings between Caltrans, OCTA, and the CONSULTANT will be held as often as deemed necessary. All work objectives, the work schedules, the terms of the contract, and any other related issues will be discussed and any problems will be resolved.
- 2.1-10 OCTA will designate a Project Manager to administer the CONSULTANT Agreement and provide general direction to the CONSULTANT.
- 2.1-11 Resumes of personnel must be submitted to OCTA for review and approval prior to assignment to a project. Caltrans, OCTA and CONSULTANT will have the responsibility of determining the quality and quantity of work performed by the CONSULTANT's personnel. If, at any time, the level of performance is below expectations, OCTA shall have the right to request removal of any project personnel. OCTA may request another person to be assigned as needed.
- 2.1-12 If a CONSULTANT's employee is on a leave of absence, the Project Manager shall provide an equally qualified replacement employee until the assigned employee returns to work. The replacement employee shall meet all the requirements of a permanently assigned employee.
- 2.1-13 The typical workday includes all hours worked by the Caltrans' construction contractor, normally 40 hours per week. If ordered by the RE, overtime for the CONSULTANT's employees may be required. The construction contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for CONSULTANT's personnel. On days when the construction contractor, such as rainy or unsuitable weather days, does not perform work CONSULTANT services shall not be provided unless authorized by the RE. The RE will provide 8 hours advance notice if CONSULTANT services are not required.
- 2.1-14 All personnel shall be knowledgeable of, and comply with, all applicable local, Caltrans, and federal regulations; cooperate and consult with Caltrans and OCTA officials during the course of the contract; and perform other duties as may be required to assure that the construction is being performed in accordance with the project plans and specifications.

- 2.1-15 CONSULTANT shall keep detailed records and document the work as directed by the Caltrans RE.
- 2.1-16 Caltrans will furnish a representative to perform the usual functions of a RE. Caltrans Department of Structures will provide the Structure Representative.
- 2.1-17 Caltrans or OCTA will provide CONSULTANT with the following:
  - a. Caltrans construction forms and other policies and procedures to be followed by CONSULTANT's personnel in the performance of the work.
  - b. A set of approved project plans for the project.

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## STATEMENT OF SERVICES

### 3.0 Construction Inspection Services

#### 3.1 General

CONSULTANT will be required to provide:

- a. Inspection and administration personnel
- b. A fully equipped field office
- c. Miscellaneous equipment, vehicles, and tools.
- d. Materials testing lab facility

The number of CONSULTANT personnel shall be dependent upon the actual work scope. The anticipated category and approximate annual quantity of personnel required is (based on a construction duration of 840 working days and 1,758 hours/year):

	<u>Personnel</u>	<u>Total Hours</u>
Project Manager	0.2	1,167
Senior Inspector (Roadway)	1.0	5,837
Inspector (Roadway)	3.0	17,511
Inspector (Structural)	2.5	14,592
Inspector (Electrical)	2.0	11,674
Office Engineer	1.0	5,837
CPM Scheduler	0.4	2,335
Claims Support	0.25	1,459
Field Materials Testing	1.6	9,339
Surveying	<u>1.75</u>	<u>10,214</u>
Total	13.70	79,965

### **3.2 Construction Inspection and Administrative Support Services Requirements**

Inspection work shall not be performed when conditions (such as weather, traffic, and other factors) prevent a safe, efficient operation or as directed by Caltrans or AUTHORITY.

Assignments to be performed by CONSULTANT personnel may include, but are not limited to, the following:

3.2-1 Perform and assist in performing the duties of construction inspection and engineering including: paving and subgrade inspection, structures inspection, electrical inspection, drainage, signing and striping inspection, quantity calculations, checking grade and alignment, construction traffic control, and ensuring compliance with project plans and specifications.

3.2-2 Analyze the project plans and specifications for possible errors and deficiencies and report such findings to the RE. Identify actual and potential problems associated with the construction project and recommend sound engineering solutions to the RE. If the RE determines that changes are necessary, CONSULTANT's personnel shall assist in implementing and processing of "Change Orders" in accordance with Caltrans' Standard Specifications.

3.2-3 Adhere to all safety and health code and regulations and enforce applicable contract provisions for the protection of the public and project personnel. Prepare Assistant RE daily diaries in accordance with the Caltrans construction manual.

3.2-4 Prepare calculations, records, reports, and correspondence related to project activities.

3.2-5 Consultant to assist in the preparation of As-Built plans.

3.2-6 Assist in preparing claims reports and be available for any claims settlements meetings.

3.2-7 Perform and assist in review of contractor's Critical Path Method (CPM) schedule and construction staging plans.

3.2-8 Assist in performing Storm Water Pollution Prevention (SWPP) duties.

3.2-9 Assist in performing oversight of advance utility relocation prior to start of construction.

3.2-10 Assist in control of contractor's work within temporary construction easements.

3.2-11 Develop and maintaining a risk register of critical work that may affect construction schedule and cost.

### **3.3 Inspection Standards**

Construction inspection and contract administration shall be in accordance with:

- 3.3-1 The Manual of Traffic Controls for Construction and Maintenance Work Zones.
- 3.3-2 The Caltrans Standard Specifications and Standard Plans.
- 3.3-3 The project plans and special provisions.
- 3.3-4 The Caltrans Construction Manual and other applicable Caltrans manuals.
- 3.3-5 Caltrans and OCTA shall decide all questions which may arise as to the quality or acceptability of deliverables furnished and work performed for this contract.

### **3.4 Construction Surveying Services**

Surveying work shall not be performed when conditions (such as weather, traffic, and other factors) prevent a safe, efficient operation or as directed by Caltrans or AUTHORITY.

Tasks and assignments to be performed by CONSULTANT personnel will generally include, but are not limited to, the following:

3.4-1 Construction Contract Documents. CONSULTANT shall perform all surveying that is required to be performed the AUTHORITY as described in the Construction Contract between the AUTHORITY and the Contractor. Other surveying and engineering calculations shall be performed as needed to administer and manage the PROJECT.

3.4-2 Survey Calculations and Adjustments. Survey calculations and adjustments shall be performed with established and computed coordinates based on the California Coordinate System. Cross Section Data Collection shall be performed by conventional and terrain line interpolation survey methods. Survey Data Formatting will include formatting topography, cross-section, and other survey data into computerized formats compatible with the Caltrans' computerized survey and design systems. Preparing and maintaining survey documents will include compiling and survey field notes, maps, drawing, and other survey documents. Monitoring for settlement shall be performed if required. GPS equipment shall be made available if required by AUTHORITY.

3.4-3 Existing Right of Way and Easements. CONSULTANT shall establish existing right of way and easements from Caltrans and other AUTHORITY's record information and existing monumentation. Right of Way related monumentation shall be renewed and restored in accordance with Section 10.4 of the Surveys Manual, and the Land Surveyor's Act. Corner records and records of surveys shall be prepared and filed in accordance with Chapter 10 of the Caltrans Surveys Manual, and the Land Surveyors' Act. Perpetuating Existing Monumentation – Includes restoring, renewing, referencing, and resetting existing boundary-related monumentation, staking areas where construction disturbs the existing right of way and preparing and filing required maps and records.

3.4-4 New Right of Way and Easements. CONSULTANT shall establish new right of way and easements from plans, right of way maps, utility drawings, Caltrans and other AUTHORITY's record information and existing monumentation. Right of Way Surveys - Includes research, locating and monumenting right of way and easement lines, staking right of way and easement fences and preparing and filing required maps and records. Final Monumentation - Includes the setting of centerline points of control upon completion of construction. Special Design-Data Surveys - Including drainage, utility, and those required for special field studies.

3.4-5 Control Survey. Horizontal and vertical controls, including project control surveys and aerial mapping control surveys. Also includes the restoring, renewing, referencing, relocating, and resetting existing control monumentation.

3.4-6 Topographic Surveys. By ground survey methods only.

3.4-7 As-built Drawing Survey Support. Provide electronic record information to support the development of project as-built drawings.

3.4-8 Survey Monument Markings. Monuments established by the CONSULTANT shall be marked by CONSULTANT with furnished disks, plugs, or tags acceptable to AUTHORITY and the municipality having jurisdiction over the improvements. In addition, the CONSULTANT shall identify CONSULTANT-established monuments by tagging or stamping the monuments with the license or registration number of the CONSULTANT's surveyor who is in "reasonable charge" of the work.

3.4-9 All surveys shall be performed in accordance with the current Caltrans Survey Manual, its revisions and the District 12 Standard Staking Procedures Manual. Work not covered by the Manual shall be performed in accordance with the directions of the AUTHORITY and accepted professional surveying standards.

3.4-10 Surveys performed by CONSULTANT shall conform to the requirements of the Land Surveyors' Act. In accordance with the Act, "responsible charge" for the work shall reside with a Licensed Land Surveyor or a pre-January 1, 1982, Registered Civil Engineer, in the state of California.

3.4-11 Unless otherwise specified in the survey request, control surveys shall conform to second-order (modified) accuracy standards as specified in the Caltrans Surveys Manual.

3.4-12 Additional standards for specific surveying work might be included in a special survey request by the AUTHORITY. Such standards supplement the standards specified herein. If such additional standards conflict with the standards specified herein, the survey request standard shall govern over the standards herein.

### **3.5 Construction Management, Inspection and Survey Deliverables**

CONSULTANT shall create and maintain the following documentation and provide the following deliverables:

3.5-1 Daily reports and extra-work diaries.

3.5-2 Monthly progress reports prepared by the CONSULTANT's project manager.

3.5-3 Construction contract progress payment and quantity documents delivered to the RE the morning of the day specified in the contract payment schedule.

3.5-4 Final payment quantity documents delivered to the RE by no later than 5 working days after acceptance by Caltrans of the completed construction project.

3.5-5 Field measurements, field, and laboratory test data and other documents as required by Caltrans procedures.

3.5-6 All reports, calculations, and other applicable documents prepared for the project.

3.5-7 Survey points, lines, and monuments shall be established, marked identified and referenced, as required by the survey request and the requirements herein.

3.5-8 Survey notes, drawings, calculations and other survey documents and information shall be completed as required herein.

3.5-9 All original survey documents resulting from this contract (including original field notes, adjustment calculations, final results, and appropriate intermediate documents) shall be delivered to AUTHORITY and shall become the property of AUTHORITY. A copy of all survey documents furnished to AUTHORITY shall be retained by CONSULTANT for future reference.

3.5-10 When a survey is performed with a total station survey system, the original field notes shall be a hard copy listing, in a readable format, of the data (observations) as originally collected and submitted by the survey party. The party chief shall sign the listing or if the chief is not licensed, the person in "responsible charge" of the survey shall sign.

3.5-11 Survey deliverables to AUTHORITY shall follow the format specified below:

a) Horizontal Control - Alpha/numeric hard copy point listing with adjusted California Coordinate System northing and eastings and appropriate description.

b) Vertical Control - Alpha/numeric hard copy benchmark listing with adjusted elevations compatible with the design datum.

c) Topography - Alpha/numeric hard copy listing, hard copy drawing, and CADD digital drawing. The CADD drawing shall be provided on current media that will be compatible with Caltrans' computer systems. See Attachment A. Topographic symbology shall conform to the current Caltrans Drafting and Plan Manual.

d) Cross-Section Data - The data collection method used to collect cross-section data and the coding (feature description) of terrain data for cross-sections shall conform to the survey request requirements. Deliverables shall depend on the data collection method as follows:

e) Conventional Cross-Sections - For each cross-section: and alpha/numeric listing, a hard copy drawing, and a computerized formatted file, which is compatible with Caltrans' computer systems. Computerized formatted cross-sections shall be provided on magnetic tapes or disks compatible with Caltrans' computer systems.

f) Terrain Line Interpolation Cross-Section Data for each Terrain Line Interpolation survey: an alpha/numeric listing, a hard copy plan view drawing of the terrain lines, and a computerized input file. The computerized input file shall be provided on magnetic tape or disks compatible with Caltrans' computer systems and shall be in a format compatible with the Caltrans Terrain Line Interpolation computer program.

g) Data Collector Data - If specified in the Survey Request, the raw data from the data collector shall be provided in a format conforming to the Survey Request requirements.

3.5-12 All correspondence, records, and other PROJECT documents.

3.5-13 Field notes and redline as-builts related to advance utility relocations.

3.5-14 Risk register of critical work that may affect construction schedule and cost.

### **3.6 Field Office Requirements**

CONSULTANT shall provide a fully equipped and operational field office. It is not anticipated right-of-way will be provided to provide temporary trailers as the field office.

3.6-1 The field office shall house all construction personnel assigned to the project. The construction staff includes: Caltrans personnel, CONSULTANT inspection personnel, and one office for the construction survey crew.

3.6-2 The field office shall have one desk and chair for every person assigned to the project, a desktop computer for CONSULTANT personnel only, internet access (T1 line), phones, fax machine, copy machine, full sized plotter, and conference table and chairs, and other normal office furniture, equipment, and utilities. CONSULTANT shall dispose of office furniture and equipment at project completion.

3.6-3 The field office shall also provide a common area (kitchen), bathrooms, field laboratory storage area, miscellaneous equipment storage area, and a large conference area for project meetings.

### **3.7 Miscellaneous Equipment, Inspection Vehicles, and Tools**

CONSULTANT shall provide all necessary instruments, tools, and safety equipment required for their personnel to perform their work accurately, efficiently, and safely.

3.7-1 CONSULTANT shall provide one inspection vehicle (truck) for each inspector. Vehicles without side windows shall not be used. Caltrans-furnished magnetic logos shall be affixed to each side of the vehicle at all times it is used for the work under this contract.

3.7-2 CONSULTANT shall provide other field materials such as testing equipment and safety equipment, as needed, for use by their staff on the project.

3.7-3 CONSULTANT shall provide each inspector with a cellular phone.

### **3.8 Survey Services Equipment and Supplies**

3.8-1 Office Equipment and Supplies- CONSULTANT shall have adequate office equipment and supplies to complete the required surveying work. Such equipment and supplies shall include, but not be limited to:

- 1) Drafting equipment.
- 2) Computers and calculators.
- 3) Data processing systems, including software, for:

- Reducing survey data collected with conventional and total station survey systems.
- Performing network adjustments for vertical and horizontal control surveys.
- Formatting survey data to be compatible with the Caltrans' computerized survey and data system.

3.8-2 Field Equipment and Supplies- CONSULTANT shall have adequate field equipment and supplies to complete the required surveying work. The equipment and supplies for each survey party shall include, but not be limited to, the following:

- Survey vehicles suitable for the work to be performed and terrain conditions of the project site. Vehicles shall be fully equipped with all necessary tools, instruments, and supplies required for the efficient operation of a survey party. Vehicles shall have an overhead flashing yellow light.
- Electronic calculator.
- Hand tools and supplies as appropriate for the requested survey work.
- Sufficient number of traffic cones 28 inches, minimum, in height.
- Traffic control devices (including signs, sign bases, flags, and hand held signs) as required to perform the requested survey work.
- Leveling instruments and equipment, including 1) self-leveling level; precision: standard deviation in one mile of double-run leveling 0.005 feet or less, and 2) suitable leveling rods for the work to be performed.
- Distance measuring instruments and equipment, including 1) electronic distance measurer; precision: standard deviation 3 millimeters plus 3 ppm, or less; range: at least one mile under average atmospheric conditions, 2) prisms, sufficient to perform the required work, 3) tapes; steel, cloth, 4) angle measuring instruments and equipment: Theodolite for non-control surveys; precision: direct circle reading to three seconds, or equivalent, horizontal and vertical, and 5) targets as required to perform the required work.
- When required for efficient survey operations, total station survey systems measurer, and electronic data collector shall be provided. The angle measuring instruments and distance measurer shall conform to requirements above.
- Radio communication shall be required if requested by AUTHORITY.

3.8-3 Survey Personnel Safety. In addition to the requirements specified elsewhere in this contract, the following also shall apply. CONSULTANT shall conform to the safety provisions of the Caltrans Construction and Survey Manuals. CONSULTANT's personnel shall wear white hard hats, orange vests and rubber soled shoes at all times while working in the field. CONSULTANT shall

provide appropriate safety training for all CONSULTANT's personnel required to work on and near the PROJECT site. All safety equipment and personnel protective devices and gear shall be provided by the CONSULTANT.

### **3.9 Personnel Qualifications and Responsibilities**

The preferred minimum qualifications for CONSULTANT personnel assigned to this project are as follows:

#### **3.9-1 Project Manager**

The preferred minimum qualifications for the position of Project Manager are:

- a) Minimum of 10 years project management experience on similar highway construction/bridge construction projects, or other relative equivalent experience as determined by OCTA.
- b) Thorough knowledge of Caltrans construction practices, and the ability to read and interpret plans and specifications.
- c) Ability to make effective decisions concerning field problems and work in progress.
- d) Licensed Civil Engineer in the State of California.
- e) Ability to use typical computer programs such as Microsoft Word, Outlook, and Excel.

Under the direction of OCTA and Caltrans, the Project Manager will assume the following functional responsibilities:

- a) Review, monitor, train, and provide general direction for CONSULTANT's personnel.
- b) Assign personnel to projects on an as-needed basis.
- c) Administer personnel leave subject to approval of the Caltrans' RE.
- d) Prepare monthly reports for delivery to the OCTA Project Manager.
- e) Maintain continuous communication with the Caltrans' Resident Engineer, OCTA Project Manager, CONSULTANT field personnel, and with public outreach personnel.
- f) Coordinate/communicate with the OCTA Project manager, staffing needs, and ensure project support costs are within budget.
- g) Advise the OCTA Project Manager of major project issues and contract status.
- h) Provide expert advice when called upon.

#### **3.9-2 Senior Roadway Inspector**

Minimum qualification is at least 5 years working as a Resident Engineer on Caltrans Highway improvement projects of similar size and complexity.

- a) Act as the lead inspector and provide guidance to other CONSULTANT inspectors and staff in carrying out their day to day duties.
- b) Provide consultation on complex contract interpretation issues as called upon by the RE. Act as an advisor to the RE.
- c) Thorough knowledge of Caltrans construction practices.
- d) Ability to make effective decisions concerning field problems and work in progress.
- e) Licensed Civil Engineer in the State of California.
- f) Maintain continuous communication with the Caltrans RE, lead staff, OCTA Project Manager, field staff, public outreach personnel, and with construction administration staff.
- g) Provide expert advice when called upon.

### 3.9-3 Roadway Inspectors

Preferred minimum qualification for the position of roadway inspectors will be as follows:

- a) Minimum of 3 years of relevant construction inspection and management experience on similar highway construction projects.
- b) Knowledge of construction practices, physical characteristics and properties of highway construction inspection, and the approved methods and equipment used in performing physical inspections.
- c) Ability to work independently and perform inspection duties in the construction field office.
- d) Ability to effectively make minor decision concerning work in progress and solving field and office problems.
- e) Ability to use typical computer programs such as Microsoft Word, Outlook, and Excel.
- f) Ability and experience with review of Critical Path Method (CPM) baseline schedule including updates and revisions. Ability to run Claim Digger or other available software to detect changes to the CPM schedule for Claims analysis purposes.
- g) Assist in the response to potential claims filed by the contractor and preparation of documentation for contract claims and claim reports.

Under the direction of the Caltrans RE the Roadway Inspector(s) will assume the following functional responsibilities:

- a) Perform inspections to achieve compliance with contract plans and specifications on all phases of Highway construction, such as paving, structures, grading, drainage, utility relocation, electrical installation, sign installation, and landscaping items.
- b) Perform quantity calculations for progress pay estimates and keep project records.

- c) Perform design for minor changes and make design estimates for contract change orders.
- d) Perform analytical calculations for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions.
- e) Perform analytical calculation for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions.
- f) Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant (Resident) Engineer, field personnel, public outreach personnel, and with construction administration staff.

#### 3.9-4 Structures Inspectors

Preferred minimum qualifications for the position of structures inspectors will be as follows:

- a) Minimum of 3 years of relevant construction inspection and management experience on similar construction projects involving bridges, retaining walls, sound walls, barriers, drainage structures, sign structures, and other structures.
- b) Knowledge of construction practices, physical characteristics and properties of structures construction inspection, and the approved methods and equipment used in performing physical inspection.
- c) Ability to perform calculations such as grade, deflection, stress, alignment. Ability to perform calculations to check the various elements of structures (i.e. beams, columns, etc.) as used in contractor's temporary works.
- d) Assist in reviewing false work plans, shoring plans, demolition plans, concrete mix designs and other submittals provided by the contractors as required by the contract documents.
- e) Ability to work independently and perform inspection duties in the construction field office.
- f) Ability to effectively make minor decisions concerning work in progress and solving field and office problems.
- g) Ability to use typical computer programs such as Microsoft Word, Outlook, Access, and Excel.

Under the direction of the Caltrans Structures Representative, the Structures Inspectors will assume the following functional responsibilities:

- a) In a field setting perform soil calculations, establish surveying control line and grade as required by established Office of Structures Construction (OSC) Practices & Procedures, ensure that the contractors materials are in compliance and as required by the contract documents, verify field dimensions. Must be present for concrete pours and assure that the concrete is cured properly. Oversee removal and placement of

existing materials. Confer with contractors regarding compliance with plans, specifications, quality of work, construction activity, and CAL-OSHA regulations.

- b) Assist in identifying the need for Contract Change Orders (CCOs), preparation of CCOs, contract estimates and other documents, such as responses to contractor's claims, and reports and letters involved in the construction of engineering projects.
- c) Perform quantity calculations for progress pay estimates and keep project records.
- d) Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant (Resident) Engineer, field personnel, public outreach personnel, and with construction administration staff.

### 3.9-5 Electrical Inspector

The preferred minimum qualifications for the position of Electrical Inspector(s) are as follows:

- a) Minimum of 3 years of relevant electrical inspection and management experience on a similar highway construction project is required.
- b) Knowledge of intelligent transportation system (ITS) elements such as ramp metering systems, CCTV systems, electrical systems, highway advisory radio (HAR) systems, communication Systems (wireless, hardwire & fiber-optics), changeable message signs, vehicle detection systems, traffic signal systems, transit signal priority, emergency vehicle priority, etc.
- c) Knowledge of construction practices, physical characteristics and properties of roadway, structures, drainage and utility systems construction materials, and the approved methods and equipment used in making physical tests of construction materials.
- d) Ability to work independently and perform duties in the construction field office.
- e) Ability to effectively make minor decisions concerning work in progress and solving field and office problems.
- f) Proficient in the use of computer application programs Word and Excel.

Under the direction of the Caltrans RE, the Electrical Inspector will assume the following functional responsibilities:

- g) Perform quality assurance inspections to achieve compliance with contract plans and specifications on all electrical installation.
- h) Perform quantity calculations and measurement for progress pay estimates and keep daily project records.
- i) Perform calculations and measurement of electrical components.

- j) Perform design for minor changes and make design estimates for contract change orders.
- k) Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant Resident Engineer, field personnel, public outreach personnel, and with construction administration staff.

#### 3.9-6 Office Engineer

- a. Minimum of 3 years of relevant construction inspection and/or office engineering experience.
- b. Ability to work independently and perform typical construction field office duties.
- c. Thorough knowledge of Caltrans construction practices, and the ability to read and interpret plans and specifications.
- d. Thorough knowledge of the construction manual regarding estimates, extra work bidding, change orders, and other administrative duties.
- e. Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, and Caltrans District Construction Administration.
- f. Ability to use typical computer programs such as Microsoft Word, Excel, Outlook, Scheduling software, and Expedition or equivalent.

Under direction of the Caltrans RE, the office engineer will assume the following functional responsibilities:

- a. Perform quality calculations for progress pay estimates and keep for project records.
- b. Draft Change Orders and process for approval.
- c. Maintain continuous communications with the Caltrans' RE, OCTA Project Manager, construction administration staff, and the District Construction office.

#### 3.9-6 Scheduling Support Specialist

Construction scheduling support CONSULTANT shall be knowledgeable and experienced in the following:

- a) Using Primavera Project Management Software (P6/P7), Primavera Project Planner (P3), SureTrack, Microsoft Project and Microsoft Office (Word, Excel, Powerpoint etc.) software.
- b) Generating, reviewing, and analyzing Critical Path Method (CPM) schedules with respect to time, resource, and cost. The CONSULTANT shall possess the experience and skills to track Contractor's submittals and CALTRANS submittals reviews, and in conjunction with schedule analysis, determine credits to State-owned Float activity for time saved on the critical path for early review of submittals. The CONSULTANT

shall also possess the experience and skills to determine other savings to the critical path due to actions by CALTRANS.

- c) Monitoring and analyzing Contractor's performance of the work with respect to time, resource, and cost. Generating project correspondence, daily diaries, monthly contract item payments related to scheduling work, Weekly Statement of Working Days, reports, plots exhibits, other presentation materials and other items related to scheduling.
- d) Generating, reviewing and analyzing reports with respect to time, resource and cost.
- e) Generating, reviewing, and analyzing Time Impact Analyses.
- f) Providing specialized expertise for the support of review and analysis of potential claims.
- g) Negotiating issues related to construction scheduling.
- h) Conducting constructability reviews.
- i) Making presentations as needed. Providing training in areas related to scheduling.
- j) General construction process and terminology.
- k) Working knowledge of CALTRANS plans, specifications, and manuals (Standard Plans, Standard Specifications, Construction Manual etc.)
- l) Construction scheduling support CONSULTANT shall possess excellent oral and written communications skills.
- m) Minimum of 4 years' experience performing construction scheduling for highway, or major public works projects, performing related duties as described above.

### 3.9-7 Claims Support

The construction claims support CONSULTANT shall be knowledgeable and experienced in the following:

- a) Using Primavera Project Management Software (P6/P7), Primavera Project Planner (P3), Suretrack, Microsoft Project, and Microsoft Office (Word, Excel, PowerPoint etc.) software.
- b) Generating and analyzing Critical Path Method (CPM) schedules with respect to time, resource, and cost. The CONSULTANT shall possess the experience and skills to conduct detailed schedule analysis.
- c) Have at least 5 years' experience with Claims analysis, responding to potential claims, preparing claims reports and presenting to the Dispute Review Boards or District Claims Board.
- d) Analyzing Time Impact Analyses.

**3.9-8            Surveying**

**Survey Field/Office Party Chief**

- a. Minimum preferred qualifications for the position of Survey Field/Office Party Chief are as follows:

1) Party Chief shall fulfill at least one of the three following licensing requirements:

- a. A licensed Land Surveyor in the State of California.
  - b. A pre-January 1, 1982, Registered Civil Engineer in the State of California
  - c. An experienced surveyor who serves as chief under the direction or supervision of a person who is a licensed Land Surveyor or pre-January 1, 1982 Registered Civil Engineer in the state of California. This direction or supervision shall be provided in a manner and with a span of control and immediacy that enables the supervisor to be in "responsible charge" of the work as defined in Chapter 15 of the Business and Professions Code (the Land Surveyors Act) and Title 16, Chapter 5, of the California Administrative Code (regulations adopted by the Board of Registration for Professional Engineers and Land Surveyors).
- i. b) Five years survey experience on a similar construction projects, or other relevant experience.
  - ii. c) Thorough knowledge of construction survey practices and the ability to read and interpret plans and specifications.

- b) Ability to make effective decisions concerning field problems and work in progress.
- c) Familiarity with typical coordinate geometry computer programs.

- d) Under the direction of the Caltrans RE, the Party Chief will assume the following functional responsibilities and shall possess experience in all of these areas:

- 1. Perform survey services for all stages of construction as described in the Survey Services sections above.
- 2. Administer day to day activities of the survey party.
- 3. Perform analytical survey calculations for items such as grading, horizontal and vertical control, right of way and minor in-field design.
- 4. Maintain continuous communication with the RE, field personnel and construction administration staff when on site.

5. Shall be designated safety officer for the survey party field operations, and shall be trained in the principles of traffic control.

### Survey Assistants

Preferred minimum qualifications for survey assistants are as follows:

- a) One- year survey experience on a similar construction projects.
- b) Fundamental knowledge of construction survey practices and the ability to read and interpret plans and specifications.
- c) Ability to assist field and office party chiefs in all required surveying work.
- d) One survey party member must have the ability to assume temporary leadership of the survey party in the absence of the party chief.
- e) Trained in the appropriate safety areas for the job decisions each individual is required to make.
- f) Under the direction of the Caltrans RE and the Party Chief, the survey assistants will assume the following responsibilities and shall possess experience in all of these areas:
  1. Assist field and office party chiefs in all required surveying work.
  2. Perform basic calculations to support surveying and staking work.
  3. Maintain continuous communication with the field or office party chief

### 3.10 Inspection and Safety

In addition to the requirements specified elsewhere in this contract, the following also shall apply.

3.10-1 CONSULTANT shall conform to the safety provisions of the Caltrans Construction and Survey Manuals.

3.10-2 CONSULTANT's personnel shall wear white hard hats, safety orange vests and rubber-soled shoes at all times while working in the field.

3.10-3 CONSULTANT shall provide appropriate safety training for all CONSULTANT's personnel required to work on and near highways.

3.10-4 All safety equipment shall be provided by the CONSULTANT.

### 3.11 Field Material Testing

#### SOILS AND MATERIALS TESTING SERVICES

- 3.11-1 Materials sampling and testing shall be in accordance with the Project plans, technical specifications, standard specifications, and other applicable standards and procedures.

- 3.11-2 The contractor for the Project shall be responsible to provide Quality Assurance/Quality Control Soils and Materials Testing Services. CONSULTANT shall provide a certified laboratory to perform soils and materials testing services on an as needed basis in order to validate construction contractor test results.
- 3.11-3 The laboratory, whether temporary or permanent, is to be in the general vicinity of the project area and no more than 30 miles from the field office for the project.
- 3.11-4 Testing shall be performed in accordance with the California Test Methods and shall meet the latest requirement of ASTM.
- 3.11-5 Testing machines must be calibrated annually or more frequently by impartial means using devices of accuracy traceable to the National Bureau of Standards.
- 3.11-6 The laboratory shall participate in the AASHTO Materials Reference Laboratory (AMRL) or Cement or Concrete Reference Laboratory (CCRL) inspection programs as appropriate. Copies of applications, correspondence, reports, and corrective actions shall be provided to OCTA if requested.
- 3.11-7 The laboratory shall have a quality control plan and a quality assurance plan in effect during the entire time work is being performed under the contract. The plan shall include quality control, quality assurance, and equipment calibration programs for the laboratory.
- 3.11-8 The laboratory shall maintain an inventory of the testing equipment (listing the manufacturer, model serial number, calibration, and tolerances).
- 3.11-9 The laboratory shall maintain a laboratory procedure manual describing the methods used for recording, processing, and reporting data, the sources of references material, standards, and test methods.
- 3.11-10 CONSULTANT and the laboratory shall be responsible for all soils and materials testing performed for the project include source testing if required.

**EXHIBIT B: PROPOSED AGREEMENT**

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**PROPOSED AGREEMENT NO. C-0-2582**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

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

**WITNESSETH:**

**WHEREAS,** AUTHORITY requires assistance from CONSULTANT for construction  
management support services for the State Route 55 improvement project between Interstate 405 and  
Interstate 5; and

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

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

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

**WHEREAS,** the AUTHORITY's Board of Directors authorized this Agreement on \_\_\_\_\_;

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

**ARTICLE 1. COMPLETE AGREEMENT**

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

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

**ARTICLE 2. AUTHORITY DESIGNEE**

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

**ARTICLE 3. SCOPE OF WORK**

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

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

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

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

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

**ARTICLE 4. TERM OF AGREEMENT**

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

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

**ARTICLE 5. ALLOWABLE COSTS AND PAYMENT**

A. For CONSULTANT's full and complete performance of its obligations under this Agreement and subject to the maximum cumulative payment obligation provision set forth in Article 7 "Maximum Obligation" AUTHORITY shall pay CONSULTANT on a specified rates of compensation basis in accordance with the following provisions.

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

C. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to the CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.

D. The specified rate to be paid for field vehicle expense for CONSULTANT's field personnel shall be \$1,100/month/vehicle, and shall include all vehicle expenses such as fuel, insurance, operation and maintenance, and safety equipment. This rate shall be for a fully equipped vehicle, with radio and flashing yellow light (if needed), as specified in Exhibit B of this Agreement. The specified rates to be paid for other field equipment, if needed, shall be paid at cost, as listed in Exhibit B of this Agreement.

E. The method of payment for this Agreement will be on a specified rates basis which includes, in addition to equipment rental costs (not including vehicles as provided above), labor costs, employee benefits, prevailing wages, equipment-rental costs, travel, overhead and other direct costs incurred by the CONSULTANT in performance of the work. These rates are not adjustable for the performance period set forth in this Agreement. The overhead rate established for this Agreement is extended through the term of this specific Agreement. The CONSULTANT will not be reimbursed for actual costs that exceed the contract's maximum obligation which includes estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in Exhibit B, unless additional reimbursement is provided for, by contract amendment. In no event, will the CONSULTANT be reimbursed for overhead costs that exceed AUTHORITY approved overhead rate set forth in Exhibit B. In the event the AUTHORITY determines that changed work from that specified in Exhibit A, Scope of Work, is required; the actual costs reimbursed by AUTHORITY may be adjusted by Agreement amendment to accommodate the changed work. The maximum total cost of this Agreement shall not be exceeded unless authorized by Agreement amendment.

F. For each full hour of labor satisfactorily performed by CONSULTANT's personnel under this Agreement, AUTHORITY shall pay CONSULTANT at the hourly labor rates specified in Exhibit B, entitled "Schedule of Fees," which is attached to and by this reference, incorporated in and made a part of this Agreement. These rates shall remain fixed for the term of this Agreement. Furthermore, AUTHORITY shall reimburse CONSULTANT, at cost with supporting documentation provided, for the actual costs of the estimated expenses shown in Exhibit B, which are directly incurred by its personnel in

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1 the performance of work under this Agreement. The AUTHORITY will not reimburse CONSULTANT for  
2 local meals except for those authorized for traveling personnel in the attached Exhibit B.

3 G. For classifications added to the Exhibit B, "Classification Labor Rates" Schedule through  
4 Amendments, raw billing ranges must be based on current year's actual salaries, and the corresponding  
5 fully burdened ranges must be provided by CONSULTANT.

6 H. CONSULTANT agrees that billing for personnel under the Exhibit B, "Classification Labor  
7 Rates" Schedule is to be used on a temporary basis, limited to a maximum period of six (6) continuous  
8 months for each personnel working under the "Classification Labor Rates" Schedule. Personnel working  
9 or proposed to work on a continuous basis for a period of six (6) continuous months or more are not  
10 considered temporary and must be added as named personnel with a specific hourly billing rate as last  
11 billed under their classification.

12 I. CONSULTANT agrees that all personnel billing under the labor schedules in Exhibit B,  
13 are subject to the annual escalation rate allowable under this Agreement. This is the maximum escalation  
14 rate that AUTHORITY will reimburse CONSULTANT for named personnel and classifications.

15 J. CONSULTANT agrees that personnel proposed to work and bill under any of the labor  
16 schedules in Exhibit B must be approved in writing by the AUTHORITY Project Manager prior to start of  
17 work.

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

20 L. Reimbursement for transportation and subsistence costs shall not exceed the rates  
21 specified in Exhibit B, without prior approval from AUTHORITY's Program Manager.

22 M. As partial security against CONSULTANT's failure to satisfactorily fulfill all its obligations  
23 under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice  
24 submitted for payment by CONSULTANT, and shall make prompt and regular incremental acceptances  
25 of portions/milestones, as determined by AUTHORITY, of the Agreement work, and pay retainage to  
26 CONSULTANT based on these acceptances. The CONSULTANT, or subconsultant, shall return all

monies withheld in retention from a subconsultant within thirty (30) calendar days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions/milestones of the Agreement work by the AUTHORITY. CONSULTANT shall invoice AUTHORITY for the release of the retention in accordance with this Article.

N. Final acceptance shall occur only when AUTHORITY makes the final release of the retention described in Paragraph N.

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

P. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment for work satisfactorily completed and accepted. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section. Federal law, CFR Title 49, Part 26.29, requires that any delay or postponement of payment over thirty (30) days may take place only for good cause and with the AUTHORITY's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or

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1 noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT  
2 and subconsultants.

3 Q. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments  
4 corresponding to the specified labor rates and actual other direct costs expended by CONSULTANT.  
5 Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which  
6 shall accompany each invoice submitted by CONSULTANT.

7 R. The CONSULTANT will be paid, less any retention amount withheld, as promptly as fiscal  
8 procedures will permit upon receipt by the AUTHORITY's Accounts Payable office of itemized invoices  
9 in duplicate. Invoices shall be submitted no later than 30 days after the performance of the work for which  
10 the CONSULTANT is billing. Invoices shall detail the work performed on each task as applicable. Invoices  
11 shall comply with the approved Price Proposal and shall reference this Agreement number and project  
12 title. Final invoice must contain the final cost and all credits due the AUTHORITY including any equipment  
13 purchased under the provisions of Article 46 Consultant Purchased Equipment of this Agreement. The  
14 final invoice should be submitted to the AUTHORITY within 60-calendar days after completion of the  
15 CONSULTANT's work.

16 S. CONSULTANT shall also furnish such other information as may be requested by  
17 AUTHORITY to substantiate the validity of an invoice, including a current payroll register and/or an offer  
18 of employment for personnel performing work under the classifications which are subject to pay ranges  
19 listed in Exhibit B, "Classifications Labor Rates" Schedule, in order to receive reimbursement for hours  
20 worked. Reimbursement for labor hours incurred by personnel designated by a classification, shall be  
21 made after AUTHORITY's review of the actual personnel's pay register, and verification that the actual  
22 pay falls within the specified range for that classification. If an actual pay rate exceeds the maximum of  
23 the range, CONSULTANT will be reimbursed at the maximum of the range. At its sole discretion,  
24 AUTHORITY may decline to make full payment for any work until such time as CONSULTANT has  
25 documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required.

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1 AUTHORITY's payment in full for any work completed shall not constitute AUTHORITY's final acceptance  
2 of CONSULTANT's work under such task.

3 T. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted  
4 in duplicate to AUTHORITY's Accounts Payable office or may be emailed to VendorInvoices@octa.net.  
5 Each invoice shall be accompanied by the monthly progress report specified in paragraph N of this Article.  
6 Invoices shall be submitted no later than 30-calendar days after the performance of work for which  
7 CONSULTANT is billing. AUTHORITY shall remit payment, less retention amount, within thirty (30)  
8 calendar days of the receipt and approval of each invoice. Each invoice shall include the following  
9 information:

- 10 1. Agreement No. C-0-2582;
- 11 2. Specific work for which payment is being requested;
- 12 3. The time period covered by the invoice;
- 13 4. Labor performed during the billing period (staff name, hours charged, hourly billing  
14 rate, current charges and cumulative charges, and pay registers for staff using classifications);
- 15 5. Itemized expenses including supporting documentation incurred during the billing period;
- 16 6. Total monthly invoice (including project to-date cumulative invoice amount); and  
17 retention amount withheld by AUTHORITY for the time period covered by the invoice;
- 18 7. Monthly Progress Report;
- 19 8. Weekly certified payroll for personnel subject to prevailing wage requirements;
- 20 9. Certificate signed by the CONSULTANT or his/her designated alternate that a)  
21 The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup  
22 information included with the invoice is true, complete and correct in all material respects; c) All payments  
23 due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to  
24 subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The  
25 invoice does not include any amount which CONSULTANT intends to withhold or retain from a  
26 subcontractor or supplier unless so identified on the invoice.

1                   10. Any other information as agreed or otherwise requested by AUTHORITY to  
2                   substantiate the validity of an invoice.

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

6                   **ARTICLE 6. PROMPT PAYMENT CLAUSE**

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

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

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

25                  D. Failure to comply with this provision without prior approval from AUTHORITY will  
26                  constitute noncompliance, which may result in the application of appropriate administrative sanctions,

including, but not limited to, a penalty of two percent (2%) of the invoice amount due per month, for every month that full payment is not made.

#### **ARTICLE 7. MAXIMUM OBLIGATION**

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

#### **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:	Bob Webb
Title:		Title: Principal Contract Administrator	
Tel:		Tel: (714) 560 - 5743	
E-Mail:		E-Mail: rwebb@octa.net	
		ATTENTION: Ross Lew	
		Title: Program Manager	
		Tel: (714) 560 - 5775	
		E-Mail: rlew@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.

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

**ARTICLE 10. INSURANCE**

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

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

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

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

4. Employers' Liability with minimum limits of \$1,000,000.00; and

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

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

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

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

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

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

13 D. The Certificate of Insurance shall reference Agreement Number C-0-2582; and, the  
14 Contract Administrator's name: Bob Webb, Principal Contract Administrator.

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

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

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

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

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**ARTICLE 11. ORDER OF PRECEDENCE**

To the extent there are any conflicts or inconsistency arising between any provisions or documents incorporated in this Agreement, the order of precedence for conflict resolution in descending order shall be as follows: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 0-2582; (3) CONSULTANT's technical proposal dated \_\_\_\_\_, CONSULTANT's cost proposal dated \_\_\_\_\_ and final cost proposal dated \_\_\_\_\_, and (4) all other documents, if any, cited herein or incorporated by reference.

**ARTICLE 12. CHANGES**

A. By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work suspension or change causes an increase or decrease in the price of this Agreement or in the time required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten (10) days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT from proceeding immediately with the Agreement as changed.

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

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

**ARTICLE 13. DISPUTES**

A. Except as otherwise provided in this Agreement, when a dispute arises between CONSULTANT and AUTHORITY, the project managers shall meet to resolve the issue. If project managers do not reach a resolution, the dispute will be decided by AUTHORITY's Director of Contracts Administration and Materials Management (Camm), who shall reduce the decision to writing and mail or

otherwise furnish a copy thereof to CONSULTANT. The decision of the Director, CAMM, shall be the final and conclusive administrative decision.

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

#### **ARTICLE 14. TERMINATION**

C. AUTHORITY reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to CONSULTANT of intent to terminate, with effective date of termination and the reasons for termination stated in the notice, in accordance with the provisions of the FAR referenced above and Article 8 "Notices", herein. Upon receipt of said notification, CONSULTANT agrees to comply with all applicable provisions of the FAR pertaining to termination for convenience.

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

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

D. AUTHORITY may terminate this Agreement with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, AUTHORITY may proceed with the work in any manner deemed proper by AUTHORITY. If AUTHORITY terminates this Agreement with CONSULTANT, AUTHORITY shall pay CONSULTANT the sum due to CONSULTANT under this Agreement prior to termination, unless the cost

of completion to AUTHORITY exceeds the funds remaining in the Agreement, in which case the overage shall be deducted from any sum due CONSULTANT under this Agreement and the balance, if any, shall be paid to CONSULTANT upon demand. Said termination shall be construed in accordance with the provisions of the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 49, of the Federal Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination for convenience.

E. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or state proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, or for cause if CONSULTANT fails to perform in accordance with the scope of work or breaches any term(s) or violates any provision(s) of this Agreement and does not cure such breach or violation within ten (10) calendar days after written notice thereof by AUTHORITY. CONSULTANT shall be liable for any and all reasonable costs incurred by AUTHORITY as a result of such default or breach including, but not limited to, reprocurement costs of the same or similar services defaulted by CONSULTANT under this Agreement. Such termination shall comply with CFR Title 48, Chapter 1, Part 49, of the FAR.

#### **ARTICLE 15. INDEMNIFICATION**

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

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**ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS**

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

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

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

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

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

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

G. AUTHORITY hereby consents to CONSULTANT's subcontracting of portions of the Scope of Work to the parties identified below for the functions described below. CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not AUTHORITY, is solely

1 responsible for payment to the subcontractor for the amounts owing and that the subcontractor shall have  
2 no claim, and shall take no action, against AUTHORITY, its officers, directors, employees or sureties for  
3 nonpayment by CONSULTANT.

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

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

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

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

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

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

9 **ARTICLE 18. AUDIT REVIEW PROCEDURES**

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

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

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

17 D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are  
18 subject to audits or reviews such as, but not limited to, an Agreement audit, an incurred cost audit, an  
19 ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost  
20 proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48  
21 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper  
22 review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are  
23 allowed full access to the CPA's work papers including making copies as necessary. The Agreement,  
24 cost proposal, and ICR shall be adjusted by CONSULTANT and approved by AUTHORITY's Contract  
25 Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual  
26 terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if

directed by AUTHORITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of Agreement terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by The California Department of Transportation's Independent office of Audit and Investigation (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the AUTHORITY's Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the Agreement terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

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

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

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

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

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

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

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

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

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

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

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

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

#### **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.

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

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

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

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professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of AUTHORITY.

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

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

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

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

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

material not provided by CONSULTANT when such use in combination infringes upon an existing U.S. letters patent or copyright.

B. CONSULTANT shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and copyright indemnity thereto.

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

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

B. CONSULTANT will promptly advise AUTHORITY if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, AUTHORITY will review CONSULTANT's revised estimate of construction cost. AUTHORITY may, if it determines that the estimated construction contract price is so low that award of a construction contract not in excess of such estimate is improbable,

authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth by AUTHORITY, or AUTHORITY may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, AUTHORITY shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance within the funding limitation.

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

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

**ARTICLE 27. FINISHED AND PRELIMINARY DATA**

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

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

C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by AUTHORITY of the machine-readable information and data provided by CONSULTANT under this Agreement. Further, CONSULTANT is not liable for claims, liabilities, or losses

arising out of, or connected with any use by AUTHORITY of the project documentation on other projects, or for the completion of this project by others, except only as such use as may be authorized in writing by CONSULTANT.

D. It is expressly understood that any title to preliminary technical data is not passed to AUTHORITY, but is retained by CONSULTANT. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by CONSULTANT solely for the purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given for preparation of finished artwork. Preliminary data title and right thereto shall be made available to AUTHORITY, if CONSULTANT causes AUTHORITY to exercise Article 14 "Termination", and a price shall be negotiated for all preliminary data.

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

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

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

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

C. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices employed by CONSULTANT or subconsultant at any tier for any work hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent deduction or rebate on any account (except such payroll deductions as are permitted or required by federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates

and rates of payments, contributions or costs for any fringe benefits contained in the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial Relations of the State of California, (as set forth in the Labor Code, commencing at Section 1770 et. seq.), or as established by the Secretary of Labor (as set forth in the Davis-Bacon Act, 40 U.S.C. 267a, et. seq.), regardless of any contractual relationship which may be alleged to exist between CONSULTANT or subconsultant and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on file at AUTHORITY's offices and will be made available to CONSULTANT upon request. CONSULTANT shall post a copy thereof at each job site at which work hereunder is performed.

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

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

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

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

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

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B. Nondiscrimination: During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 8100-8504 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

D. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the

discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

E. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AUTHORITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to AUTHORITY as appropriate, and shall set forth what efforts it has made to obtain the information.

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

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

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

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

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

a result of such direction, the CONSULTANT may request AUTHORITY to enter into such litigation to protect the interests of AUTHORITY, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

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

A. AUTHORITY or CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the 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 the AUTHORITY deems appropriate, which may include, but is not limited to:

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

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

B. In conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," AUTHORITY has established a fourteen (14%) percent Disadvantaged Business Enterprise (DBE) participation goal for the services required in this Agreement.

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

D. CONSULTANT must take appropriate actions to ensure that it will satisfy good faith efforts to attain the DBE goal and/or the DBE commitment made at award (whichever is higher), 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 current Agreement value, including any change orders and/or amendments.

E. If there is a DBE goal and/or DBE commitment on the Agreement, CONSULTANT must complete and submit within the specified timelines, DBE documentation electronically through an AUTHORITY-approved electronic reporting system.

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

#### **ARTICLE 31. PRIVACY ACT**

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

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

#### **ARTICLE 32. CONFLICT OF INTEREST**

CONTRACTOR agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONSULTANT is unable, or potentially unable to render impartial assistance or advice to AUTHORITY; CONSULTANT's objectivity

1 in performing the work identified in the Scope of Work is or might be otherwise impaired; or  
2 CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to  
3 AUTHORITY in writing Conflict of Interest issues as soon as they are known to CONSULTANT. All  
4 disclosures must be submitted in writing to AUTHORITY pursuant to the Notice provision herein. This  
5 disclosure requirement is for the entire term of this Agreement.

6 **ARTICLE 33. CODE OF CONDUCT**

7 A. CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates  
8 to Third-Party contracts which is hereby referenced and by this reference is incorporated herein.

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

10 **ARTICLE 34. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

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

15 **ARTICLE 35. INCORPORATION OF FEDERAL TERMS**

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

23 **ARTICLE 36. FEDERAL CHANGES**

24 CONSULTANT shall at all times comply with all applicable USDOT regulations, policies,  
25 procedures and directives, including without limitation those listed directly or by reference in the  
26 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 Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the AUTHORITY, CONSULTANT, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the underlying Agreement.

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

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

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

B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA, under the authority of 49 U.S.C. §5307 et seq., the Government reserves the right to impose the

penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. against the CONSULTANT, to the extent the Federal Government deems appropriate.

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

#### **ARTICLE 39. RECYCLED PRODUCTS**

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

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

#### **ARTICLE 40. ENERGY CONSERVATION REQUIREMENTS**

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

#### **ARTICLE 41. CLEAN AIR**

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

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

#### **ARTICLE 42. CLEAN WATER REQUIREMENTS**

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

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

**ARTICLE 43. CONTINGENT FEE**

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

**ARTICLE 44. DEBARMENT AND SUSPENSION CERTIFICATION**

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

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
3. Does not have a proposed debarment pending; and
4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

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

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

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

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

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any local, State or Federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding or making of this Agreement, or with the extension, continuation, renewal, amendment, or modification of this 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 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 Agreement, CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was 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 U.S. Code Title 31 Section 1352,. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand (\$10,000) dollars and not more than one hundred thousand (\$100,000) Dollars for each such failure.

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

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**ARTICLE 46. FUNDING REQUIREMENTS**

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

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

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

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

**ARTICLE 47. EQUIPMENT PURCHASE**

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

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

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

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

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

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

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

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

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

#### **ARTICLE 49. CONFIDENTIALITY OF DATA**

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

B. Permission to disclose information on one occasion, or public meeting held by the AUTHORITY relating to the Agreement, shall not authorize the CONSULTANT to further disclose such 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  
19 of 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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**ARTICLE 53. PROHIBITION**

CONSULTANTS, including all subconsultants (at any tier), regardless of the level of service provided by said subconsultants, that is awarded this contract for Construction Management Services is prohibited from participating in the construction contract.

**ARTICLE 54. FORCE MAJEURE**

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

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5 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-0-2582 to be  
6 executed as of the date of the last signature below.

7 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

8  
9 By: \_\_\_\_\_ By: \_\_\_\_\_  
10 Darrell E. Johnson  
11 Chief Executive Officer

12 Date: \_\_\_\_\_ Date: \_\_\_\_\_

13 **APPROVED AS TO FORM:**

14  
15 By: \_\_\_\_\_  
16 James M. Donich  
17 General Counsel

18 Date: \_\_\_\_\_

19 **APPROVED:**

20  
21 By: \_\_\_\_\_  
22 James G. Beil, P.E.  
23 Executive Director, Capital Programs

24 Date: \_\_\_\_\_  
25  
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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 CONSULTANT has committed to utilize a DBE in the performance of this U.S. DOT-assisted contract, CONSULTANT'S submitted "DBE Participation Commitment Form," in combination with the executed subcontract and/or purchase order 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 e-mail or an AUTHORITY-approved electronic reporting system consistent with CONSULTANT'S DBE goal commitment:

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

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

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

The Form 103 must include the following information:

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

h) DBE Commitment as Percentage of Current Agreement Amount

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

a) DBE Firm Name, Address, Phone Number, DBE Capacity Type, Certification Type and Certification Number.

b) DBE Firm Contract Value Information:

Original Contract Amount, running total of change order amount, Current Contract Amount, Amount Paid to CONSULTANT or Subconsultant(s) During Month and Amount Paid to CONSULTANT or Subconsultant(s) to date.

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.

3. CONSULTANT Assurance of Full Compliance with Prompt Payment Provisions

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

4. CONSULTANT Payment Verification Summary

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

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

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

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

**B. "Monthly DBE Trucking Verification" Form**

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

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

**C. DBE Subcontract Agreements**

CONSULTANT must submit to AUTHORITY copies of executed subcontracts and/or purchase orders (PO) for all DBE firms participating on the contract within ten (10) working days of award. 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.

**D. Semi-Annual Subconsultant Paid Report Summary**

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

CONSULTANT will adhere to the following submittal schedule:

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

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

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

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

**F. Disadvantaged Business Enterprises (DBE) Certification Status Change**

If a DBE 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 furnish the written documentation to AUTHORITY within ten (10) days of receipt. Upon completion of the project, the "Disadvantaged Business Enterprises (DBE) Certification Status Change" must be signed and certified correct by the 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 <http://www.dot.ca.gov/hq/bep>.

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. CONSULTANT may count the participation of DBE trucking companies toward DBE attainment, as follows:
- a) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
  - b) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
  - c) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
  - d) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
  - e) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by the DBE-owned trucks or leased trucks with DBE drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
  - f) The DBE may lease trucks without drivers from a non-DBE truck leasing

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

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

5. If the 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.
6. 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.

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

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.

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 written determination 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 "Request for Additional DBE Firm," to enable AUTHORITY to verify the firm's eligibility, capacity, CUF and ensure there is not a scope conflict with another listed firm. Proposed firms cannot be applied towards 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).

**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:

- |   |           |          |
|---|-----------|----------|
| <input type="radio"/> The Prime Contractor  | Yes _____ | No _____ |
| <input type="radio"/> Subconsultant   | Yes _____ | No _____ |
| <input type="radio"/> Agent/Lobbyist hired by Prime<br>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**

**Steve Jones, Chairman**  
**Andrew Do, Vice Chairman**  
**Lisa A. Bartlett, Director**  
**Doug Chaffee, Director**  
**Laurie Davies, Director**  
**Barbara Delgleize, Director**  
**Michael Hennessey, Director**  
**Gene Hernandez, Director**  
**Joseph Muller, Director**  
**Mark A. Murphy, Director**  
**Richard Murphy, Director**  
**Miguel Pulido, Director**  
**Tim Shaw, Director**  
**Harry S. Sidhu, Director**  
**Michelle Steel, 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.

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

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 18%.

### **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
  - Written Confirmation (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
<b>Consultant Proposal DBE Commitment Form (10-O1)</b>	Required at time of proposal
<b>Written Confirmation (for each DBE firm listed on the Consultant Proposal DBE Commitment Form (10-O1))</b>	Required at time of proposal
<b>DBE Information – Good Faith Efforts</b>	Required no later than 4:00 p.m. on the 2 <sup>nd</sup> business day after the proposal due date
<b>Bidders List</b>	Required no later than 4:00 p.m. on the 2 <sup>nd</sup> 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 written confirmation signed and dated from each DBE listed, acknowledging that the DBE is participating in the contract for the specified dollar value and scope of work listed on the DBE Participation Commitment Form. A signed quote or proposal from the DBE firm can be used in lieu of the written confirmation; however, the dollar amount and scope(s) 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-2)**

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-2 “DBE Information – Good Faith Efforts,” form and the United States Department of Transportation’s (“U.S. DOT”) DBE Program, Appendix A of Title 49 CFR Part 26 - “Guidance Concerning Good Faith Efforts,” and the DBE Section of the Authority’s Pre-Proposal Power Point.

#### 4.3 “Bidders List” (Exhibit E-3)

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.

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### EXHIBIT 10-01 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 %
<b>Local Agency to Complete this Section</b>			
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ 20. Consultant's Ranking after Evaluation: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  _____ _____ _____		<b>11. TOTAL CLAIMED DBE PARTICIPATION</b>  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 _____	%

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 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 2<sup>nd</sup> 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
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.

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.

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 were recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
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 relay 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.

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**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)

☐ **NO REPORTABLE ACTIVITIES** (Bidder/Offeror required to complete Section 16 below.)

### DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by  
OMB  
003480045

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

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## **INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES**

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.
7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

**DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET**

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

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**EXHIBIT G: SAFETY SPECIFICATIONS**

**LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR  
AGREEMENT NO. C-0-2582**

**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 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 applied for the safeguard of public and employees.

**1.2 REGULATORY**

- A. 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.

**LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR  
AGREEMENT NO. C-0-2582**

- B. 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.
- C. 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.
- D. 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.
- a. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.
- E. Storm Water Pollution Prevention Plan  
The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the contract. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements. The program or plan if required by scope shall be provided to the Authority's Project Manager, upon request, within 72 hours.

**1.3 INCIDENT NOTIFICATION AND INVESTIGATION**

- A. The Authority shall be promptly notified of any of the following types of incidents including but not limited to:
1. Damage incidents of property (incidents involving third party, contractor or Authority property damage);
  2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration), a minor injury, and near miss incidents;
  3. Incidents impacting the environment, i.e. spills or releases on Authority projects or property.
  4. Outside Agency Inspections; agencies such as Cal/OSHA, DTSC, SCAQMD, State Water Resources Control Board, FTA, CPUC, EPA, USACE and similar agencies.

**LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR  
AGREEMENT NO. C-0-2582**

- B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the public that arise from the performance of Authority contract work. An immediate verbal notice followed by an initial written incident investigation report shall be submitted to the Authority's Project Manager within 24 hours of the incident.
- C. A final written incident investigative report shall be submitted within seven (7) calendar days and include the following information. The Current Status of anyone injured, photos of the incident area, detailed description of what happened, Photos of the existing conditions and area of the injury/incident, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of task planning documentation, copy of the Physician's first report of injury, copy of Cal/OSHA 300 log of work related injuries and illnesses, 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 review at the discretion of the Authority's Project Manager. The incident review shall be conducted within seven (7) calendar days of the incident. 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. The serious incident presentation shall include 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 5 whys and fishbone methods), and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.
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.

**LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR  
AGREEMENT NO. C-0-2582**

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 DESIGNATED HEALTH AND SAFETY REPRESENTATIVE**

- A. Upon contract award, the contractor within 10 business days shall designate a health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.
- B. This person shall be a competent or qualified individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards (Cal/OSHA) and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.

**1.5 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 or 3 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, 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.

**1.6 REFERENCES**

- A. CCR Title 8 Standards (Cal/OSHA)  
B. FCR Including 1910 and 1926 Standards  
C. NFPA, NEC, ANSI, NIOSH Standards  
D. Construction Industry Institute (CII)  
E. OCTA Yard Safety Rules

END OF SECTION

**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)
  - ☐ Cognizant ICR Audit
  - ☐ Local Gov't ICR Audit
  - ☐ Caltrans ICR Audit
  - ☐ CPA ICR Audit
  - ☐ 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

DRAFT

**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.

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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: \_\_\_\_\_

DRAFT



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Laurena Weinert,  Clerk of the Board

**Subject:** Regional Traffic Signal Synchronization Program Update

Regional Planning and Highways Committee Meeting of October 5, 2020

**Present:** Directors Bartlett, Chaffee, Delgleize, Muller, M. Murphy, and  
R. Murphy

**Absent:** Director Pulido

### **Committee Vote**


Following the roll call vote, this item was passed 6-0 by the Members present.

### **Committee Recommendation**

Receive and file as an information item.



**October 5, 2020**

**To:** Regional Planning and Highways Committee  
**From:** Darrell E. Johnson, Chief Executive Officer   
**Subject:** Regional Traffic Signal Synchronization Program Update

### **Overview**

The Orange County Transportation Authority has been working with local cities, the County of Orange, and the California Department of Transportation to fund and implement key regional traffic signal synchronization projects. This report provides an update on the Measure M2 Regional Traffic Signal Synchronization Program, including results from recently completed projects.

### **Recommendation**

Receive and file as an information item.

### **Background**

The Orange County Transportation Authority (OCTA) provides funding and assistance to implement multi-agency signal synchronization as part of the Measure M2 (M2) Regional Traffic Signal Synchronization Program (Project P). Annually, OCTA provides competitive grants specifically dedicated to the coordination of traffic signals across jurisdictional boundaries. The goal of Project P is to improve the flow of traffic by developing and implementing regional signal coordination that crosses local agencies' boundaries and maintains coordination through freeway interchanges, where possible.

Since 2008, OCTA and local agencies have implemented signal synchronization for 84 projects that included 2,897 signalized intersections and 746 centerline miles of streets (Attachment A). The projects have improved travel times, reduced delays and congestion, and the increased number of successive green light drivers see in their daily commutes. The results of the program translate into direct benefits to motorists in time savings and cost savings in lower fuel consumption and a reduction of greenhouse gas (GHG) emissions.

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***Discussion***

Signal synchronization is a cost-effective way to increase roadway throughput without major new construction. Projects are corridor-based, and new optimized signal timings are developed based on traffic conditions and current travel patterns. These projects optimize traffic signal timing to reduce travel times, stops, delays, and ultimately give users an overall better driving experience. Key to these efforts is regular dialogue between partner agencies and the California Department of Transportation, resulting in agencies working together towards the multijurisdictional goal of the program.

Funding is provided through annual calls for projects (call), with 80 percent of funding from M2 (Project P) and 20 percent from local agencies' matching funds. Supplemental funding is used whenever available, including SB 1 (Chapter 5, Statutes of 2017) Local Partnership Program funds and Solutions for Congested Corridors Program grants. A variety of sources have been used in the past to fund signal synchronization projects, including Measure M1, Proposition 1B Traffic Light Signal Synchronization Program, and air quality funds.

Signal synchronization projects implement a coordination strategy involving time-based synchronization of the respective agencies' systems, including the necessary upgrades to the traffic signal infrastructure. This includes modifications to prepare for future connected and autonomous vehicle technologies and applications. Existing synchronization on crossing arterials is incorporated when and where possible. Optimized timings are developed and implemented for identified peak periods, which are typically weekday mornings, midday, and evenings. For weekend operations, the peak is typically mid-morning through early evening. To quantify signal synchronization benefits, "before and after" travel time studies are conducted to evaluate the improvements from these new optimized timing plans.

These studies are conducted during peak traffic periods with specially equipped vehicles that have computer-linked global positioning system devices to collect traffic data. Several runs are made in each direction with the car "floating" in the middle of the traffic platoon of vehicles for each run. These studies showed improvements across all performance measures, including travel time, number of stops, and average safe speed. Additionally, fuel consumption, GHG, and other vehicle emission data is reported (Attachment B). Historically, signal synchronization efforts nationwide have resulted in travel time and speed improvements, as well as a reduction in stops in the range between five and 15 percent. Comparisons of the corridors' before and after studies indicate results in the high-end of this range due to the combination of the optimized traffic signal timing plans, cooperation between all participating agencies, and minor signal upgrades to maximize traffic flow.

### Signal Synchronization Projects

OCTA and local agencies have completed 84 signal synchronization projects since 2008. The signal program's target of regularly synchronizing 2,000 signalized intersections, as expressed in the M2 voter guide, was met before December 2016. A total of 2,897 signalized intersections and 746 centerline miles of streets have been implemented. The total Board of Directors grant allocations for the completed projects were approximately \$59.95 million. The completed projects are identified on the map in Attachment A. A summary of the results for the 84 completed signal synchronization projects is identified in the table in Attachment B. The early acceleration of Project P allowed the benefits of signal synchronization to be experienced by travelers much earlier than originally promised.

The completed projects have reduced average travel time by 13 percent and the average number of stops by 29 percent. Average speed improved by 14 percent. Consumers will save approximately \$172.1 million (at \$3.90 per gallon in today's dollars) on fuel costs and reduce GHG emissions by approximately 885.9 million pounds over the three-year project cycle. The reduction of GHG emissions is made possible by reducing the number of stops, smoothing the flow of traffic, and reducing the amount of acceleration and deceleration of vehicles. These results are comparable to signal synchronization efforts nationwide.

The following table lists the six signal synchronization projects, where new timing plans were implemented in the last year, along with the corresponding travel time and speed improvements:

Corridor	Limits	Length (Miles)	Travel Time Improvements	Average Speed Improvements
El Toro Road	Bridger Road to Ridgeline Road	7.17	20%	25%
Alicia Parkway	Crown Valley Parkway to Rustic Oak	10.50	12%	13%
Marguerite Parkway	El Toro Parkway to Auto Mall	8.97	8%	9%
Coast Highway	Orange Street to Reef Point Drive	9.01	5%	5%
Westminster Avenue/17 <sup>th</sup> Street	Apollo Drive to Newport Avenue	16.33	5%	5%
Olympiad Road/ Felipe Road	Marguerite Parkway & Olympiad Road to Marguerite Parkway & Felipe Road	5.82	3%	3%

The travel time collection for all completed projects, including these six corridors, occurred prior to March 2020 or the Governor's stay-at-home executive order. Traffic engineers are continuing to monitor and update the signal timing to respond to changes in traffic patterns and to ensure travelers experience benefits from the completed projects.

OCTA is currently funding an additional 33 signal synchronization projects that are in various stages of implementation. The committed funding from OCTA is primarily from the competitive signal program, and the grant allocation of these projects is approximately \$70.8 million. Once completed, these funded projects will synchronize an additional 1,184 signals and 307 miles of roadway.

It is good practice to periodically resynchronize traffic signals to make sure they consider changes in traffic. The signal program allows previously completed streets and highways projects to compete again for funding during the annual call. Previous investments made as part of earlier projects are incorporated into the revisited projects. An example of this would be the Alicia Parkway corridor. The signals along this corridor were synchronized in 2010 and updated in 2019. The result is a program that can regularly coordinate intersections as the basis for synchronized operation across Orange County.

#### **Next Steps**

OCTA continues to work with local agencies through various venues, including the Technical Steering Committee, Technical Advisory Committee, and the traffic forum to identify corridors that are eligible for funding and would benefit from signal program funding as part of the annual call.

#### **Summary**

OCTA and local agencies have successfully implemented new cooperative traffic signal synchronization timing on 84 corridors. Another 33 projects are planned or underway. The synchronization of traffic signals along these regional corridors continually results in significant improvements to traffic flow by reducing total travel times, stops per mile, and improving average safe speeds while decreasing fuel costs, GHG, and overall vehicle emissions.

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***Attachments***

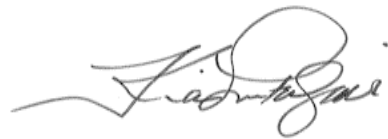
- A. OCTA-Funded Signal Synchronization Projects, (2008 – Present)
- B. Summary of Results for Completed Regional Traffic Signal Synchronization Projects

**Prepared by:**

A handwritten signature in blue ink, appearing to read 'Alicia Yang', with a stylized flourish at the end.

Alicia Yang  
Project Manager III  
(714) 560-5362

**Approved by:**

A handwritten signature in blue ink, appearing to read 'Kia Mortazavi', with a stylized flourish at the end.

Kia Mortazavi  
Executive Director, Planning  
(714) 560-5741



## Summary of Results for Completed Regional Traffic Signal Synchronization Projects

	Corridor Name	Timing Completed	Lead Agency	Length (Miles)	Signals	M1 / M2 Grant Board Allocation	Estimated Project Life Gas Savings (Dollars)^	Estimated Project Life Greenhouse Gas Savings (lbs)	Travel Time Improvement	Average Speed Improvement	Stops Improvement
1	Euclid Street*	2008	OCTA	15	62	\$ 480,083	\$ 3,091,631	16,188,276	20%	24%	43%
2	Pacific Park Drive/Oso Parkway*	2009	OCTA	9	34	\$ 248,272	\$ 3,647,370	19,098,249	22%	29%	50%
3	Alicia Parkway <sup>1</sup>	2010	OCTA	11	41	\$ 939,144	\$ 806,001	4,220,358	13%	12%	40%
4	Beach Boulevard <sup>1</sup>	2010	OCTA	21	70	\$ 1,243,859	\$ 10,469,722	54,821,202	14%	21%	28%
5	Chapman Avenue (South)* <sup>1</sup>	2010	OCTA	14	52	\$ 798,161	\$ 3,244,679	16,989,696	16%	21%	46%
6	Edinger Avenue/Irvine Center Drive/ Moulton Parkway* <sup>1</sup>	2011	OCTA	22	109	\$ 846,217	\$ 4,609,706	24,137,220	11%	21%	34%
7	Harbor Boulevard* <sup>1</sup>	2011	OCTA	16	107	\$ 890,377	\$ 3,226,111	16,892,430	11%	21%	23%
8	Orangethorpe Avenue <sup>1</sup>	2011	OCTA	17	47	\$ 697,585	\$ 2,659,036	13,923,183	17%	21%	42%
9	State College Boulevard/Bristol Street* <sup>1</sup>	2011	OCTA	17	97	\$ 574,639	\$ 4,089,735	21,414,531	15%	21%	28%
10	Westminster Avenue <sup>1</sup>	2011	OCTA	13	48	\$ 308,847	\$ 4,233,390	22,166,736	14%	21%	35%
11	Brookhurst Street <sup>1</sup>	2012	OCTA	16	56	\$ 631,764	\$ 7,850,213	41,105,031	19%	21%	31%
12	El Toro Road* <sup>1</sup>	2012	OCTA	11	40	\$ 478,916	\$ 3,302,828	17,294,160	19%	21%	32%
13	Katella Avenue <sup>1</sup>	2012	OCTA	17	69	\$ 673,845	\$ 4,435,716	23,226,165	14%	21%	36%
14	La Palma Avenue <sup>1</sup>	2012	OCTA	18	61	\$ 803,999	\$ 6,281,546	32,391,229	18%	21%	27%
15	Bastanchury Road	2013	Fullerton	8	27	\$ 539,936	\$ 1,053,007	5,513,723	13%	21%	49%
16	Euclid Street*	2013	Fullerton	17	66	\$ 1,000,000	\$ 4,316,031	22,599,458	15%	21%	39%
17	Lambert Avenue	2013	La Habra	10	26	\$ 520,000	\$ 4,578,312	23,972,807	14%	21%	41%
18	Tustin Avenue/Rose Drive	2013	OCTA	10	43	\$ 683,200	\$ 2,309,842	12,094,717	15%	21%	37%
19	Yorba Linda Boulevard <sup>1</sup>	2013	OCTA	12	46	\$ 521,837	\$ 1,813,693	9,496,799	12%	21%	21%
20	Lincoln Avenue	2014	Anaheim	13	53	\$ 777,910	\$ 1,564,300	8,190,935	9%	21%	25%
21	Valley View Street	2014	Buena Park	3	20	\$ 280,000	\$ 3,056,089	16,002,194	28%	21%	37%
22	17th Street	2014	Costa Mesa	3	9	\$ 220,000	\$ 123,098	644,563	7%	21%	0%
23	Baker Street/Placentia Avenue	2014	Costa Mesa	8	27	\$ 519,960	\$ 540,228	2,828,724	14%	21%	34%
24	Fairview Road/Street	2014	Costa Mesa	8	31	\$ 620,001	\$ 1,735,472	9,087,220	11%	21%	24%
25	Victoria Street	2014	Costa Mesa	3	11	\$ 200,000	\$ 124,820	653,581	22%	21%	25%
26	Brea Boulevard	2014	Fullerton	4	16	\$ 320,000	\$ 813,531	4,259,783	12%	21%	43%
27	Commonwealth Avenue	2014	Fullerton	8	30	\$ 600,000	\$ 803,023	4,204,761	11%	21%	36%
28	Lemon Street/Anaheim Boulevard	2014	Fullerton	2	13	\$ 280,000	\$ 531,872	2,784,969	16%	21%	40%
29	Placentia Avenue	2014	Fullerton	4	15	\$ 380,000	\$ 570,921	2,989,436	18%	21%	48%
30	Culver Drive	2014	Irvine	11	39	\$ 779,856	\$ 3,625,648	18,984,498	12%	21%	19%
31	Jamboree Road	2014	Irvine	9	27	\$ 230,608	\$ 3,173,217	16,615,495	9%	21%	19%
32	Jeffrey Road	2014	Irvine	9	40	\$ 410,032	\$ 1,910,910	10,005,845	9%	21%	26%
33	La Habra Boulevard/Central Avenue/ State College Boulevard	2014	La Habra	6	23	\$ 460,000	\$ 1,550,184	8,117,025	10%	21%	27%
34	Paseo de Valencia	2014	Laguna Hills	3	12	\$ 190,742	\$ 169,859	889,411	8%	21%	34%
35	Ball Road	2014	OCTA	11	38	\$ 733,416	\$ 1,532,115	8,022,411	5%	21%	13%
36	Crown Valley Parkway	2014	OCTA	9	30	\$ 367,200	\$ 556,861	2,915,820	4%	21%	20%
37	Edinger Avenue*	2014	OCTA	12	38	\$ 753,800	\$ 1,264,832	6,622,870	2%	21%	25%
38	First Street/Bolsa Avenue	2014	OCTA	12	49	\$ 980,000	\$ 3,506,276	18,359,448	11%	21%	26%
39	Lake Forest Drive	2014	OCTA	2	10	\$ 119,679	\$ 685,904	3,591,510	19%	21%	33%
40	Los Alisos Boulevard	2014	OCTA	7	21	\$ 332,617	\$ 27,876	145,962	5%	21%	16%
41	MacArthur Boulevard/Talbert Avenue	2014	OCTA	7	24	\$ 392,256	\$ 524,129	2,744,427	7%	21%	13%
42	Magnolia Street	2014	OCTA	16	54	\$ 399,943	\$ 2,208,937	11,566,362	10%	21%	26%
43	Marguerite Parkway	2014	OCTA	9	31	\$ 323,056	\$ 609,084	3,189,264	11%	21%	21%
44	Pacific Park Drive/Oso Parkway*	2014	OCTA	8	32	\$ 490,222	\$ 1,912,481	10,014,071	16%	21%	29%
45	Warner Avenue	2014	OCTA	13	43	\$ 621,848	\$ 1,797,186	9,410,366	8%	21%	15%
46	Avenida Pico	2014	San Clemente	4	21	\$ 416,453	\$ 705,991	3,696,687	9%	21%	21%
47	El Camino Real	2014	San Clemente	4	19	\$ 359,998	\$ 1,482,733	7,763,838	9%	21%	25%
48	Del Obispo Street	2014	San Juan Capistrano	4	16	\$ 138,800	\$ 992,762	5,198,269	13%	21%	11%

## Summary of Results for Completed Regional Traffic Signal Synchronization Projects

	Corridor Name	Timing Completed	Lead Agency	Length (Miles)	Signals	M1 / M2 Grant Board Allocation	Estimated Project Life Gas Savings (Dollars)^	Estimated Project Life Greenhouse Gas Savings (lbs)	Travel Time Improvement	Average Speed Improvement	Stops Improvement
49	Knott Avenue	2015	Buena Park	7	28	\$ 448,000	\$ 1,918,098	10,043,483	23%	21%	37%
50	Newport Coast Drive	2015	Newport Beach	5	15	\$ 260,000	\$ 651,984	3,413,896	10%	21%	6%
51	San Joaquin Hills Road	2015	Newport Beach	4	11	\$ 220,000	\$ 584,913	3,062,701	11%	21%	32%
52	Jeronimo Road <sup>1</sup>	2015	OCTA	6	16	\$ 267,360	\$ 1,508,063	7,896,471	12%	21%	35%
53	Santa Margarita Parkway	2015	OCTA	5	20	\$ 311,912	\$ 1,705,334	8,929,416	15%	21%	41%
54	Trabuco Road <sup>1</sup>	2015	OCTA	5	16	\$ 266,971	\$ 1,294,844	6,780,018	15%	21%	32%
55	Avenida Vista Hermosa	2015	San Clemente	3	17	\$ 305,856	\$ 252,899	1,324,219	17%	21%	54%
56	Camino De Los Mares	2015	San Clemente	2	13	\$ 248,208	\$ 1,806,683	3,153,365	27%	21%	57%
57	Artesia Boulevard	2016	Buena Park	2	11	\$ 422,142	\$ 795,156	4,163,572	20%	21%	38%
58	Alton Parkway	2016	Irvine	14	48	\$ 1,209,396	\$ 3,082,089	16,138,332	12%	21%	39%
59	Barranca Parkway	2016	Irvine	13	44	\$ 2,106,434	\$ 2,734,900	14,320,395	10%	21%	26%
60	Adams Avenue <sup>1</sup>	2016	OCTA	5	17	\$ 1,042,374	\$ 2,065,973	10,817,781	7%	21%	27%
61	Antonio Parkway <sup>1</sup>	2016	OCTA	10	27	\$ 1,156,920	\$ 2,274,125	11,907,699	16%	21%	23%
62	Bake Parkway	2016	OCTA	6	19	\$ 532,603	\$ 1,434,344	7,510,464	12%	21%	28%
63	La Paz Road	2016	OCTA	8	23	\$ 328,192	\$ 1,951,861	10,220,270	14%	21%	21%
64	Newport Avenue/Boulevard (North) <sup>1</sup>	2016	OCTA	7	24	\$ 946,045	\$ 581,731	3,046,041	12%	21%	36%
65	Newport Boulevard (South)	2016	OCTA	7	33	\$ 1,304,596	\$ 944,446	4,945,276	5%	21%	17%
66	State College Boulevard**1	2016	OCTA	5	35	\$ 1,041,579	\$ 1,484,920	7,775,289	10%	21%	16%
67	Seal Beach Boulevard/Los Alamitos Boulevard	2016	Seal Beach	3	13	\$ 586,720	\$ 1,016,379	5,321,931	10%	21%	31%
68	Harbor Boulevard*	2017	Anaheim	4	22	\$ 731,867	\$ 1,414,593	7,407,047	8%	21%	15%
69	Birch Street/Rose Drive	2017	Brea	4	14	\$ 664,230	\$ 629,603	3,296,709	23%	21%	37%
70	Bristol Street*	2017	OCTA	8	45	\$ 1,884,620	\$ 1,649,926	8,639,290	7%	21%	13%
71	Goldenwest Street	2017	OCTA	8	32	\$ 380,800	\$ 374,406	1,960,454	11%	21%	23%
72	Harbor Boulevard*	2017	Santa Ana	10	46	\$ 1,852,080	\$ 4,320,825	22,624,563	10%	21%	15%
73	El Toro Road*	2018	Laguna Woods	3	15	\$ 514,000	\$ 1,116,724	5,847,356	17%	21%	33%
74	Moulton Parkway*	2018	Laguna Woods	11	37	\$ 645,440	\$ 939,620	4,920,008	12%	21%	41%
75	Marguerite Parkway*	2018	Mission Viejo	9	30	\$ 759,232	\$ 1,663,372	8,709,695	8%	21%	18%
76	Olympiad Road-Felipe Road	2018	Mission Viejo	6	18	\$ 515,656	\$ 197,900	1,036,240	3%	21%	6%
77	Chapman Avenue*	2018	OCTA	14	55	\$ 2,344,044	\$ 2,322,428	12,160,622	8%	21%	0%
78	Kraemer Boulevard/Glassell Street/Grand Avenue	2018	OCTA	15	61	\$ 2,433,520	\$ 1,722,240	441,600	12%	21%	8%
79	Orangewood Avenue	2019	Anaheim	3	15	\$ 683,328	\$ 1,140,726	5,973,032	17%	21%	46%
80	Irvine Boulevard	2019	Irvine	7	29	\$ 378,166	\$ 2,757,359	14,437,996	17%	21%	37%
81	Alicia Parkway*	2019	OCTA	11	40	\$ 1,847,200	\$ 3,550,240	18,589,652	12%	21%	31%
82	Coast Highway	2019	OCTA	9	27	\$ 1,799,210	\$ 1,907,001	9,985,376	5%	21%	8%
83	El Toro Road*	2019	OCTA	7	25	\$ 1,112,447	\$ 4,079,112	21,358,911	20%	21%	42%
84	Westminster Avenue/17th Street*	2019	OCTA	16	63	\$ 2,820,102	\$ 141,754	742,246	5%	21%	16%
<b>Summary of All Projects</b>				<b>746</b>	<b>2897</b>	<b>\$ 59,950,327</b>	<b>\$ 172,135,479</b>	<b>885,947,131</b>	<b>13%</b>	<b>21%</b>	<b>29%</b>

\* Euclid Street, Pacific Park Drive/Oso Parkway, Harbor Boulevard, State College Boulevard, Bristol Street, Moulton Parkway, Chapman Avenue, Westminster Avenue, El Toro Road, Alicia Parkway, and Marguerite Parkway are included multiple times because these corridors have been revisited.

^ \$3.90 per gallon gasoline price used to estimate savings.

Note: Improvements are averaged across both directions over the full corridor.

<sup>1</sup> Project Board allocation includes external funding.

M1/M2 - Measure M1/Measure M2

Board - Board of Directors

lbs - pounds

OCTA - Orange County Transportation Authority



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors

**From:** Laurena Weinert, Clerk of the Board

**Subject:** Transportation Infrastructure Finance and Innovation Act Loan Interest Rate Reset

### Finance and Administration Committee Meeting of October 14, 2020

**Present:** Directors Do, Hennessey, Hernandez, Jones, Muller, R. Murphy, and Steel

**Absent:** None

### **Committee Vote**

Following the roll call vote, this item was declared passed 7-0 by the Members present.

### **Committee Recommendations**

- A. Direct staff to proceed with pursuing an interest rate reset of Orange County Transportation Authority's Transportation Infrastructure Finance and Innovation Act Loan for the Interstate 405 Improvement Project.
- B. Authorize staff to execute Amendment No. 1 to Agreement No. C-7-2137 between the Orange County Transportation Authority and Sperry Capital, Inc. in the amount of \$170,000, to provide financial advisory services to the Orange County Transportation Authority for the interest rate reset transaction. The total contract amount will increase to \$665,000.
- C. Authorize staff to execute Amendment No. 1 to Agreement No. C-0-2021 between the Orange County Transportation Authority and Nossaman LLP, in the amount of \$65,000, to provide bond counsel services to the Orange County Transportation Authority for the interest rate reset transaction. The total contract amount will increase to \$301,000.



**Committee Recommendations (Continued)**

- D. Authorize the payment of fees and expenses required by the Build America Bureau to facilitate the interest rate reset.
- E. Direct staff to return to the Board of Directors for approval of the financing documents required to execute the closing of the transaction.

**Note:**

Correction to an error found on Page 1, Recommendation A of the staff report and Slide 6 of the PowerPoint:

The word should read “pursuing” instead of “pursing.”



**October 14, 2020**

**To:** Finance and Administration Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Transportation Infrastructure Finance and Innovation Act Loan Interest Rate Reset

**Overview**

On July 26, 2017, the Orange County Transportation Authority and the United States Department of Transportation Build America Bureau Credit Programs Office executed a Transportation Infrastructure Finance and Innovation Act Loan for up to \$628.93 million for the Interstate 405 Improvement Project. Over the past two months, staff has had several successful discussions with the Build America Bureau regarding the possibility of lowering the interest rate on the existing 2017 Transportation Infrastructure Finance and Innovation Act Loan. Staff is seeking approval to pursue lowering the current fixed rate of 2.91 percent interest rate based on current market conditions.

**Recommendations**

- A. Direct staff to proceed with pursuing an interest rate reset of Orange County Transportation Authority's Transportation Infrastructure Finance and Innovation Act Loan for the Interstate 405 Improvement Project.
- B. Authorize staff to execute Amendment No. 1 to Agreement No. C-7-2137 between the Orange County Transportation Authority and Sperry Capital, Inc. in the amount of \$170,000, to provide financial advisory services to the Orange County Transportation Authority for the interest rate reset transaction. The total contract amount will increase to \$665,000.
- C. Authorize staff to execute Amendment No. 1 to Agreement No. C-0-2021 between the Orange County Transportation Authority and Nossaman LLP, in the amount of \$65,000, to provide bond counsel services to the Orange County Transportation Authority for the interest rate reset transaction. The total contract amount will increase to \$301,000.

- D. Authorize the payment of fees and expenses required by the Build America Bureau to facilitate the interest rate reset.
- E. Direct staff to return to the Board of Directors for approval of the financing documents required to execute the closing of the transaction.

***Background***

On July 26, 2017, the Orange County Transportation Authority (OCTA) and the United States Department of Transportation Build America Bureau Credit Programs Office (Bureau) executed a Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan for \$628.9 million (2017 TIFIA Loan) as a direct borrowing for the Interstate 405 (I-405) Improvement Project. The interest rate on the 2017 TIFIA Loan is 2.91 percent fixed for the life of the loan.

The 2017 TIFIA Loan is non-recourse debt issued on a senior lien basis secured solely by net toll revenues of the I-405 Express Lanes, which is estimated to open in 2023. Annual debt service payments are not required until five years after substantial completion, and interest-only payments are required for the first five years. Principal payments for the loan commence in year ten after substantial completion. As of June 30, 2020, OCTA had drawn \$287 million on the 2017 TIFIA Loan. The amount outstanding under the 2017 TIFIA loan on June 30, 2020, including capitalized interest, was \$302.7 million.

***Discussion***

Over the past two months, OCTA staff has had several successful discussions with the Bureau regarding the possibility of lowering the interest rate on the 2017 TIFIA Loan. During these discussions, the Bureau stated that the process for an interest rate reset was in the initial stages but invited OCTA to submit a Letter of Interest (LOI). OCTA submitted the LOI on August 31, 2020, requesting to reset the 2.91 percent interest on the 2017 TIFIA Loan. OCTA anticipates that the LOI will meet the Bureau's requirements and OCTA will be asked to move to the next step in the process, which is to submit a formal loan application.

It is expected that substantial savings could be achieved if the new TIFIA loan is reset based on current 30-year United States Treasury bond yields. If successful, it is anticipated that the current interest rate of 2.91 percent could be reduced by approximately half, resulting in significant debt service savings. Based on current United States Treasury bond yields, it is anticipated that a new TIFIA loan will result in net present value savings of approximately 25 percent, or approximately \$190 million.

### Interest Rate Reset Requirements and Timing

OCTA has submitted a LOI and will be required to submit a formal loan application based on an invitation by the Bureau to go to the next step in the process. OCTA will also be required to receive credit ratings by at least two rating agencies and the loan would then be subject to approval by the United States Department of Transportation.

Pursuant to TIFIA statutory requirements, the 2.91 percent interest rate cannot be reset through an amendment. The reset can only be achieved by terminating the existing loan and executing a new loan with a new interest rate. The new interest rate would be set at one basis point above the prevailing 30-year United States Treasury bond yield at the time of closing. Other terms of the loan will remain unchanged.

Prior to closing, OCTA would be required to initiate the cancellation process for the existing 2017 TIFIA Loan by paying off the existing loan. OCTA would repay \$287 million, the total TIFIA loan disbursements to date, plus capitalized interest, at least ten days prior to closing the new TIFIA Loan. Simultaneously with the closing of the new loan, OCTA would submit a reimbursement request for the \$287 million in order to be immediately reimbursed. The \$287 million reimbursement request would be supported by eligible project expenditures as identified by staff.

To close the new TIFIA loan and lock in the new interest rate, the Bureau will need to get approval from the Council on Credit and Finance, which is anticipated to meet in November 2020. If approved at that meeting, the Council on Credit and Finance will make a recommendation to the Secretary of Transportation (Secretary). The Secretary makes the final determination on approving the new TIFIA loan. Based on the estimated timeline provided by the Bureau, OCTA is targeting a financial close for the TIFIA loan in January 2021. Prior to execution of the transaction, staff would return to the Board of Directors (Board) for approval of the new TIFIA Loan financing documents.

#### **TIFIA Loan Interest Rate Reset Estimated Fees and Expenses**

Fees and expenses for the transaction are estimated at \$755,000 and are necessary to cover the costs for credit ratings, financial advisory services, bond counsel, and Bureau costs.

Pursuant to statutory requirements, OCTA is required to submit at least two investment grade ratings to the Bureau at financial close. Since Moody's is the rating agency responsible for providing an annual rating for the existing 2017 TIFIA Loan, OCTA representatives discussed the background, importance of the new TIFIA loan interest rate reset, and expected schedule for closing with Moody's. Staff expects to have similar calls with other rating agencies including Fitch Ratings, Standard & Poor's, and Kroll Bond Rating Agency. The estimated cost to obtain two ratings is approximately \$400,000. Actual costs will be determined upon formal engagement with the rating agencies.

To successfully carry-out the transaction, OCTA will need the support of Sperry Capital, Inc. (OCTA's financial advisory firm), and Nossaman, LLP, (OCTA's bond counsel firm). The contracts for both firms must be amended in order to cover the additional fees and expenses to be incurred for the transaction. The cost for financial advisory services for the transaction is estimated at \$170,000, and for bond counsel services the estimate is \$65,000.

Additionally, the Bureau requires borrowers seeking financing to pay all fees and expenses of the Bureau. For this transaction, the Bureau has communicated that they will require outside legal counsel. The estimated fees and expenses to be paid by OCTA is approximately \$120,000. The Bureau is conducting the procurement process for outside legal counsel and expects to finalize the engagement by the end of October 2020. OCTA may be required to pay additional fees and expenses if the Bureau requires additional consultant support during the transaction.

#### ***Summary***

The Orange County Transportation Authority is requesting approval to pursue resetting the interest rate on its existing 2017 TIFIA Loan. Given current market conditions, it is anticipated that an interest rate reset could result in significant debt service savings for the I-405 Improvement Project. Staff will return to the Board for approval of financing documents for the new TIFIA loan should OCTA receive loan approval from the Bureau.

***Attachment***

None.

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**Approved by:**



Andrew Oftelie  
Chief Financial Officer  
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# Transportation Infrastructure Finance and Innovation Act Loan Interest Rate Reset

# Background

- In April 2015, the Orange County Transportation Authority (OCTA) Board of Directors (Board) approved the Interstate 405 (I-405) Improvement Project, which included the construction of the 405 Express Lanes
- In July 2017, OCTA and the United States Department of Transportation Build America Bureau Credit Programs Office (Bureau) executed a Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan for \$628.9 million (2017 TIFIA Loan)

# Key Provisions of TIFIA Loan

- Interest rate fixed at 2.91 percent for the life of the loan
- Loan is secured by and payable solely from net toll revenues of the 405 Express Lanes, estimated to open in 2023
- Annual debt service payments are not required until five years after substantial completion
  - Interest-only payments are required for the first five years (years five through ten after substantial completion)
  - Principal payments for the loan commence in year ten after substantial completion

# Recent Communications

- Bureau communicated willingness to consider an interest rate reset on OCTA's TIFIA Loan
  - Process not formalized for interest rate reset yet, however OCTA was invited to submit letter of interest (LOI)
  - OCTA submitted LOI on August 31, 2020 requesting to reset the 2.91 percent interest rate on the 2017 TIFIA Loan
- On October 6, 2020, the Bureau notified OCTA that the LOI was approved and OCTA could move to the creditworthiness phase, which will require a formal loan application

# Potential Savings

- Substantial savings could be achieved if the loan is reset at current market rates (interest rate is one basis point above prevailing 30-year United States Treasury bond yields at the time of closing)
  - Based on current rates, the 2017 TIFIA Loan interest rate could be reduced by approximately half
    - 2017 TIFIA Loan - 2.91 percent
    - New TIFIA Loan - 1.41 percent
    - Estimated savings of approximately \$190 million

# Recommendations

- Direct staff to proceed with pursuing an interest rate reset of OCTA's TIFIA Loan for the I-405 Improvement Project, and authorize staff to execute necessary amendments to agreements for financial advisory and bond counsel services
- Authorize the payment of fees and expenses required by the Bureau
- Direct staff to return to the Board for approval of the financing documents required to execute the closing of the transaction

# Next Steps

- Seek Board approval on October 26, 2020, to pursue an interest rate reset of the 2017 TIFIA loan
- Receive investment grade ratings by early January 2021
- Receive Secretary of Transportation approval of the new loan in January 2021
- Return to the Board for approval of financing documents in January 2021
- Loan closing estimated to occur in January 2021



## COMMITTEE TRANSMITTAL

**October 26, 2020**

**To:** Members of the Board of Directors  
**From:** Laurena Weinert, Clerk of the Board  
**Subject:** 2020 Measure M2 Sales Tax Forecast

Finance and Administration Committee Meeting of October 14, 2020

**Present:** Directors Do, Hennessey, Hernandez, Jones, Muller, R. Murphy,  
and Steel  
**Absent:** None

**Committee Vote**

Following the roll call vote, this item was declared passed 7-0 by the Members present.

**Committee Recommendation**

Direct staff to determine the impacts of the updated forecast to Measure M2 programs and projects and return to the Board of Directors with options to address the decrease in projected sales tax revenue.



**October 14, 2020**

**To:** Finance and Administration Committee  
**From:** Darrell E. Johnson, Chief Executive Officer  
**Subject:** 2020 Measure M2 Sales Tax Forecast

### **Overview**

The Orange County Transportation Authority contracts with MuniServices, LLC and three universities to forecast Measure M2 taxable sales. Within the past six months, MuniServices, LLC and the three universities have each provided updated forecasts and staff has incorporated the new information into the annual update for the long-range forecast of Measure M2 taxable sales.

### **Recommendation**

Direct staff to determine the impacts of the updated forecast to Measure M2 programs and projects and return to the Board of Directors with options to address the decrease in projected sales tax revenue.

### **Background**

On March 28, 2016, the Orange County Transportation Authority (OCTA) Board of Directors (Board) directed staff to forecast taxable sales in Orange County by utilizing MuniServices, LLC (MuniServices) forecasted taxable sales growth rates for the first five years of the forecast period, and average growth rates based on forecasted taxable sales from three universities: Chapman University (Chapman), California State University, Fullerton (CSUF), and University of California, Los Angeles (UCLA), for the remaining years.

Due to the significant decrease in forecasted taxable sales due to the coronavirus (COVID-19) pandemic, OCTA prepared a preliminary Measure M2 (M2) Sales Tax Forecast update that was presented to the Board in August 2020. OCTA received final tax receipts for fiscal year (FY) 2019-20 in September 2020, and has prepared the final 2020 M2 sales tax forecast update. OCTA staff has also incorporated updated forecasts for MuniServices, UCLA, and CSUF. Chapman's previous forecast remains unchanged.

***Discussion***

The 2020 M2 sales tax forecast was completed based on final sales tax receipts for FY 2019-20 and updated sales tax forecasts provided by MuniServices, CSUF, and UCLA. Despite final sales tax receipts for FY 2019-20 being higher than anticipated and updated forecasts, total anticipated sales tax available to support the M2 Program remained at \$11.6 billion over the 30-year period, which is consistent with the figure provided to the Board in August 2020.

Final sales tax receipts for FY 2019-20 came in at \$318 million, which was \$15 million higher than anticipated in August. It was originally anticipated that the impact of COVID-19 would result in an 8.8 percent decrease in sales tax for FY 2019-20, however economic activity was stronger than anticipated and the decrease was only 4.3 percent. In addition, The California Department of Tax and Fee Administration offered small business taxpayers with less than \$5 million in taxable annual sales, a 12-month, interest-free, payment plan for up to \$50,000, of sales and use tax liability. The payment plans must be paid in full by July 31, 2021, to qualify for zero interest. While deferral payments were permissible, MuniServices informed OCTA that only a small number of businesses took advantage of the one-year extension program and that the impact was minimal to FY 2019-20 sales tax receipts.

Despite better than anticipated sales tax receipts for FY 2019-20, total anticipated sales tax available to support the M2 Program remained at \$11.6 billion due to a more conservative forecast provided by MuniServices. MuniServices lowered the growth rate for each of the next three years by approximately 1.7 percent due to the uncertainty of any near-term stimulus programs, the potential of a second wave of COVID-19, vaccine schedule, and unemployment recovery. MuniServices anticipates unemployment and the correlated weak consumer confidence to remain a barrier to strong sales tax performance over the next few years and anticipates recovering to FY 2018-19 sales tax levels in FY 2023-24. The updates to the CSUF and UCLA forecasts were minor with both being more optimistic over the next two years. The changes in these forecasts did not impact the final M2 forecast given they occurred during the first five years of the forecast period, which is during the period MuniServices forecast is used.

The MuniServices forecast includes the period from FY 2020-21 through FY 2024-25. The average annual sales tax growth rate over that period based on the MuniServices forecast is 1.7 percent. The three-university average annual growth rate for the remaining years (FY 2025-26 through FY 2040-41) is 3.2 percent and the average annual growth rate over the entire forecast period is 2.9 percent.

Staff will continue to monitor the short- and long-term impacts of COVID-19 on M2 sales tax revenues. Staff will also determine the impacts of the updated M2 sales tax forecast to M2 programs and projects and return to the Board with the impacts over the coming months as the Next 10 Plan is updated.

***Summary***

OCTA has finalized sales tax receipts for FY 2019-20 and received updated sales tax forecasts from MuniServices, CSUF, and UCLA. It is anticipated that total sales tax available to support the M2 Program will be \$11.6 billion, which is consistent with the preliminary forecast provided to the Board in August 2020. This represents a year-over-year decline of \$1.8 billion (-13.5 percent) in forecasted sales tax when compared to last year's forecast. Staff will determine the impacts of the forecast to M2 programs and projects and return to the Board with those impacts over the coming months as the Next 10 Plan is updated.

***Attachment***

- A. Orange County Transportation Authority M2 Sales Tax Revenue Forecast – 2020

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**Approved by:**

Andrew Oftelie  
Chief Financial Officer,  
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**Orange County Transportation Authority**  
**M2 Sales Tax Revenue Forecast - 2020**

*In Nominal Dollars*

Fiscal Year	Actual Growth	Chapman		UCLA		CSUF		MuniServices		Board Approved Forecast	
		Gross Sales Tax*	Growth Rate	Gross Sales Tax	Growth Rate	Gross Sales Tax	Growth Rate	Gross Sales Tax	Growth Rate	Gross Sales Tax	Blended Growth Rate
2011 **	6.50%	61,756,868	-	61,756,868	-	61,756,868	-	61,756,868	-	61,756,868	-
2012	6.20%	250,892,931	-	250,892,931	-	250,892,931	-	250,892,931	-	250,892,931	-
2013	6.17%	266,384,076	-	266,384,076	-	266,384,076	-	266,384,076	-	266,384,076	-
2014	4.96%	279,599,946	-	279,599,946	-	279,599,946	-	279,599,946	-	279,599,946	-
2015	4.30%	291,615,675	-	291,615,675	-	291,615,675	-	291,615,675	-	291,615,675	-
2016	3.20%	300,944,523	-	300,944,523	-	300,944,523	-	300,944,523	-	300,944,523	-
2017	2.60%	308,768,664	-	308,768,664	-	308,768,664	-	308,768,664	-	308,768,664	-
2018	4.12%	321,480,529	-	321,480,529	-	321,480,529	-	321,480,529	-	321,480,529	-
2019	3.38%	332,358,188	-	332,358,188	-	332,358,188	-	332,358,188	-	332,358,188	-
2020	-4.33%	317,963,821	-	317,963,821	-	317,963,821	-	317,963,821	-	317,963,821	-
2021		308,453,933	-2.99%	323,625,625	1.78%	328,153,656	3.20%	304,892,373	-4.11%	304,892,373	-4.11%
2022		338,040,641	9.59%	354,081,975	9.41%	343,866,582	4.79%	315,406,587	3.45%	315,406,587	3.45%
2023		349,315,549	3.34%	371,216,120	4.84%	357,266,568	3.90%	326,159,503	3.41%	326,159,503	3.41%
2024		358,392,908	2.60%	387,650,397	4.43%	369,170,095	3.33%	337,065,618	3.34%	337,065,618	3.34%
2025		367,498,734	2.54%	401,134,459	3.48%	383,168,314	3.79%	345,094,010	2.38%	345,094,010	2.38%
2026		376,857,451	2.55%	416,077,170	3.73%	397,974,000	3.86%	356,753,273	3.38%	356,753,273	3.38%
2027		386,512,677	2.56%	431,541,719	3.72%	412,719,363	3.71%	368,625,896	3.33%	368,625,896	3.33%
2028		396,607,526	2.61%	447,501,537	3.70%	428,494,332	3.82%	381,075,996	3.38%	381,075,996	3.38%
2029		407,080,425	2.64%	463,963,747	3.68%	445,123,875	3.88%	394,032,883	3.40%	394,032,883	3.40%
2030		418,212,578	2.73%	480,775,494	3.62%	462,524,376	3.91%	407,518,361	3.42%	407,518,361	3.42%
2031		429,808,189	2.77%	497,874,281	3.56%	481,073,772	4.01%	421,563,657	3.45%	421,563,657	3.45%
2032		441,648,187	2.75%	515,552,665	3.55%	498,656,052	3.65%	435,559,976	3.32%	435,559,976	3.32%
2033		453,879,397	2.77%	533,550,874	3.49%	516,033,651	3.48%	449,708,975	3.25%	449,708,975	3.25%
2034		466,375,541	2.75%	551,880,045	3.44%	533,340,459	3.35%	464,013,195	3.18%	464,013,195	3.18%
2035		479,151,763	2.74%	570,703,158	3.41%	550,796,390	3.27%	478,588,066	3.14%	478,588,066	3.14%
2036		492,301,521	2.74%	589,937,392	3.37%	568,188,584	3.16%	493,380,101	3.09%	493,380,101	3.09%
2037		505,829,140	2.75%	609,619,848	3.34%	585,760,850	3.09%	508,472,397	3.06%	508,472,397	3.06%
2038		519,768,895	2.76%	629,735,796	3.30%	603,654,098	3.05%	523,913,479	3.04%	523,913,479	3.04%
2039		534,134,605	2.76%	650,292,000	3.26%	621,792,130	3.00%	539,688,216	3.01%	539,688,216	3.01%
2040		549,023,279	2.79%	671,285,409	3.23%	640,493,303	3.01%	555,920,901	3.01%	555,920,901	3.01%
2041 **		423,269,223	2.79%	519,537,348	3.19%	494,918,607	3.03%	429,468,960	3.00%	429,468,960	3.00%
Total		\$ 11,733,927,384	2.79%	\$ 13,149,302,280	3.79%	\$ 12,754,934,279	3.54%			\$ 11,568,667,643	2.85%

\*Fiscal years 2011 through 2017, and 2020 represent actual sales tax receipts. Fiscal Year 2018 is based on estimated sales tax revenues from MuniServices, LLC. Fiscal Year 2019 represent actual sales tax receipts plus \$1.58 million additional revenues received for Fiscal Year 2018 above MuniServices Fiscal Year 2018 estimate.

\*\* Fiscal year 2011 includes sales tax receipts for one quarter and fiscal year 2041 represents forecasted sales tax receipts for three quarters.



RIVERSIDE  
COUNTY  
TRANSPORTATION  
COMMISSION

# CORONAVIRUS IMPACTS TO THE 91 EXPRESS LANES



# Coronavirus (COVID-19) Pandemic: Impacts

- Traffic volumes down approximately 80 percent on the 91 Express Lanes
- Toll revenues down approximately 77 percent
- Customer calls to the call center in Corona decreased by 66 percent
- Mail processing dropped by 50 percent
- Weekly new accounts decreased by 74 percent
- Staffing levels at call center reached a low in early April

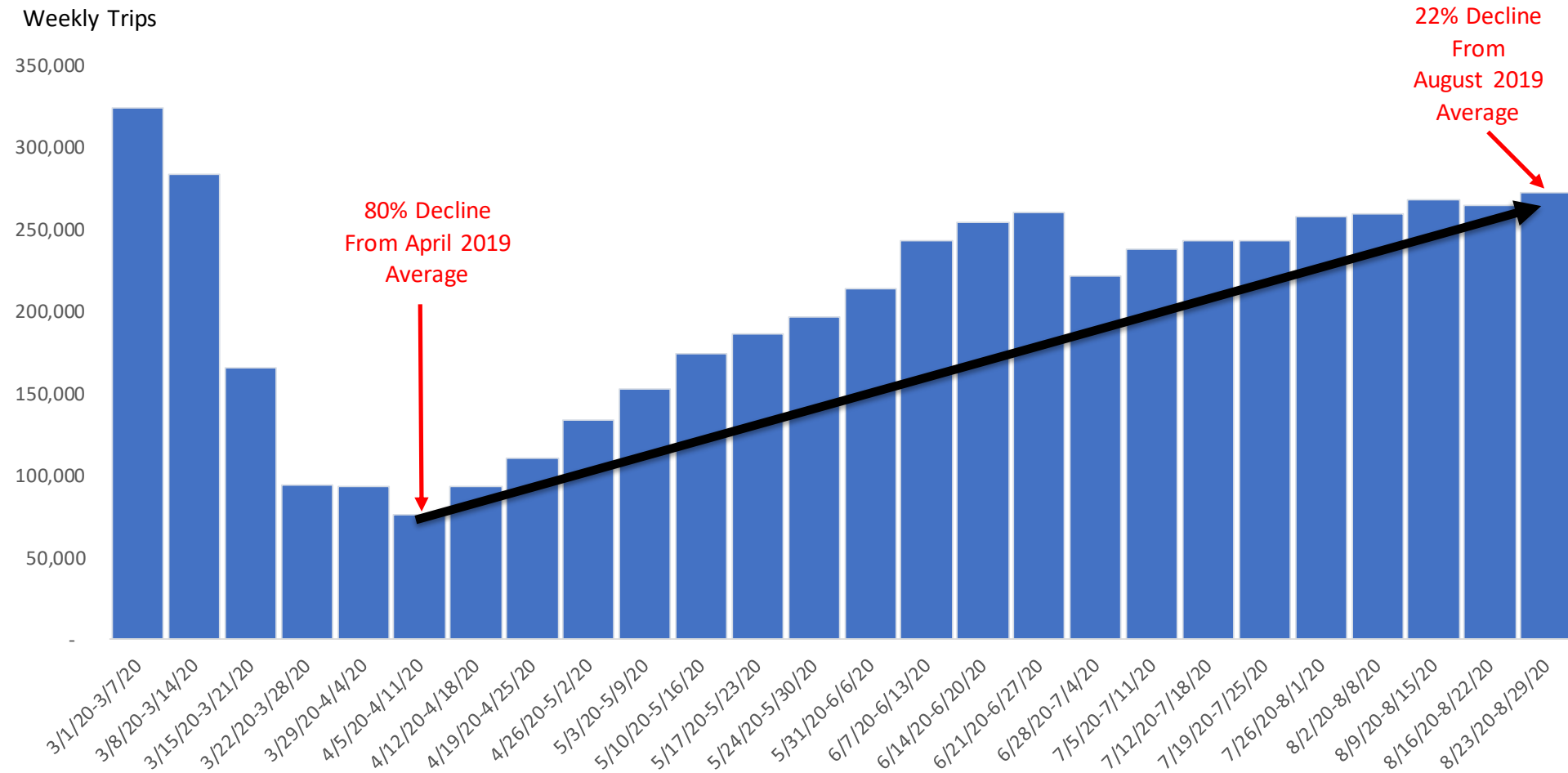
## Actions Taken to Date

- Closed Customer Walk-In Center in Corona
- Suspended various items:
  - Monthly account maintenance fees
  - Outbound collection calls and notices
  - Franchise Tax Board Intercept Program
  - Transmittal of violations files to collections agency
  - 6C transponder distribution campaign
  - Cost of living adjustments
- Toll rates adjusted to meet traffic volume demand

## Toll Rates – Orange County Transportation Authority (OCTA)

- Temporarily modified the Toll Policy
- Modifications included:
  - Suspension of holiday toll rate schedules
  - Cost of Living Adjustment cancelled for July 1, 2020
- Toll Policy modifications ended on September 30, 2020
- Several toll rates reduced in April 2020, July 2020, and October 2020 per the requirements of the Toll Policy

# Orange County Traffic Volumes



# Orange County Potential Toll Revenues

Weekly Revenues in \$

1,200,000

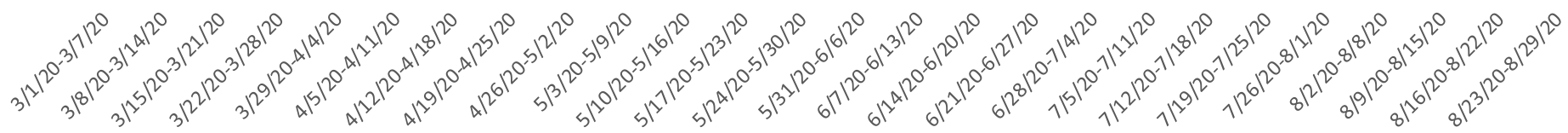
1,000,000

800,000

600,000

400,000

200,000



# Current Conditions Compared to Pre-COVID-19

- Traffic volumes are down approximately 22 percent
- Toll revenues are down approximately 15 percent
- Customer calls to the call center in Corona are down approximately 36 percent (call wait times at 20 seconds)
- Mail processing is down approximately 37 percent
- Weekly new accounts are down by about 13 percent
- Staffing at call center close to pre-COVID-19 levels

# Capital Projects Continue Despite COVID-19

- Back-Office System and Customer Service Center Operations
  - Workshops and system demonstrations are ongoing
  - Testing commencing early 2021
  - July 2021 transition date planned
- 241/91 Express Lanes Connector
  - Agencies continue to meet on a bi-weekly basis
  - Specialized working groups have been formed and are meeting
  - Project opening planned in late 2025

# Moving Forward

- Customer Walk-In Center in Corona to remain closed
- Resume key activities in October 2020:
  - Monthly account maintenance fees
  - Outbound collection calls and notices
  - Transmittal of violations files to collections agency
- Continue adjusting toll rates to meet traffic volume demand
- Continue with 6C transponder distribution campaign

# Next Steps

- Evaluate COVID-19 conditions and impacts to the economy
- Re-evaluate the reopening of the Customer Walk-In Center in Corona
- Monitor traffic volumes, revenues, and operational activities
- Adjust toll rates as required
- Provide updated information to the Board of Directors and rating agencies