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REQUEST FOR PROPOSALS (RFP) 7-1609

CONSULTANT SERVICES TO PREPARE THE PLANS, SPECIFICATIONS, AND ESTIMATES FOR ANAHEIM CANYON METROLINK STATION IMPROVEMENT PROJECT



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

Key RFP Dates

Issue Date:	April 10, 2017
Pre-Proposal Conference Date:	April 19, 2017
Question Submittal Date:	April 26, 2017
Proposal Submittal Date:	May 17, 2017
Interview Date:	June 15, 2017

FEDERAL TRANSIT ADMINISTRATION FUNDED PROJECT

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TABLE OF CONTENTS

SECTION I:	INSTRUCTIONS TO OFFERORS	1
SECTION II:	PROPOSAL CONTENT	9
SECTION III:	EVALUATION AND AWARD	17
EXHIBIT A:	SCOPE OF WORK.....	20
EXHIBIT B:	PROPOSED AGREEMENT	22
EXHIBIT C:	CAMPAIGN CONTRIBUTION DISCLOSURE FORM.....	24
EXHIBIT D:	STATUS OF PAST AND PRESENT CONTRACTS.....	29
EXHIBIT E:	DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND FORMS	31
EXHIBIT F:	RESTRICTIONS ON LOBBYING.....	49
EXHIBIT G:	SAFETY SPECIFICATIONS	61
EXHIBIT H:	CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES.....	65
EXHIBIT I:	PROPOSAL EXCEPTIONS AND/OR DEVIATIONS.....	67

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NOTICE OF REQUEST FOR PROPOSALS

(RFP): 7-1609: "CONSULTANT SERVICES TO PREPARE THE PLANS, SPECIFICATIONS, AND ESTIMATES FOR ANAHEIM CANYON METROLINK STATION IMPROVEMENT PROJECT"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to prepare the plans, specifications, and estimates for Anaheim Canyon Metrolink Station Improvement Project.

To prevent potential conflicts of interest the prime consultant and all subcontractors (at any tier) awarded this contract for design consultant services to develop PS&E for the Anaheim Canyon Metrolink Station Improvement Project will be ineligible to participate, in any tier in any of the separate procurements for the construction management services and construction services required to deliver the Anaheim Canyon Metrolink Station Improvement Project.

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

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

Geotechnical Investigation Report – (August 25, 2011, revised October 27, 2011)

FTA Categorical Exclusion and Documented Categorical Exclusion Worksheet (February 07, 2017)

Final Technical Report – Air Quality and Greenhouse Gas Analysis (February 7, 2017)

Final Biological Technical Report (February 7, 2017)

Final Technical Report Cultural Resources Report (February 2017)

Final Technical Report – Noise and Vibration (February 2017)

Phase I Environmental Site Assessment for Anaheim Canyon Metrolink Project, Diaz Yourman (January, 2017)

Draft Water Quality Management Plan (January, 2017)

Preliminary Geotechnical Report for Anaheim Canyon Metrolink Project, Diaz Yourman (January, 2017)

30% Plans for Anaheim Canyon Metrolink Project, STV (January, 2017)

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30% Design Submittal Report (January, 2017)
PUC Order 88-B application with exhibits

Proposals must be received in the Authority's office at or before 2:00 p.m. on May 17, 2017.

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: Venita Anderson, Senior 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: Venita Anderson, Senior 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 7-1609, 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

Commodity:
Architectural & Engineering
Design Consulting
Consultant Services -
Transportation Planning

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Professional Services

Consultant Services - General
Environmental Consulting
Architect Services, Professional
Engineering - Architectural
Engineering - Civil
Engineering - Environmental
Engineering - General
Engineering - Right of Way
Engineering - Structural
Engineering Drawings
Environmental - Architectural
Impact Studies, Environmental

A pre-proposal conference will be held on April 19, 2017, at 2:00 p.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established June 15, 2017, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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 April 19, 2017, at 2:00 p.m. the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. All prospective Offerors are encouraged to attend 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:

Venita Anderson, Senior Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560. 5427, Fax: 714.560.5792
Email: vanderson@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 April 26, 2017.
- 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: vanderson@octa.net

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than May 4, 2017. 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 Venita Anderson, Senior Contract Administrator.

DRAFT

RFP 7-1609

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:

Professional Consulting

Professional Services

Commodity:

Architectural & Engineering
Design Consulting
Consultant Services -
Transportation Planning
Consultant Services - General
Environmental Consulting
Architect Services, Professional
Engineering - Architectural
Engineering - Civil
Engineering - Environmental
Engineering - General
Engineering - Right of Way
Engineering - Structural
Engineering Drawings
Environmental - Architectural
Impact Studies, Environmental

Inquiries received after 5:00 p.m. on April 26, 2017, 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 May 17, 2017.

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: Venita Anderson, Senior 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: Venita Anderson, Senior 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 a firm-fixed price contract specifying firm-fixed prices for individual tasks specified in the Scope of Work, included in this RFP as Exhibit A.

L. CONFLICT OF INTEREST

All Offerors responding to this RFP must avoid organizational conflicts of interest which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships or contracts, an Offeror is unable, or potentially unable to render impartial assistance or advice to the Authority; an Offeror's objectivity in performing the work

identified in the Scope of Work is or might be otherwise impaired; or an Offeror has an unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the Offeror's proposal.

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

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

M. PREVAILING WAGES

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

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

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

N. CODE OF CONDUCT

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

O. PRIME AND LOWER 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.

P. DISADVANTAGED BUSINESS ENTERPRISE

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

Q. PROHIBITION

The following restrictions apply to this procurement:

The prime consultant firm, including all subconsultants (at any tier) awarded this contract for consultant services to develop PS&E for the Anaheim Canyon Metrolink Station Improvement Project will be ineligible to participate (at any tier) in any of the separate procurements for construction management services and construction services required for the delivery of the Anaheim Canyon Metrolink Station Improvement Project.

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 Venita Anderson, Senior Contract Administrator and must, at a minimum, contain the following:

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

3. Technical Proposal

- a. Qualifications, Related Experience and References of Offeror

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in

performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror to:

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

b. Proposed Staffing and Project Organization

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

Offeror to:

- (1) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.
- (3) Indicate adequacy of labor resources utilizing a table projecting the labor-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.

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 Boards 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. Offeror is required to submit only **one** copy of the completed form(s) as part of its proposal and it should be included in only the **original** proposal. The prime consultant, subcontractors, lobbyists and agents are required to report all campaign contributions from the proposal submittal date up and until the Board of Directors makes a selection, which is currently scheduled for August 28, 2017.

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. Disadvantaged Business Enterprise Program and Forms

Offeror shall complete Exhibit E-1, Exhibit E-2, and Exhibit E-3 per the instructions set forth in "DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS FOR DOT-ASSISTED CONTRACTS."

4. Restrictions on Lobbying Form

As a recipient of federal funds, the Authority is required to certify compliance with the influencing restrictions and efforts of Offeror to influence federal officials regarding specific procurements in excess of \$1,000,000.00 that must be disclosed pursuant to section 1352, Title 31, U.S. Code.

This RFP includes, under Exhibit G, the following: a certification form entitled "Certification of Restrictions on Lobbying," the office of Management and Budget (OMB) Standard Form LLL entitled "Disclosure of Lobbying Activities," and a document entitled "Limitation on Payments to Influence Certain Federal Transactions."

The Offeror to this solicitation will be required to complete and submit to the Authority in their proposal, the certification form entitled "Certification of Restrictions on Lobbying" whether or not any lobbying efforts took place. If the Offeror did engage in lobbying activities, then OMB Standard Form LLL "Disclosure of Lobbying Activities" must also be completed and submitted to the Authority.

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.

6. Certification of Consultant, Commissions & Fees

In receiving federal funds, Offeror is required to complete the Certification of Consultant, Commissions and Fees form. This form is to be included with Offeror's proposal.

7. 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.

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 25%

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 35%

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 June 15, 2017, 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 Board Committee, the Offeror(s) with the highest ranking. The Board 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 the Authority's Accounting department a current IRS W-9 form prior to commencing work.

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

EXHIBIT A: SCOPE OF WORK

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RFP 7-1609
SCOPE OF WORK
EXHIBIT A

SCOPE OF WORK

**CONSULTANT SERVICES TO PREPARE THE PLANS,
SPECIFICATIONS, AND ESTIMATES FOR THE
ANAHEIM CANYON METROLINK STATION IMPROVEMENT
PROJECT**

Table of Contents

SCOPE OF WORK	1
SECTION 1 -GENERAL DESCRIPTION OF SERVICES.....	1
1.1 OBJECTIVE	1
1.2 BACKGROUND	1
1.3 PROJECT DESCRIPTION	2
1.4 STANDARDS	5
1.4.1 LATEST EDITIONS	5
1.4.2 CONFLICTS.....	5
1.4.3 PLANS, SPECIFICATIONS AND ESTIMATES (PS&E).....	5
1.4.4 REFERENCE MATERIAL.....	5
1.5 DESIGN CRITERIA.....	7
1.5.1 DRAFTING.....	7
1.5.2 ROADWAY AND AT-GRADE CROSSINGS	7
1.5.3 RAILROAD STRUCTURES.....	7
1.5.4 DESIGN SURVEYS	7
1.5.5 ELECTRICAL, COMMUNICAT, SIGNALING AND POSITIVE TRAIN CONTROL (PTC) DESIGN.....	8
1.5.6 RIGHT OF WAY.....	8
1.5.7 UTILITIES	8
1.5.8 DRAINAGE	9
1.5.9 PLANTING AND IRRIGATION	9
1.6 DELIVERABLES FORMAT.....	9
SECTION 2 -GENERAL CONDITIONS AND REQUIREMENTS	10
2.1 SCOPE OF WORK GENERAL CONDITIONS AND REQUIREMENTS	10

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SECTION 3 -SCOPE OF WORK..... 14

SECTION 4 -PROJECT SCHEDULE34

SCOPE OF WORK

SECTION 1 - GENERAL DESCRIPTION OF SERVICES

OBJECTIVE

The Orange County Transportation Authority (OCTA) is seeking to award a professional services contract to provide engineering services for the preparation of Plans, Specifications and Estimates (PS&E), Construction Bid Ready Documents and Design Service During Construction for the Anaheim Canyon Metrolink Station Improvement Project (Project).

BACKGROUND

OCTA, in coordination with Southern California Regional Rail Authority (SCRRA) and the City of Anaheim (City) proposes to construct the Anaheim Canyon Metrolink Station Improvement Project (Project), which consists of a second station track and new platform to the west, existing platform extension and associated track, civil, structural, drainage, train signals and warning devices, street and pedestrian safety improvements to adjacent at-grade crossings at E. La Palma Avenue and Tustin Avenue. The limits of work for the Project are between relocated Control Point (CP) Riverdale at Milepost (MP) 1.39 and relocated CP Miraloma at MP 0.72.

Anaheim Canyon Metrolink Station is located at 1039 N. PacifiCenter Drive in the northeast part of the City. The station is situated in a 100-foot wide right of way along the western edge of the PacifiCenter development in the southwest quadrant of Tustin Avenue and E. La Palma Avenue. The station currently consists of one platform with shade structures, benches and ticket vending machines and is served by a single track.

The improvements will allow more than one train to serve the station and/or pass through the station area at a time. This will increase the on-time performance and safety of train operations. The Project will also include Americans with Disabilities Act (ADA) compliant improvements to the pedestrian circulation elements at the station. City has an exclusive use easement with the adjacent PacifiCenter landowner for parking which includes 70 spaces in a parking lot located immediately east of the existing station platform. The station parking lot area also includes four bus bays.

The design and construction of the Project is planned to be funded through the Congestion Mitigation and Air Quality (CMAQ) Program and Federal Transit Administration (FTA) formula funds 5337 and 5307. The Project has been cleared in compliance with FTA's National Environmental Protection Act (NEPA), as well as the California Environmental Quality Act (CEQA) process.

OCTA, along with SCRRA, the City and a representative of the California Public Utility Commission (CPUC) had a preliminary diagnostic meeting at the site of the two grade crossings at Tustin Avenue and E. La Palma Avenue to request authorization to alter a highway-rail crossing pursuant to General Order 88-B. Final application will be handled by a separate consultant.

OCTA has completed 30% design plans and is now issuing this Request for Proposals for final design plans specifications and estimates to complete a bid package that will be advertised for construction.

PROJECT DESCRIPTION

The Anaheim Canyon Metrolink Station provides commuter rail service on the Inland Empire/Orange County Metrolink Line between San Bernardino and Oceanside. The Anaheim Canyon Metrolink Station also provides commuters with local and community bus routes, Stationlink rail feeder routes, and Anaheim Transit Network (ATN) shuttle services. It is located at 1039 N. PacifiCenter Drive in the northeast part of the City (Figure 1). The station is situated within a 100-foot wide OCTA-owned right-of-way along the western edge of the PacifiCenter Development south of E. La Palma Avenue. The current station consists of one platform with shade structures, benches and ticket vending machines. The station is served by a single track. The City has an exclusive use easement with the adjacent PacifiCenter landowner for parking which includes 100 spaces in a parking lot located immediately east of the station platform. The station parking lot area also includes four bus bays.

OCTA proposes to construct a second station track and platform to allow more than one train to serve the station and/or pass through the station area at a time. This will increase the on-time performance of train operations and improve operational flexibility. Grade crossing safety will be enhanced by closing or moving driveways away from the crossings; and overall system safety will be enhanced by allowing trains operating in opposing directions to each have their own dedicated track under normal operation, rather than requiring trains moving in opposing directions sharing a single track.

The Project will also include fully ADA compliant improvements to the pedestrian circulation elements at the station. This will include the reconstruction of several existing parking lot pedestrian ramps to meet ADA compliance, which are located within private property being leased by the City for station parking.

The improved Anaheim Canyon Metrolink Station will remain a multi-modal transit center that accommodates Metrolink commuter rail service, OCTA local and

community bus service, Stationlink rail feeder service and ATN, along with parking facilities. Key elements of the Project include the following:

- Construction of approximately 3,400 linear feet of new siding track (2nd track) and two new turnouts. In the station area, the new track will be built to the west of the existing single track, then to the north of E. La Palma Avenue, the new track will transition to be built on the east side of the existing track.
- Establish two new Control Points (CPs) at the new turnouts. Associated railroad signal and communications modifications will be required to accommodate new 2nd track and pedestrian safety improvements at grade crossings.
- Construction of improvements to the existing at-grade crossings of E. La Palma Avenue and Tustin Avenue to accommodate the new 2nd track; including new street improvements, relocation of existing railroad signal warning devices and pedestrian safety improvements. Includes reconstruction and widening of sidewalk elements to accommodate the relocation of the pedestrian grade crossing warning devices, gates and channelization railing.
- Relocation or possible closure of an existing driveway along the north edge of E. La Palma Avenue, just west of the railroad tracks, to accommodate the second track and provide for grade crossing safety improvements. This work will be within City public right-of-way; however, a temporary construction easement is anticipated to be required for this work.
- Relocation of an existing driveway along the south edge of Tustin Avenue, just east of the railroad tracks, to accommodate the second track and provide the required area for at-grade crossing safety improvements. This work will be within the City public right-of-way, however a temporary construction easement is anticipated to be required for this work and the reconfiguration of parking stalls for no net loss of parking to the private property owner.
- Extension of the existing 510-foot long station platform to meet the current required Metrolink standard platform length of 680 feet, which supports an eight-car train.
- Construction of a new 680-foot long second platform and associated facilities on the west side of the new 2nd track.

- Construction of 832 linear feet of retaining wall west of new platform to accommodate the difference in grade from the top of proposed platform to existing ground and to protect excessive fill over an existing 36-inch SoCal Gas line located within a 10-foot easement along the western boundary of the railroad right-of-way.
- Construction of new ADA-compliant pedestrian pathways and sidewalks to provide pedestrian access between the existing parking lot and proposed second platform.
- Construction of improvements to existing parking lot pedestrian ramps to meet ADA compliance. This work will occur within private property currently being leased by the City for station parking. The Project would not improve or expand the parking lot.
- Reconstruction of a portion of the existing sidewalk, curb and gutter and roadway, and associated striping to provide a Class II bike path extension across the railroad grade crossing area, along the south edge of eastbound E. La Palma Avenue up to Tustin Avenue. This work will be within OCTA right-of-way and the City public right-of-way.
- Construction of a bus pad/stop on eastbound E. La Palma Avenue on the nearside of the railroad grade crossing.
- Relocation of an existing Positive Train Control communications tower located in the area proposed for the new second platform. The new location for the tower will be at the south end of new platform.
- Minor grading and drainage improvements, including a culvert extension to accommodate the second track.
- Relocate one Southern California Edison (SCE) power pole in the south east quadrant of the E. La Palma Avenue grade crossing, and relocate one SCE power pole guy wire on the east side of the railroad right-of-way between E. La Palma Avenue and Tustin Avenue.
- Extend to the west of the existing track, two existing 60-inch reinforced concrete pipe with concrete collar just south of the Tustin Avenue grade crossing.

STANDARDS

1.1.1 LATEST EDITIONS

CONSULTANT shall perform all services under the Agreement in conformance and in compliance with the approved environmental document, the latest SCRRA Standard Drawings and Specifications, City Standard Drawings and Specifications, American Railway Engineering and Maintenance-of-Way Association (AREMA), SCRRA Engineering Standards, Guidelines, and Standard Specifications, the Standard Specifications for Public Works Construction (SSPWC), California Public Utilities Commission (CPUC) General Order 26D, 72B and 72D, AUTHORITY standards for general provisions, special provisions and technical specifications, and other applicable AUTHORITY Standards.

1.1.2 CONFLICTS

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

In event that non-standard features become apparent during the initial design, CONSULTANT shall prepare the necessary design exceptions or Request for Special Consideration following SCRRA and the respective city's guidelines.

1.1.3 PLANS, SPECIFICATIONS AND ESTIMATES (PS&E)

PS&E shall be prepared in English units and in conformance with the latest editions of applicable standards. As part of the work involved in the preparation of the PS&E, CONSULTANT shall prepare Special Provisions (project Specific Specifications) pertaining to items of work included in the plans that are not addressed in the latest editions of applicable standards CONSULTANT will furnish and compile Special Provisions to include AUTHORITY contract administration requirements.

1.1.4 REFERENCE MATERIAL

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

- A Policy on Geometric Design of Highways and Streets (AASHTO)
- California Public Utilities Commission (CPUC) General Orders Requirements
- California Regional Water Quality Control Board Requirements
- Manual of Uniform Traffic Control Devices (MUTCD)
- MUTCD California Supplement
- OCTA Standards for Contract Documents including General Provisions, Special
- Provisions, and Technical Specifications
- OCTA Right of Way Manual
- City Standard Drawings and Specifications
- Applicable Local Codes and Manuals
- Orange County Drainage Area Management Plan (DAMP)
- Construction Best Management Practices (BMP's)
- SCRRA Engineering Standards, Guidelines, and Standard Specifications
- American Railway Engineering and Maintenance of Way Association (AREMA) Standards
- Highway Capacity Manual
- City and County General Plans
- CMP Traffic Impact Assessment Guidelines for the County of Orange
- City Criteria for Preparation of Traffic Impact Studies
- Geotechnical Investigation Report – (August 25, 2011, revised October 27, 2011) (attachment A)
- FTA Categorical Exclusion and Documented Categorical Exclusion Worksheet (February 07, 2017) (attachment B)
- Final Technical Report – Air Quality and Greenhouse Gas Analysis (February 7, 2017) (attachment C)
- Final Biological Technical Report (February 7, 2017) (attachment D)

- Final Technical Report Cultural Resources Report (February 2017)(Attachment E)
- Final Technical Report – Noise and Vibration (February 2017) (attachment F)
- Phase I Environmental Site Assessment for Anaheim Canyon Metrolink Project, Diaz Yourman (January, 2017) (attachment G)
- Draft Water Quality Management Plan (January, 2017) (attachment H)
- Preliminary Geotechnical Report for Anaheim Canyon Metrolink Project, Diaz Yourman (January, 2017) (attachment I)
- 30% Plans for Anaheim Canyon Metrolink Project, STV (January, 2017) (attachment J)
- 30% Design Submittal Report (January, 2017) (attachment K)
- PUC Order 88-B application with exhibits (attachment L)

1.1.5 DESIGN CRITERIA

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

1.1.6 DRAFTING

Railway, Roadway and related plans shall be prepared on standard plan and profile sheets acceptable to AUTHORITY. The size and clarity of lettering on plan sheets requires special attention, as final contract plans are half-size. Plans, which are illegible or otherwise difficult to read, are unacceptable. Drafting standards used shall be acceptable to City and SCRRA.

1.1.7 ROADWAY AND AT-GRADE CROSSINGS

CONSULTANT shall adhere to design standards as specified by the local jurisdiction where the road is located. At-grade crossing designs shall be California Public Utilities Commission (CPUC) compliant.

1.1.8 RAILROAD STRUCTURES

Railroad structures will be designed in accordance with SCRRA (latest edition) Design Standards.

1.1.9 DESIGN SURVEYS

CONSULTANT shall perform design surveys including mapping and mapping updates, necessary to complete a constructible PS&E. This includes horizontal and

vertical control, drainage surveys, topographical surveys, cross sections, grid grades, open-ended traverses, profile data sheets, three line profiles and required documentation. The surveys shall meet the requirements of SCRRA's Design Criteria Manual. The temporary survey monuments established for this project will be tied to SCRRA's permanent bench marks.

CONSULTANT shall perform post construction survey to update SCRRA Positive Train Control mapping and data collection in conformance with SCRRA's Configuration Management Program.

CONSULTANT shall designate a Surveys Manager who will coordinate the CONSULTANT's surveying operations. The Surveys Manager shall be responsible for all matters related to the CONSULTANT's surveying operations.

1.1.10 ELECTRICAL, COMMUNICATION, SIGNALING AND POSITIVE TRAIN CONTROL (PTC) DESIGN

The station communication and fare collection, and track electrical, communication, signaling and PTC designs PS&E will be prepared by SCRRA, but shall be coordinated and reviewed by the CONSULTANT for project design conflicts between various design disciplines prepared by the CONSULTANT. Design conflicts shall be resolved by CONSULTANT and provide additional civil improvements as necessary. The CONSULTANT shall coordinate and incorporate signal and communication plans, specifications and special provisions prepared by SCRRA consultant in the project documents for a complete constructible/bid package. CONSULTANT shall prepare special provisions to address station electrical as necessary for the Project.

1.1.11 RIGHT OF WAY

CONSULTANT shall conduct necessary right-of-way coordination with OCTA Right-Of-Way (ROW) Department, including identification of ROW impacts involving easement requirements, driveway re-configuration and utility facility replacement easements and preparing applicable ROW engineering plans and letter reports.

1.1.12 UTILITIES

CONSULTANT shall identify all public and private utilities and utility conflicts within the proposed roadway and proposed structures. 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. A site specific health and safety plan shall be prepared by the CONSULTANT for approval prior to starting work. Horizontal and vertical information obtained shall be shown on the plans and profiles. CONSULTANT shall provide design services and coordination support to AUTHORITY in expediting relocation of existing facilities with utility carriers. CONSULTANT shall coordinate with SCRRA, the City and utility carriers for utilities

within the Railroad ROW. Additional utility relocation design for PS&E packages may be requested to advance or expedite project staging.

1.1.13 DRAINAGE

CONSULTANT shall coordinate with the necessary resource agencies in development of drainage plans and in accordance with City and SCRRA design standards as applicable.

1.1.14 PLANTING AND IRRIGATION

CONSULTANT shall coordinate with SCRRA and the City in development of planting and irrigation plans and in accordance with City and SCRRA station maintenance agreement.

DELIVERABLES FORMAT

All electronic data produced and supporting the PS&E shall be provided on electronic media (CD/DVD or portable hard drive) in PDF and original source file formats consistent with AUTHORITY, SCRRA, and City software programs. The electronic data shall also be available on secured web based collaboration and document management system accessible by the project team.

All vector geographic data layers shall be delivered in either ESRI Shapefile or Personal Geodatabase (MS ACCESS) format. Aerial photography shall be delivered in tiled Tagged Image File Format (TIFF) with "world" files or Joint Photographic Experts Group (JPEG) with "world" files. Raster data can be delivered in ArcGRID format. The coordinate system for all geographic data layers shall be California Coordinate System State Plane, Zone VI (FIPS 0406), units = feet, North American Datum 1983.

All electronic data produced and supporting the PS&E shall be provided on either archival grade 80 min/700mb CDs or DVDs 4.7 GB or 8.5 GB double capacity DVDs or high quality portable hard drive with USB 3.0 interface support using MicroStation V8i - Select Series 3 up to version 08.11.09.292 dgn files, CaiCE Visual Transportation Version 10. SP5 (CaiCE VT). One copy of the data on CD/DVD, including the Engineer's electronic signature and seal, shall be provided to AUTHORITY upon completion of the PS&E. Files may be submitted on up to five (5) CDs or, if larger, on DVDs or portable hard drive. All submittal files shall be compressed and shall be successfully run through AXIOM FILEFIXER software or EDG.

All electronic data produced and supporting the PS&E shall be provided to AUTHORITY and shall be organized and indexed. This includes but is not limited to all drawings, reports, tables, graphs, exhibits, and appendices in their original source electronic format (.dgn, .dwg, .tiff, .jpg, .docx, .xlsx, .pdf, etc.).

SECTION 2 - GENERAL CONDITIONS AND REQUIREMENTS

SCOPE OF WORK GENERAL CONDITIONS AND REQUIREMENTS

CONSULTANT shall carry out the instructions as received from AUTHORITY Project Manager and shall cooperate with City and other agencies, and other consultants working on the project. It is the responsibility of the CONSULTANT to immediately notify the Project Manager for clarification to requests or any direction considered inconsistent with the Agreement.

- 2.1-2** It is not the intent of the foregoing paragraph to relieve CONSULTANT of professional responsibility during the performance of this contract. In those instances where CONSULTANT believes a better design or solution to a problem is possible, CONSULTANT shall promptly notify AUTHORITY Project Manager of these concerns, together with the reasons therefore.
- 2.1-3** CONSULTANT shall be responsible for the accuracy and completeness of the reports, plans, specifications, estimates, and related material prepared by CONSULTANT for the project. CONSULTANT shall independently check and identify the engineer and checker for all such material prior to any submittal. The plans, concepts, reports, and documentation will be reviewed by AUTHORITY, and/or AUTHORITY's designee for conformity to constructability and overall project consistency. Reviews by AUTHORITY, and/or AUTHORITY's designee, SCRRA and City will include detailed review or check of design of major components and related details, or the accuracy with which such designs are depicted on the plans.
- 2.1-4** Neither CONSULTANT nor its subcontractors shall incorporate materials, or equipment of single or sole source origin without prior written approval of AUTHORITY.
- 2.1-5** The plans, specifications, estimates, calculations, reports, and other documents furnished under this Scope of Work shall be of a quality acceptable to AUTHORITY, SCRRA, and City. The minimum criteria for acceptance shall be a product of neat appearance that is well organized, technically and grammatically correct, and thoroughly checked. The appearance, organization and content of the drawings shall be to applicable standards.
- 2.1-6** The page identifying preparers of engineering reports, the title for specifications and each sheet of plans, shall bear the professional seal,

certificate number and expiration date, registration classification, and the signature of the professional engineer(s) responsible for their preparation.

- 2.1-7** The CONSULTANT shall maintain a set of project files that are indexed in accordance with filing system provided by the AUTHORITY.
- 2.1-8** Upon the completion of this Scope of Work, all files and correspondence relating to the Project shall be turned over to the AUTHORITY. This includes all working data, field data, and background information used in creating the deliverables identified in the Scope of Work.
- 2.1-9** CONSULTANT shall submit all final plans on CD ROM using MicroStation file format in accordance with specified standards or in AutoCAD file format as required by City and SCRRA. All electronic files shall include the engineer's electronic signature and seal.
- 2.1-10** To assist in understanding contract objectives and requirements, CONSULTANT will hold regular meetings with the AUTHORITY, SCRRA and City. If the original established schedule is insufficient, CONSULTANT will hold additional meetings as necessary. The primary purpose of these meetings is to discuss work objectives, CONSULTANT's work schedule, the terms of the contract and other related issues. In addition, the meetings will serve as a forum for resolving any issues related to the PS&E development.
- 2.1-11** CONSULTANT may establish direct contact with governmental regulatory and resource agencies and others in order to obtain information, expertise, and assistance in developing baseline data and resource inventories. CONSULTANT shall maintain a record of such contacts and shall transmit copies of those records to AUTHORITY and City on a regular basis. At a minimum, these records shall be transmitted monthly or more frequently, when the content or extent of the records so warrants.
- 2.1-12** The AUTHORITY will retain responsibility for final consultation, both informal and formal, with state and federal agencies regarding project mitigation and compensation proposals.
- 2.1-13** CONSULTANT shall comply with all applicable federal, state, and local regulations regarding safety equipment and procedures for roadway and railroad. CONSULTANTS shall wear proper Personal Protective Equipment (PPE) when conducting field investigations. In case of a discrepancy between requirements, the most stringent regulation shall apply.
- 2.1-14** CONSULTANT shall designate a Surveys Manager who will coordinate CONSULTANT's surveying operations. The Surveys Manager shall be responsible for all matters related to CONSULTANT's surveying operations, but shall coordinate with CONSULTANT's Project Manager.

- 2.1-15** Surveys performed by CONSULTANT shall conform to the requirements of the Land Surveyors Act and per AUTHORITY's direction. In accordance with the Act, "responsible charge" for the work shall reside with a Registered Civil Engineer registered prior to January 1, 1982, or a Licensed Land Surveyor, in the State of California.
- 2.1-16** All surveys performed by CONSULTANT will be tied to survey monuments installed by SCRRA.
- 2.1-17** It is the responsibility of CONSULTANT and its sub-consultants to identify all stakeholders and required permits for design and construction. CONSULTANT shall obtain the proper permit(s) from local, state, and federal agencies and from SCRRA as necessary prior to any field investigations.
- 2.1-18** It is the responsibility of CONSULTANT and its sub-consultants to identify all stakeholders and required permits for design and construction. CONSULTANT shall obtain the proper permit(s) from local, state, and federal agencies and from SCRRA as necessary prior to any field investigations.
- 2.1-19** Where this Scope of Work requires CONSULTANT to prepare and submit studies, reports, plans, etc., to City, SCRRA and AUTHORITY, these materials shall be submitted in draft as scheduled, and the opportunity provided for reviewing agencies to direct revisions, prior to final submission.
- 2.1-20** Throughout the design of this project, CONSULTANT will consider least cost alternatives analysis for major project components, where appropriate.
- 2.1-21** AUTHORITY Project Manager will administer CONSULTANT contract and provide general direction to CONSULTANT. CONSULTANT is responsible for providing Quality Assurance Program. City, AUTHORITY, and SCRRA are responsible for providing Independent Quality Assurance as well as final approval of the PS&E, required reports, and all other work products.
- 2.1-22** CONSULTANT team shall be responsible for supporting and assisting AUTHORITY staff in the Board of Directors (Board) update or approval process during the preparation of the PS&E. These may include but are not limited to: providing Project materials for Board packages, assisting and/or making Board presentations, researching/investigating of information requested by the Board, and attending additional meetings/workshops, as necessary.

- 2.1-23** AUTHORITY shall provide an independent third party plan review of the project for all disciplines, including but limited to, roadway, roadside design, pavement striping, structures, drainage, electrical, stage construction, geotechnical, utilities, landscape, technical specifications, and construction administration.
- 2.1-24** CONSULTANT shall conform AUTHORITY contract documents into final bid documents.
- 2.1-25** AUTHORITY shall have the right, from time-to-time, to monitor and review the progress and/or processes of CONSULTANT by visiting CONSULTANT's facilities or by requiring coordination meetings.

SECTION 3 - SCOPE OF WORK

The Scope of Work shall include the following tasks;

3.1 TASK 1 - PROJECT MANAGEMENT/ COORDINATION/ ADMINISTRATION

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

3.1-1 Project Management Plan

CONSULTANT shall prepare a comprehensive Project Management Plan (PMP) to communicate the scope of work, constraints, and technical requirements to all project participants. The plan shall identify the procedures and technical requirements that are to be followed in developing the PS&E package. The PMP shall also describe the responsibilities of each participant in the project.

The following items should be included in the project management plan:

- Project description
- Project map
- Scope of work and task listing
- Project organization
- Key project staff names and responsibilities
- Project controls including schedule and budget
- Document management procedures including electronic document filing index
- Applicable design standards and codes listing
- Applicable computer software programs
- Communications procedures
- Quality management procedures
- Risk management procedures including a risk register

A copy of the PMP should be given to each project participant at the beginning of the project and a meeting should be held with all participants to explain all project requirements within thirty (30) days of Notice to Proceed (NTP).

Deliverables:

- PMP

3.1-2 Quality Management Plan

CONSULTANT shall maintain a Quality Management Plan (QMP) for Quality Assurance and Quality Control (QA/QC) throughout performance of the services under this Agreement. The QMP is intended to ensure that reports, plans, studies, estimates, and other documents submitted under the Agreement are complete, accurate,

checked, conform to standards, and proofread to meet professional engineering practices in effect at the time of execution of the Agreement, and of a quality acceptable to AUTHORITY.

The following quality control elements are required by CONSULTANT throughout the preparation of PS&E for the project.

1. Provide independent checking and verification of all calculations.
2. Provide independent checking, correction, and back checking for all plans. Plans shall be marked clearly as being checked, signifying that the preparation of the material followed the QMP established for the project.
3. Route pertinent project related correspondence and memoranda to affected personnel and bind in appropriate project files.
4. Establish appropriate means to avoid conflicts and misalignments between both new and existing improvements, particularly where several drawings show different elements of work in the same area.
5. CONSULTANT shall identify critical QA reviews within the Project Master Schedule.
6. The QMP shall include a procedure where each deliverable is certified by the Quality Manager or Project Manager as being prepared and checked in accordance with the approved QMP.
7. Each deliverable shall be certified by the Quality Manager or Project Manager as being prepared and checked in accordance with the approved QMP.
8. CONSULTANT's Project Manager or Quality Manager shall be qualified to implement QMP.
9. CONSULTANT shall conform to AUTHORITY's independent quality surveillance, monitoring and audits. Such quality surveillance, monitoring and audits will be performed by the AUTHORITY Quality Manager and may be scheduled or ad hoc.

Within thirty (30) days of receiving the NTP, CONSULTANT shall submit a complete copy of the QMP to the AUTHORITY Project Manager for review and approval.

Deliverables:

- QMP – one electronic copy

3.1-3 Coordination

Meetings with stakeholders shall be held to discuss issues pertinent to analysis, design, and effects of the Project. During these meetings, AUTHORITY, City, and SCRRA may provide direction for development of the PS&E.

CONSULTANT shall participate in the following meetings:

Regular Project Development Team (PDT) Meetings with AUTHORITY, City, and SCRRRA shall be held on monthly basis to update the project team on design development. CONSULTANT shall bring progress plans as appropriate. Special presentation materials may be required. Assume 12 regular meetings for the duration of the PS&E phase of the Project.

Agency Coordination/Technical Workshop Meetings shall be held to discuss technical issues with specific agencies. Assume 6 meetings for the duration of the PS&E phase of the Project.

Deliverables:

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

- Notices (scheduling)
- Agendas
- Handouts
- Minutes
- Action items list
- Progress plans

3.1-4 Administration

Following are administrative duties, which shall be performed by CONSULTANT:

- Supervise subconsultants, coordinate, and monitor work for conformance with set standards and policies.
- Apply for and obtain City and railroad encroachment permits necessary for CONSULTANT to be on the jobsite.
- Apply for and obtain City approvals and permits as required.
- Prepare, circulate, and file correspondence and memoranda as appropriate.
- Maintain Project files using the AUTHORITY specified filing system.
- Within fifteen (15) working days of Notice to Proceed, CONSULTANT shall submit the final Project Master Schedule to AUTHORITY Project Manager. Section 3.1-4 contains of a description of the Master Schedule.

3.1-5 Schedules

CONSULTANT shall submit an initial Project Master Schedule 15 working days following NTP. Upon approval by AUTHORITY, this schedule will become the Project Baseline Schedule. The approved Project Baseline Schedule shall be shown on the Project Master Schedule updates. The following elements must be included by

CONSULTANT in the Schedule:

- Work items and deliverables identified in accordance with a Work Breakdown Structure (WBS) as developed by CONSULTANT and approved by AUTHORITY
- Work items of agencies and other third parties that may affect or be affected by CONSULTANT's activities
- Resource loading of work items in work hours to show the effort required to perform the work. Resource loading shall be used to develop plan and actual progress curves
- The Project Master Schedule shall include all data necessary to represent the total Project and the critical path shall be clearly identified
- The order, sequence, and interdependence of significant work items shall be reflected on the Project Master Schedule
- The following list of major tasks shall be used to develop the Project Master Schedule:

Task 1 – Project Management/Coordination/Administration

Task 2 – Initial Studies

Task 3 – Engineering/Environmental Studies and Right-of-Way Services

Task 4 – 60% PS&E Submittal

Task 5 – 90% PS&E Submittal

Task 6 – 100% PS&E Submittal

Task 7 – Camera Ready Submittal

Task 8 – Construction Bidding Phase Assistance

Task 9 – Design Support During Construction

Major tasks should be broken down into subtasks as warranted.

CONSULTANT shall submit a copy of the Project Master Schedule to the AUTHORITY Project Manager for review and approval and a copy to City and SCRRA for information. Monthly schedule updates will be part of the Progress Report and will be in accordance with the requirements shown in Section 3.1-5.

Deliverables:

- Resource Loaded Project Master Schedule

3.1-6 Progress Reports

CONSULTANT shall report the progress of the work on a monthly basis. Progress shall be based on physical percent complete such as number of drawings or deliverables completed or estimated progress toward completion. Progress payments will be based upon percent complete of the major tasks identified.

CONSULTANT shall submit one copy of a monthly Progress Report to the AUTHORITY Project Manager consisting of a written narrative and an updated bar-chart format of the Project Master Schedule. 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.

This report shall be received no later than the tenth (10th) calendar day of the month following the report month.

All schedule tasks shall be updated to reflect current percent complete. If the latest completion time for a significant work item does not fall within the time allowed by the original Project Master Schedule, the sequence of work and/or duration, with the concurrence of AUTHORITY Project Manager, may be revised by CONSULTANT through concurrent operations, additional staffing or overtime, until the resultant schedule indicates that all significant milestone dates will be met.

Should, during the course of the work, CONSULTANT fall behind in overall performance in accordance with the current schedule, a project management meeting will be called to determine the cause. If cause is found to be due to CONSULTANT performance, payment to CONSULTANT may be withheld pending the submittal of an action plan outlining the steps, which will be taken to correct the identified delay(s).

The initial Project Master Schedule, referenced in Section 3.1-5, as agreed to by AUTHORITY shall become the project target. The baseline schedule shall be displayed on the updated Project Master Schedule. Changes to the baseline schedule shall be approved by AUTHORITY Project Manager.

Deliverables:

- Monthly Progress Reports

3.1-7 Public Outreach Support

CONSULTANT shall be responsible for providing Engineering Design and Project information support to the AUTHORITY's Public Outreach Coordinator, who will be the lead on providing public outreach for the project. CONSULTANT shall be responsible for providing graphic design support and exhibits (24" x 36" poster boards) as needed for AUTHORITY's public outreach effort. CONSULTANT is not anticipated to attend public meetings.

Deliverables:

- Project information narratives and exhibits/visual displays as needed

3.1-8 Constructability Review

The CONSULTANT shall provide technical support, including performing feasibility and technical analysis as necessary to address Constructability Review comments. CONSULTANT shall participate in related meetings or workshops as directed by AUTHORITY. Assume two review meetings for the PS&E phase of the Project. As directed by the AUTHORITY, the CONSULTANT shall incorporate all approved recommendations of from constructability review session and prepare a disposition of response to Constructability Review comments.

Deliverables:

- Updated PS&E as necessary to respond to Constructability Review Comments
- Completed responses to Constructability Review Comment Matrix

3.1-9 Permit Applications

CONSULTANT will prepare and submit encroachment permit applications for surveying, geotechnical and utility investigations. Possible permits required for this Project include:

- SCRRA Encroachment Permit for surveying and utility potholing
- City Encroachment Permit
- Utility Relocation Agreements
- Prepare "Order to Construct" for PUC authorization.

Deliverables

- Prepare Permit Applications
- Secure all required permits
- Support Preparation of Construction and Maintenance Agreement
- Prepare "Order to Construct"
- Insurance certificates related to SCRRA and other encroachment permits

3.2 TASK 2 – INITIAL STUDIES

3.2-1 Field Exploration

A Site Visit Report for the site is attached to this Request For Proposal. CONSULTANT shall conduct a thorough independent field investigation of the project site to verify information in the Site Visit Report as the CONSULTANT deems necessary. CONSULTANT shall obtain applicable encroachment permits and necessary rail flagging protection prior to beginning any field investigation.

Deliverables:

- Field exploration memorandum

3.2-2 Mapping

CONSULTANT will provide updated aerial photography and topographic mapping. AUTHORITY and SCRRA shall be provided a copy of the aerial photographs and digital map compilation in an electronic format.

Final aerial mapping will consist of 40-scale with contours at 1-foot intervals and consistent with SCRRA requirements. A single mounted oblique aerial photograph of the project area will be provided to AUTHORITY and SCRRA for display purposes.

Deliverables:

- Aerial Topographic Mapping Base File
- Aerial Photographs

3.2-3 Design Surveys

CONSULTANT will perform and update design surveys during this phase. CONSULTANT will provide photogrammetric mapping in English units for the Project. Any additional survey work or mapping performed prior to receiving the required approval will be at CONSULTANT's risk and expense.

CONSULTANT shall designate a Survey Manager who will coordinate the surveying operations.

CONSULTANT shall obtain all survey record information, including benchmarks and monuments from the City and SCRRA. All survey shall be performed in accordance with accepted professional standards.

CONSULTANT shall identify CONSULTANT-established monuments with the license or registration number of the Engineer's surveyor who is in "responsible charge" of the work. The monument shall be in accordance with City or SCRRA Standards as appropriate.

CONSULTANT shall prepare Right of Way base mapping for the existing right of way conditions.

CONSULTANT shall establish centerline control of existing streets.

CONSULTANT shall obtain applicable encroachment permits and necessary rail flagging protection prior to beginning any field investigation. Additionally, if a traffic control plan is required, CONSULTANT shall prepare the plan. Such documents shall be forwarded to AUTHORITY and City for review and concurrence prior to beginning any field investigation.

CONSULTANT shall obtain necessary training including applicable rail safety program prior to performing field investigations.

Deliverables:

- Survey points, lines, and monuments shall be established, marked, identified and referenced, as required to complete this work and in accordance with the requirement herein. Survey monuments in the right-of-way shall be as per SCRRA requirements.
- Survey notes, drawings, calculations, and other survey documents/materials shall be completed as required to complete the work and in accordance with the requirements herein.
- A copy of all original survey documents resulting from this Scope of Work (including original field notes, adjustment calculations, final results and appropriate intermediate documents) shall be delivered to AUTHORITY and forwarded to City. Said documents shall then become the property of the City. The original survey documents shall be retained by CONSULTANT for future reference.
- When survey is performed with a Total Station Survey System, the original field notes shall be a legible hard copy listing of the data (observations) as originally collected and submitted by the survey party. CONSULTANT's party chief shall sign the listing.
- The final results of all surveys, as required, shall be delivered to AUTHORITY, City and SCRRA in the format specified below:
 1. Horizontal Control Alpha/numeric hard copy point listing with adjusted California Coordination System northing's and easting's, and appropriate descriptions based on NAD '83 datum, 1991.35 Epoch as required by City, with conversion to 2007 Epoch as required by City and/or SCRRA.
 2. Vertical Control as required by City

3.3 TASK 3 – ENGINEERING AND ENVIRONMENTAL REPORTS

3.3-1 Phase II ESA

CONSULTANT shall review the "Phase I Environmental Site Assessment (ESA)" prepared by Diaz Yourman in January 2017. CONSULTANT shall obtain any relevant hazardous waste investigation work prepared by others in the project area from AUTHORITY, SCRRA, CITY and other entities.

CONSULTANT shall review the Phase I ESA findings and conclusions of potential contaminated properties identified within the project area that may impact design and planned construction activities and determine if avoidance alternatives are prudent.

Based on the information provided in the Phase I ESA, the CONSULTANT shall prepare a Phase II ESA in accordance American Society for Testing and Materials

(ASTM) to address the “All-Appropriate-Inquiry” (AAI) aspect to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). CERCLA contains national policy and procedures for containing or removing hazardous substances that have been released, and also provides funding and guidance for cleaning up some abandoned and contaminated hazardous waste sites. The CONSULTANT shall follow ASTM standards E 1903-11 and applicable local and state standards. The Phase II ESA shall include sampling and laboratory analysis, as appropriate, to confirm the presence of hazardous materials. This may include (if any of the contaminants exists or is present on the project site):

- Surficial soil and water samples
- Subsurface soil borings

The CONSULTANT shall make recommendations in the Phase II ESA regarding the appropriate course of action to minimize risks to the project schedule and budget. If it is determined additional tests are needed, the CONSULTANT shall prepare specifications for the construction contractor to test, handle, and dispose of possible contaminated soil/waste. The goal is to determine the full nature and extent of contamination, so that remediation costs; impacts to project scope and schedule; and future liability to the AUTHORITY can be accurately estimated.

Deliverables:

- Draft Phase II ESA report, including all supporting materials and test results
- Final Phase II ESA report, including all supporting materials and test results

3.3-2 Traffic Management Plan

The CONSULTANT will develop a traffic management plan that addresses traffic detours and traffic operations during the construction phase. The plan shall be prepared in accordance with MUTCD and the City’s requirements.

Deliverables:

- Traffic Management Plans

3.3-3 CPUC Application Exhibits

The CONSULTANT will prepare both draft form of General Order (GO) 88-B and final form of GO 88-B crossing exhibits in accordance with California Public Utility Commission requirements and coordinate with AUTHORITY’S consultant on completing the GO 88-B process.

Deliverables:

- Draft GO 88-B exhibits of grade crossing improvements
- Final GO 88-B exhibits of grade crossing improvements

3.3-4 Right-of-Way Engineering Service

This project may require temporary construction easements, private driveway relocation and/or private driveway closure, which will need to be negotiated thru AUTHORITY ROW Department. CONSULTANT shall prepare plans/studies to minimize the effects on public property. This may include the study of vehicle movement on private parking lots/driveways at two locations. CONSULTANT will prepare legal descriptions and plats for all temporary or permanent effects on privately owned ROW.

Deliverables:

- Legal description and plats for all ROW AUTHORITY will need to negotiate for compensation to private owners affected by the Project
- Vehicle movement study for 2 private driveways

3.4 TASK 4 – 60% PS&E SUBMITTAL

3.4-1 Track Plans

CONSULTANT shall prepare plans depicting all track work to 60% completion and prepare cost estimates of all work anticipated to be performed by CONTRACTOR. CONSULTANT will incorporate all reviewing agency and AUTHORITY independent third party plan checker comments into the track plans and estimates as a result of the engineering review. Where it is not possible or desirable to incorporate certain comments, CONSULTANT will provide a written explanation and meet with appropriate agencies as required.

Deliverables:

- Title Sheet
- Typical Cross Sections
- Track Horizontal Control Plans
- Track Geometry Table
- Track Improvement Plans
- Track Profiles
- Construction Details
- Construction Phasing Plan
- Quantity Sheets
- Special and Technical Provisions/ Specifications

3.4-2 Street Improvement Plans

CONSULTANT will prepare all street improvement plans to 60% completion and incorporate all reviewing agency and AUTHORITY independent third party plan checker comments into the roadway plans and estimates as a result of the engineering review. Where it is not possible or desirable to incorporate certain comments,

CONSULTANT will provide a written explanation and meet with appropriate agencies as required.

Deliverables:

- Title Sheet
- Typical Cross Sections
- Roadway Horizontal Control Plans
- Street Improvement Plans
- Construction Detail Plans
- Special and Technical Provisions/Specifications

3.4-3 Traffic Plans

CONSULTANT shall prepare plans depicting the necessary modifications to roadway signing and striping associated with the project in accordance with City and MUTCD standards.

CONSULTANT shall also prepare Maintenance of Traffic (roadway staging) Plans depicting any necessary temporary traffic control measures needed to complete the necessary construction while maintaining traffic. Prior to plan development, CONSULTANT shall coordinate with City, AUTHORITY, and Metrolink staff to determine the maintenance of traffic requirements during construction. CONSULTANT shall develop staging approach for roadway construction that meets these requirements and obtain agency concurrence. Once obtained, CONSULTANT shall prepare detailed plans showing limits of temporary signing/striping, k-rail locations, changeable message sign locations, and locations and limits of any other temporary traffic control devices/measures by stage. Plans depicting any necessary detour routes shall be prepared.

Deliverables:

- Signing/ Striping Plans
- Staging/ Maintenance of Traffic Plans
- Special and Technical Provisions/Specifications

3.4-4 Drainage Plans

CONSULTANT will update the existing drainage report to address the existing and proposed drainage conditions and the proposed mitigation and design. This report shall consider both onsite and offsite systems. CONSULTANT will prepare drainage plans, profiles, and quantities based on the drainage report. CONSULTANT shall also prepare temporary drainage plans where needed.

CONSULTANT shall update draft Water Pollution Control Plans and draft Best Management Practices (BMP) Plans to show all required temporary and permanent pollution and erosion control measures necessary for construction of the Project.

Deliverables:

- Drainage Plans, Profiles and Details

3.4-5 Utility Plans

In the previous phase of work, all utilities were identified within the project area including all utilities within the railroad ROW and determined their design and relocation requirements except SCRRA signal and communication facilities.

CONSULTANT shall update and complete the 60% utility composite plans based on continuing field investigations, pot holing, and further study. CONSULTANT shall continue and complete design of utility relocations as required to accommodate the project schedule. CONSULTANT shall coordinate all such work with AUTHORITY, utility owners, City, and SCRRA as appropriate to meet the project schedule. CONSULTANT shall perform the required coordination to define the utility owners' and City' utility relocation requirements for all temporary and permanent utility relocation work. Please note SDG&E is currently preparing the design of relocation plans for the affected facilities.

Deliverables:

- Pothole results report
- Updated Utility Composite Plan if field investigation results in changes
- Utility Relocation Plans, Profiles and Details
- Special and Technical Provisions/Specifications

3.4-6 Planting and Irrigation Plans

CONSULTANT will prepare landscaping and irrigation plans and details to City requirements.

Deliverables:

- Planting and Irrigation Plans and Details
- Special and Technical Provisions/Specifications

3.4-7 Retaining Wall Plans

CONSULTANT will prepare layout plans and structural details as necessary, including aesthetic details, for retaining walls to support the new platform on the west of tracks. Details and construction specifications will be prepared in accordance with SCRRA Standard Plans, Specifications.

Deliverables:

- Retaining Wall Plan and Profile Sheets
- Retaining Wall Detail Sheets
- Special and Technical Provisions/Specifications

3.4-8 Architectural, Structural, Lighting, Electrical and Communication Plans for Station Shelters

CONSULTANT will prepare Architectural, Structural, Lighting, Electrical for Station Shelters necessary, including aesthetic details, new shelters on the new platform on the west of tracks. Details and construction specifications will be prepared in accordance with SCRRA Standard Plans, Specifications. SCRRA will prepare communication and positive train control plans that CONSULTANT will coordinate into the final bid package. CONSULTANT shall prepare plans for submission and obtain approval from the Department of State Architect for Americans with Disabilities Act (ADA) compliance verification.

Deliverables:

- Architectural Plans Sheets
- Architectural Detail Sheets
- Structural Plan Sheets
- Foundation Plans and Detail Sheets
- Electrical Plans and Details
- Quantity Sheets
- Special and Technical Provisions/Specifications

3.4-9 Water Quality Management Plan & BMP Plan

CONSULTANT shall prepare the Water Quality Management Plan (WQMP) for the Project as required to obtain agency approval in accordance with the project schedule. Recommendations in the WQMP (i.e.- for BMPs, etc.) will be incorporated into the project's PS&E.

CONSULTANT will prepare the Notice of Intent for the Construction Activities Storm Water General Permit as required to obtain agency approval. Minimum requirements for Construction Site BMPs will be incorporated into the project specifications to meet the requirements of the Construction Activities Storm Water General Permit. The specifications will require that the Construction Contractor prepare a Storm Water Pollution Prevention Plan (SWPPP) to cover proposed construction-related activities.

Deliverables:

- Water Quality Management Plans
- Storm Water Pollution Prevention Plans
- Storm Water BMP plans
- Quantity Sheets
- Special and Technical Provisions/Specifications
- Notice of Intent

3.4-10 Specifications

CONSULTANT shall prepare a Project Specifications in SCRRA Standard Format with any AUTHORITY or City requirements added as separate sections and referencing the Green Book.

Deliverables:

- Technical Specifications

3.4-11 Project Cost

CONSULTANT shall prepare a Project cost estimate at 60% completion. Throughout development of the PS&E, CONSULTANT will update this estimate using the AUTHORITY's cost estimate format with the final estimate due with the plans and specifications. If this cost estimate, or any of the updates, exceeds the Project Cost Budget as provided by the AUTHORITY's project manager, CONSULTANT shall recommend and implement alternatives for reducing the project costs to within the budget.

Deliverables:

- Project Cost Estimate

3.5 TASK 5 – 90% PS&E SUBMITTAL

3.5-1 90% Plans, Specifications and Estimates:

The CONSULTANT shall start the design based on the approval of the 60% plans and will submit plans, specifications and material (quantity) takeoff cost estimates at completion of approximately 90% design level. It is expected that 60% plans will be complete and include comments and input from all affected outside parties.

Deliverables:

- 90% plans, specifications, and estimates

3.6 TASK 6- 100% PS&E SUBMITTAL

3.6-1 Final Plans, Specifications and Estimates:

The CONSULTANT shall start the design based on the approval of the 90% plans and will submit plans, specifications and material (quantity) takeoff cost estimates at completion of approximately 100% design level. It is expected that 90% plans will be complete and include comments and input from all affected outside parties. Experience has shown that minor comments are likely after the 90% submittal, and therefore a final 100% submittal will be included after which the PS&E will be deemed ready for reproduction and inclusion into the construction bid package.

Deliverables:

- 100% plans, specifications, and estimates

3.7 TASK 7 – CAMERA READY SUBMITTAL

3.7-1 Plans, Specifications, and Estimate

CONSULTANT shall prepare and submit signed and sealed deliverables suitable for issue an Invitation for Bids (IFB).

Deliverables:

- Final plans, specifications, and estimates
- Schedule of Quantities and Prices
- All Engineering Calculations
- All Related Reports and Plans
- Project Cost Estimate Backup Documentation
- Design Review Comment Matrix and Responses

3.7-2 Construction Schedule

CONSULTANT shall prepare Critical Path Method (CPM) construction schedule in consultation with the AUTHORITY Project Manager, Construction Manager, City, SCRRA, major utilities, and determine the estimated required working days for project construction.

Deliverables:

- CPM Schedule Printout and electronic copy

3.7-3 Construction Manager File

CONSULTANT will meet with the AUTHORITY Project Manager, Construction Manager and functional units and provide the following information for the Construction Manager file. This list is not comprehensive and CONSULTANT shall provide additional information as appropriate:

- Permits
- Surveying Notes
- Geotechnical (GDR) and Foundation (FDR) Reports
- Hydrology/Hydraulics Report and calculations
- Relevant correspondence and memoranda
- Engineering calculations (horizontal and vertical alignments, earthwork quantities, etc.)
- Environmental Agreements and Reports
- Summary and discussion of Environmental issues
- Traffic Management Plan and supplements

- Water Quality Management Plan (WQMP)
- Right-of-Way Maps & Agreements
- List of Project Personnel
- Cooperative Agreements
- Pre-construction Record of Survey
- Post-construction Record of Survey

Deliverables:

- Construction Manager file – 2 sets

CONSULTANT will provide an electronic version of all Construction Manager file information.

3.8 TASK 9 – CONSTRUCTION BIDDING PHASE ASSISTANCE

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

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

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

3.8-1 Respond to Inquiries

CONSULTANT will draft responses to bidders' inquiries as requested by the AUTHORITY'S Contracts Administration & Materials Management (Camm). All such responses will be routed through the Contract Administrator or Project Manager.

Deliverables:

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

3.8-2 Addenda

CONSULTANT will prepare addenda as requested by AUTHORITY Project Manager or Construction Manager.

Deliverables:

- Copies of Addenda

3.9 TASK 10 – DESIGN SUPPORT SERVICES DURING CONSTRUCTION (DSDC)

Construction of the project will be the responsibility of AUTHORITY. Support services may vary depending on efficiency of the CONSULTANT and the completeness of the PROJECT plans. Such value will be negotiated prior to execution of the contract and will serve as the total budget for DSDC services. During the construction phase, CONSULTANT shall work closely with Project Manager to stay within the budget negotiated in order to assist and advise on issues in order to minimize construction conflicts and to expedite project completion. A “Schedule of Values” shall be developed by CONSULTANT for all costs included within DSDC lump sum budget. All DSDC costs shall be itemized and tracked monthly by CONSULTANT based on “earned value” and reported to the AUTHORITY at each invoice period. CONSULTANT shall be required to submit a Corrective Action Plan of DSDC costs should CONSULTANT become aware of any earned value cost deviation from the planned expenditure. This plan shall identify methodologies to help bring the DSDC budget back into conformance with the Schedule of Values. If CONSULTANT fails to submit such corrective action plan for the DSDC budget, then any additional cost incurred shall be considered forfeited. DSDC costs outside the scope of services as identified within Task 10 shall be tracked and submitted to the AUTHORITY as identified.

3.9-1 Meetings:

The CONSULTANT shall be available to attend the following meetings:

- Pre-Construction Meeting
- Bi-Weekly Construction Progress Meetings (assume attendance at 24 meetings)
- Site Visits on an as needed basis

3.9-2 Response to Requests for Information (RFI) and Requests for Change (RFC):

The CONSULTANT will be available as needed to respond to RFI's and RFC's during the bid process and during construction. Responses to RFI's and RFC's will generally be expected within six work days of their receipt or as otherwise requested. The specific time frame for responses will be established in the subsequent construction contract documents. CONSULTANT shall notify the AUTHORITY if RFI requests from Construction Manager appear to exceed normal expected levels prior to proceeding with RFI responses.

Deliverables:

- Letters with responses to RFIs (as needed)

3.9-3 Change Orders:

The CONSULTANT shall be available during construction as needed to review construction contract change orders or to design those change orders requiring specialized expertise not available in the field. Review of Value Engineering Cost Proposals (VECP) or contractor requested change orders shall be considered new scope from the DSDC and shall be paid by funds other than those included within this DSDC negotiated amount.

Deliverables:

- As needed updates to Plans, Specifications, and Estimates to assist the AUTHORITY, Contractor and Construction Management Team with the processing of a change order.

3.9-4 Submittals and Shop Drawings:

During the construction phase, the CONSULTANT will review and determine the disposition of the construction contract required submittals and shop drawings. Review of submittals and shop drawings will generally be expected within 15 work days of their receipt or to allow for necessary processing as detailed in contract provisions. The specific time frame for reviews will be established in the subsequent construction contract documents. Such submittals may include but not be limited to Material substitution requests, modifications requested for traffic control and traffic management planning, falsework, shoring, review of temporary bypass systems for wet utilities, contract specified geotechnical issues, deflection and loading calculations, temporary facilities such as lighting, shoring, and signals, re-bar rearrangement due to spacing constraints, product/material data sheets for specified materials, painting and material coatings, pipe loading wall stress calculations, electrical short circuit and impedance calculations, etc.

CONSULTANT shall be responsible for review of submittals due to construction contractor error or requested contractor substitutions, however such costs shall be submitted to AUTHORITY for approval prior to expending costs. Such cost require prior approval and shall be tracked and submitted by CONSULTANT to AUTHORITY separately from the approved DSDC budget.

Deliverables:

- Letters with responses to submittals(as needed)
- Monthly submittal Log showing status of each submittal.
- Submittal to AUTHORITY of Substitution of Materials/Out of Scope Review costs elements for Prior Approval

3.9-5 Additional Drawings at Request of AUTHORITY

If requested by AUTHORITY, CONSULTANT will prepare additional drawings and provide change order support during construction. Additionally, supporting documents and drawings may be requested to clarify information on project plans. Any such additional drawings that constitute extra work shall require prior approval from AUTHORITY.

Deliverables:

- Submittal of Clarification Drawings (as needed)
- Submittal of change order Drawings (as needed)

3.9-6 Nonconformance Reports (NCR):

The review and approval of field generated NCR's is included in this design consultant Scope of Work. The contractor is responsible for the recommended solution for any NCR, but the designer of record will review and approve the proposed solution. All direct and indirect costs, for this process, will be tracked separately by CONSULTANT such that the AUTHORITY can recover costs from the construction contractor.

Deliverables:

- Written Approval of NCR (as needed)
- Develop Report Tracking of additional NCR Costs (as needed)

3.9-7 Change Order Preparation and Review

CONSULTANT will review proposed change orders and change order language and make technical design recommendations at the request of the AUTHORITY or the AUTHORITY's designated field representative. If said changes are necessary as a direct result of design errors and omissions, CONSULTANT shall prepare and/or review contract change orders at no additional cost to AUTHORITY. Change Orders which are based on new field developments that could not be foreseen during design, or are requested by the construction contractor to correct construction errors or avoid delays are not the responsibility of the CONSULTANT and shall be separately compensated by AUTHORITY. Such changes shall require prior

AUTHORITY approval to proceed.

Deliverables:

- Develop Change Order Plans, Specifications, and Cost Estimates (as needed)
- Develop Report Tracking of additional CCO Costs as a result of contractor error (as needed)

3.9-8 As-Builts

CONSULTANT shall prepare and submit As-Built drawings (two hard copies and one electronic MicroStation file) to the AUTHORITY as verified and approved by the AUTHORITY'S field representative. This set of As-Built drawings shall include the coordination and inclusion of redline drawings developed by AUTHORITY construction representatives.

Deliverables:

- Final Plans in Mylar and Electronic format.

3.9-9 Additional Work Due to Consultant Errors and Omissions

In the case of errors and/or omissions, CONSULTANT shall furnish the necessary labor, provide the necessary deliverables including but not limited to additional and/or revised drawings, specifications, estimates at no additional cost to the AUTHORITY. Related review and response to RFIs, related review and acceptance of submittals and shop drawings, and related additional meetings and site visits shall be performed at no additional cost to the AUTHORITY.

3.9-10 Additional Work Items not included within DSDC

Change Orders which are based on new construction field developments that could not be foreseen during design, or are requested by the construction contractor to correct construction errors or delays are not the cost responsibility of the CONSULTANT and shall be separately compensated by AUTHORITY from total negotiated budget for DSDC services. Additionally, Value Engineering Cost Proposals (VECP's) or Cost Reduction Incentive Proposals (CRIP's) requested by the contractor are considered as included as part of this scope of work to be performed however are also not included within the total budget negotiated for DSDC services. All direct and indirect costs, for this process, shall be tracked separately by CONSULTANT such that the AUTHORITY can recover costs from the construction contractor.

SECTION 4 - PROJECT SCHEDULE

ANAHEIM CANYON METROLINK STATION

Activity	Proposed Date
Notice to Proceed	
A. Begin Work	February 2018
B. Submit 60% PS&E	June 2018
C. Submit 90% PS&E	September 2018
D. Submit 100% PS&E	December 2018
E. Camera Ready (Ready for Bid)	January 2019
F. Advertise	March 2019
G. Award	June 2019
H. Begin Construction	July 2019
I. Completion of Construction	September 2020

EXHIBIT B: PROPOSED AGREEMENT

DRAFT

PROPOSED AGREEMENT NO. C- 7-1609

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

THIS AGREEMENT is effective as of this ____ day of _____, 201_, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, CA 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), , , , (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONSULTANT to provide services to prepare the plans, specifications, and estimates for Anaheim Canyon Metrolink Station Improvement Project; 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;

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 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," 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>Names</u>	<u>Functions</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.

/

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 prior 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 September 30, 2020, unless earlier terminated or extended as provided in this Agreement.

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 provisions set forth in Article 7, AUTHORITY shall pay CONSULTANT on a firm fixed price basis in accordance with the following provisions.

B. The following schedule shall establish the firm fixed payment to CONSULTANT by AUTHORITY for each work task set forth in the Scope of Work. The schedule shall not include any CONSULTANT expenses not approved by AUTHORITY including but not limited to reimbursement for local meals.

<u>Task</u>	<u>Description</u>	<u>Firm Fixed Price</u>
Task 1	Project Management/Coordination/Administration	.00
Task 2	Initial Studies	.00
Task 3	Engineering/Environmental Studies and Right-of-Way Services	.00
Task 4	60% PS&E Submittal	.00
Task 5	90% PS&E Submittal	.00
Task 6	100% PS&E Submittal	.00
Task 7	Camera Ready Submittal	.00

1	Task 8	Construction Bidding Phase Assistance	.00
2	Task 9	Design Support During Construction	.00
3	TOTAL FIRM FIXED PRICE PAYMENT		<u>.00</u>

4 C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to
5 the work actually completed by CONSULTANT. Percentage of work completed shall be documented in
6 a monthly progress report prepared by CONSULTANT, which shall accompany each invoice submitted
7 by CONSULTANT. CONSULTANT shall also furnish such other information as may be requested by
8 AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to
9 make full payment for any task listed in paragraph B of this Article until such time as CONSULTANT has
10 documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required
11 under the task. AUTHORITY's payment in full for any task completed shall not constitute AUTHORITY's
12 final acceptance of CONSULTANT's work under such task; final acceptance shall occur only when
13 AUTHORITY's release of the retention described in paragraph D.

14 D. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations
15 under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice
16 submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY and shall
17 be paid to CONSULTANT within sixty (60) days of payment of final invoice, unless AUTHORITY elects
18 to audit CONSULTANT's records in accordance with Article 17 of this Agreement. If AUTHORITY elects
19 to audit, retained funds shall be paid to CONSULTANT within thirty (30) calendar days of completion of
20 such audit in an amount reflecting any adjustment required by such audit. CONSULTANT agrees to
21 release subcontractor retention within thirty (30) calendar days after the subconsultants work is
22 satisfactory completed. These prompt payment provisions are required to be incorporated in all
23 subcontract agreements issued by CONSULTANT. During the term of the Agreement, at its sole
24 discretion, AUTHORITY reserves the right to release all or a portion of the retained amount based on
25 CONSULTANT's satisfactory completion of certain milestones. CONSULTANT shall invoice
26 AUTHORITY for the release of the retention in accordance with ARTICLE 5.

1 E. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in
2 duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices
3 electronically to AUTHORITY's Accounts Payable Department at vendorinvoices@octa.net. Each invoice
4 shall be accompanied by the monthly progress report specified in paragraph C of this Article.

5 AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each
6 invoice. Each invoice shall include the following information:

7 1. Agreement No. C- 7-1609;
8 2. Specify the task number for which payment is being requested;
9 3. The time period covered by the invoice;
10 4. Total monthly invoice (including project-to-date cumulative invoice amount) and
11 retention;

12 5. Monthly Progress Report;
13 6. Weekly certified payroll for personnel subject to prevailing wage requirements, if
14 applicable;

15 7. Certification signed by the CONSULTANT or his/her designated alternate that a) The
16 invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup
17 information included with the invoice is true, complete and correct in all material respects; c) All payments
18 due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to
19 subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The
20 invoice does not include any amount which CONSULTANT intends to withhold or retain from a
21 subcontractor or supplier unless so identified on the invoice;

22 8. Any other information as agreed or requested by AUTHORITY to substantiate the
23 validity of an invoice.

24 **ARTICLE 6. PROMPT PAYMENT CLAUSE**

25 A. CONSULTANT agrees to pay each subcontractor for the satisfactory work performed under
26 this Agreement, no later than seven (7) calendar days from the receipt of each payment CONSULTANT

1 receives from AUTHORITY. CONSULTANT agrees further to return retainage payments to each
2 subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed.
3 AUTHORITY reserves the right to request the appropriate documentation from CONSULTANT showing

4 B. payment has been made to the subcontractors. Any delay or postponement of payment from
5 the above referenced time frames may occur only for good cause following written approval by
6 AUTHORITY.

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

11 D. These prompt payment provisions must be incorporated in all subcontract agreements issued
12 by CONSULTANT under this Agreement.

13 **ARTICLE 7. MAXIMUM OBLIGATION**

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

19 **ARTICLE 8. NOTICES**

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

24 /

25 /

26 /

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Venita Anderson

Senior Contract Administrator

Phone:

Phone:(714) 560 – 5427

Email:

Email: vanderson@octa.net

cc: Lora Cross, Project Manager

Email: lcross@octa.net

ARTICLE 9. INDEPENDENT CONTRACTOR

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.

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, and Property Damage with a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

2. Automobile Liability 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.

B. Proof of such coverage, in the form of an insurance company issued policy endorsement and a broker-issued insurance certificate, 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 with the AUTHORITY, its officers, directors, employees and agents designated as additional insured on the general and automobile liability. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by 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; and, the Contract Administrator's Name, Venita Anderson.

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.

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

ARTICLE 11. 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 7-1609, (3) CONSULTANT's proposal dated; and (4) all other documents, if any, cited herein or incorporated by reference.

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1 **ARTICLE 12. CHANGES**

2 By written notice or order, AUTHORITY may, from time to time, order work suspension and/or
3 make changes in the general scope of this Agreement, including, but not limited to, the services furnished
4 to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work suspension or
5 change causes an increase or decrease in the price of this Agreement or in the time required for its
6 performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its claim for
7 adjustment within ten (10) calendar days after the change or work suspension is ordered, and an
8 equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT
9 from proceeding immediately with the Agreement as changed.

10 **ARTICLE 13. DISPUTES**

11 A. Except as otherwise provided in this Agreement, any dispute concerning a question of fact
12 arising under this Agreement which is not disposed of by supplemental agreement shall be decided by
13 AUTHORITY's Director, Contracts Administration and Materials Management (CAMM), who shall reduce
14 the decision to writing and mail or otherwise furnish a copy thereof to CONSULTANT. The decision of
15 the Director, CAMM, shall be final and conclusive.

16 B. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with
17 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
18 CAMM. This Disputes clause does not preclude consideration of questions of law in connection with
19 decisions provided for above. Nothing in this Agreement, however, shall be construed as making final
20 the decision of any AUTHORITY official or representative on a question of law, which questions shall be
21 settled in accordance with the laws of the State of California.

22 **ARTICLE 14. TERMINATION**

23 AUTHORITY may terminate this Agreement for its convenience at any time, in whole or part, by giving
24 CONSULTANT written notice thereof. Upon termination, AUTHORITY shall pay CONSULTANT its
25 allowable costs incurred to date of that portion terminated. Said termination shall be construed in
26 accordance with the provisions of CFR Title 48, Chapter 1, Part 49, of the Federal Acquisition Regulation

1 (FAR) and specific subparts and other provisions thereof applicable to termination for convenience. If
2 AUTHORITY sees fit to terminate this Agreement for convenience, said notice shall be given to
3 CONSULTANT in accordance with the provisions of the FAR referenced above and ARTICLE 8, herein.
4 Upon receipt of said notification, CONSULTANT agrees to comply with all applicable provisions of the
5 FAR pertaining to termination for convenience.

6 A. In the event either Party defaults in the performance of any of their obligations under this
7 Agreement or breaches any of the provisions of this Agreement, the non-defaulting Party shall have the
8 option to terminate this Agreement upon thirty (30) days' prior written notice to the other Party. Upon
9 receipt of such notice, CONSULTANT shall immediately cease work, unless the notice from AUTHORITY
10 provides otherwise. Upon receipt of the notice from AUTHORITY, CONSULTANT shall submit an invoice
11 for work and/or services performed prior to the date of termination. AUTHORITY shall pay
12 CONSULTANT for work and/or services satisfactorily provided up to the date of termination in compliance
13 with this Agreement. Thereafter, CONSULTANT shall have no further claims against AUTHORITY under
14 this Agreement. AUTHORITY shall not be liable for any claim of lost profits or damages for such
15 termination.

16 **ARTICLE 15. INDEMNIFICATION**

17 CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, its officers, directors,
18 employees and agents from and against any and all claims (including attorneys' fees and reasonable
19 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to
20 or loss of use of property caused by the negligent acts, omissions or willful misconduct by CONSULTANT,
21 its officers, directors, employees, agents, subcontractors or suppliers in connection with or arising out of
22 the performance of this Agreement.

23 **ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS**

24 A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by
25 CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be
26 subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by

1 AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all terms
2 and conditions of this Agreement.

3 B. AUTHORITY hereby consents to CONSULTANT's subcontracting portions of the Scope of
4 Work to the parties identified below for the functions described below. CONSULTANT shall include in
5 the subcontract agreement the stipulation that CONSULTANT, not AUTHORITY, is solely responsible for
6 payment to the subcontractor for the amounts owing and that the subcontractor shall have no claim, and
7 shall take no action, against AUTHORITY, its officers, directors, employees or sureties for nonpayment
8 by CONSULTANT.

<u>Subcontractor Name/Addresses</u>	<u>Subcontractor Amounts</u>
	.00
	.00
	.00

13 **ARTICLE 17. ACCESS TO RECORDS AND REPORTS**

14 CONSULTANT shall provide AUTHORITY, the U.S. Department of Transportation (DOT), the
15 Comptroller General of the United States, or other agents of AUTHORITY, such access to
16 CONSULTANT's accounting books, records, payroll documents and facilities of the CONSULTANT which
17 are directly pertinent to this Agreement for the purposes of examining, auditing and inspecting all
18 accounting books, records, work data, documents and activities related hereto. CONSULTANT shall
19 maintain such books, records; data and documents in accordance with generally accepted accounting
20 principles and shall clearly identify and make such items readily accessible to such parties during
21 CONSULTANT's performance hereunder and for a period of four (4) years from the date of final payment
22 by AUTHORITY. AUTHORITY's right to audit books and records directly related to this Agreement shall
23 also extend to all first-tier subcontractors identified in ARTICLE 16 of this Agreement. CONSULTANT
24 shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy
25 excerpts and transcriptions as reasonably necessary.

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1 **ARTICLE 18. CONFLICT OF INTEREST**

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

12 **ARTICLE 19. CODE OF CONDUCT**

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

16 **ARTICLE 20. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

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

21 **ARTICLE 21. FEDERAL, STATE AND LOCAL LAWS**

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

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1 **ARTICLE 22. EQUAL EMPLOYMENT OPPORTUNITY**

2 In connection with its performance under this Agreement, CONSULTANT shall not discriminate
3 against any employee or applicant for employment because of race, religion, color, sex, age or national
4 origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that
5 employees are treated during their employment, without regard to their race, religion, color, sex, age or
6 national origin. Such actions shall include, but not be limited to, the following: employment, upgrading,
7 demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other
8 forms of compensation; and selection for training, including apprenticeship.

9 **ARTICLE 23. CIVIL RIGHTS ASSURANCE**

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

12 A. Compliance with Regulations: CONSULTANT shall comply with the Regulations relative to
13 nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT")
14 Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter
15 referred to as the Regulations), which are herein incorporated by reference and made a part of this
16 Agreement.

17 B. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the
18 Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and
19 retention of subcontractors, including procurements of materials and leases of equipment. The
20 CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section
21 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth
22 in Appendix B of the Regulations.

23 C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all
24 solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be
25 performed under a subcontract, including procurements of materials or leases of equipment, each
26 potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's

obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. 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 the AUTHORITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the AUTHORITY as appropriate, and shall set forth what efforts it has made to obtain the information.

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

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

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

F. Title VI of the Civil Rights Act: In determining the types of property or services to acquire, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000d et seq. and DOT regulations, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21. In addition, FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for FTA Recipients," 05-13-07, provides FTA guidance and instructions for implementing DOT's Title VI regulations.

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

1 services of public entities, as well as imposes specific requirements on public and private providers of
2 transportation.

3 H. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (A)
4 through (H) in every subcontract, including procurements of materials and leases of equipment, unless
5 exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such
6 action with respect to any subcontract or procurement as the AUTHORITY may direct as a means of
7 enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a
8 CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as
9 a result of such direction, the CONSULTANT may request the AUTHORITY to enter into such litigation
10 to protect the interests of the AUTHORITY, and, in addition, the CONSULTANT may request the United
11 States to enter into such litigation to protect the interests of the United States.

12 **ARTICLE 24. RACE-CONSCIOUS DBE CONTRACT PROVISIONS FOR DOT-ASSISTED**
13 **CONSULTANT CONTRACTS**

14 At the time of contract execution, the CONSULTANT committed to utilize DBE(s) in the
15 performance of this DOT-assisted contract, and further agrees to ensure that DBE subcontractors listed
16 on the "DBE Participation Commitment Form Attachment E-1" perform work and/or supply materials in
17 accordance with original commitments, unless otherwise directed and/or approved by the AUTHORITY
18 prior to the CONSULTANT effectuating any changes to its race-conscious DBE participation
19 commitment(s). CONSULTANT shall comply with all the requirements set forth in Attachment "A" titled,
20 "DBE CONTRACT PROVISIONS FOR FTA-ASSISTED CONTRACTS WITH DISADVANTAGED
21 BUSINESS ENTERPRISE (DBE) GOALS ", which is attached to and, by this reference, incorporated in
22 and made a part of this Agreement.

23 **ARTICLE 25. PROHIBITED INTERESTS**

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

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

3 **ARTICLE 26. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

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

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

24 **ARTICLE 27. PATENT AND COPYRIGHT INFRINGEMENT**

25 A. In lieu of any other warranty by AUTHORITY or CONSULTANT against patent or copyright
26 infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any claim

1 or suit against AUTHORITY on account of any allegation that any item furnished under this Agreement
2 or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any
3 presently existing U.S. letters patent or copyright and CONSULTANT shall pay all costs and damages
4 finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in writing of
5 the suit or claim and given authority, information and assistance at CONSULTANT's expense for the
6 defense of same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim results
7 from: (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form infringes
8 upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination
9 with other material not provided by CONSULTANT when such use in combination infringes upon an
10 existing U.S. letters patent or copyright.

11 B. CONSULTANT shall have sole control of the defense of any such claim or suit and all
12 negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY
13 under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to
14 cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at
15 CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim,
16 CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell
17 said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and
18 copyright indemnity thereto.

19 **ARTICLE 28. 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, photo prints 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 /

1 interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said data is subject
2 to the provisions of the Freedom of Information Act, 5 USC 552.

3 B. It is expressly understood that any title to preliminary technical data is not passed to
4 AUTHORITY but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,
5 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the
6 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given
7 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to
8 AUTHORITY if CONSULTANT causes AUTHORITY to exercise ARTICLE 12, and a price shall be
9 negotiated for all preliminary data.

10 **ARTICLE 29. DESIGN WITHIN FUNDING LIMITATIONS**

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

21 B. CONSULTANT will promptly advise AUTHORITY if it finds that the project being designed will
22 exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these
23 limitations. Upon receipt of such information, AUTHORITY will review CONSULTANT's revised estimate
24 of construction cost. AUTHORITY may, if it determines that the estimated construction contract price is
25 so low that award of a construction contract not in excess of such estimate is improbable, authorize a
26 change in scope or materials as required to reduce the estimated construction cost to an amount within

1 the estimated construction contract price set forth by AUTHORITY, or AUTHORITY may adjust such
2 estimated construction contract price. When bids or proposals are not solicited or are unreasonably
3 delayed, AUTHORITY shall prepare an estimate of constructing the design submitted and such estimate
4 shall be used in lieu of bids or proposals to determine compliance within the funding limitation.

5 **ARTICLE 30. REQUIREMENTS FOR REGISTRATION OF DESIGNERS**

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

12 **ARTICLE 31. COVENANT AGAINST CONTINGENT FEES**

13 CONSULTANT warrants that he/she has not employed or retained any company or person, other
14 than a bona fide employee working for the consultant; to solicit or secure this Agreement; and that he/she
15 has not paid or agreed to pay any company or person other than a bona fide employee, any fee,
16 commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from
17 the award, or formation of this Agreement. For breach or violation of this warranty, the AUTHORITY shall
18 have the right to annul this Agreement without liability, or at its discretion; to deduct from the Agreement
19 price or consideration, or otherwise recover the full amount of such fee, commission, percentage,
20 brokerage fee, gift, or contingent fee.

21 **ARTICLE 32. LOBBYING**

22 CONSULTANTS who apply or bid for an award of \$100,000 or more shall file the certification
23 required by 49 CFR part 20, "New Restrictions on Lobbying". Each tier certifies to the above that it will
24 not or has not used Federal appropriated funds to pay any person or organization for influencing or
25 attempting to influence an officer or employee of any agency, a member of Congress, officer or employee
26 of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract,

grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

ARTICLE 33. HEALTH AND SAFETY REQUIREMENTS

CONSULTANT shall comply with all the requirements set forth in Exhibit G, titled "Level 1 SAFETY SPECIFICATIONS." As used therein, "Contractor" shall mean "Consultant," and "Subcontractor" shall mean "Sub-consultant."

ARTICLE 34. 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.

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

3 **ARTICLE 35. PRIVACY ACT**

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

11 **ARTICLE 36. INCORPORATION OF FTA TERMS**

12 All contractual provisions required by Department of Transportation (DOT), whether or not
13 expressly set forth in this document, as set forth in Federal Transit Administration (FTA) Circular 4220.1F,
14 as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all
15 FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained
16 in this Agreement. CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply
17 with any requests, which would cause AUTHORITY to be in violation of the FTA terms and conditions.

18 **ARTICLE 37. FEDERAL CHANGES**

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

23 **ARTICLE 38. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

24 AUTHORITY and CONSULTANT acknowledge and agree that, notwithstanding any concurrence
25 by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent
26 the express written consent by the Federal Government, the Federal Government is not a party to this

1 Agreement and shall not be subject to any obligations or liabilities to the AUTHORITY, CONSULTANT,
2 or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the
3 underlying Agreement. CONSULTANT agrees to include these requirements in all of its subcontracts.

4 **ARTICLE 39. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND**
5 **RELATED ACTS**

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

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

22 **ARTICLE 40. RECYCLED PRODUCTS**

23 CONSULTANT shall comply with all the requirements of Section 6002 of the Resource
24 Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the
25 regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement
26 /

1 of the items designated in subpart B of 40 CFR Part 247. CONSULTANT agrees to include this
2 requirement in all of its subcontracts.

3 **ARTICLE 41. ENERGY CONSERVATION REQUIREMENTS**

4 CONSULTANT shall comply with mandatory standards and policies relating to energy efficiency,
5 which are contained in the state energy conservation plan issued in compliance with the Energy Policy
6 Conservation Act.

7 **ARTICLE 42. CLEAN AIR**

8 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
9 to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each violation
10 to AUTHORITY, who will in turn, report each violation as required to assure notification to FTA and the
11 appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its
12 subcontracts.

13 **ARTICLE 43. CLEAN WATER REQUIREMENTS**

14 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
15 to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONSULTANT shall
16 report each violation to AUTHORITY and understands and agrees that the AUTHORITY who will in turn,
17 report each violation as required to assure notification to FTA and appropriate EPA Regional Office.
18 CONSULTANT agrees to include this requirement in all of its subcontracts.

19 **ARTICLE 44. FLY AMERICA REQUIREMENT**

20 CONSULTANT agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance
21 with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that
22 recipients and sub recipients of Federal funds and their contractors are required to use U.S. Flag air
23 carriers for the U.S. Government-financed international air travel and transportation of their personal
24 effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter
25 of necessity, as defined by the Fly America Act. CONSULTANT shall submit, if a foreign air carrier was
26 used, an appropriate certification or memorandum adequately explaining why service by a U.S. carrier

1 was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a
2 certificate of compliance with the Fly America requirements. CONSULTANT agrees to include the
3 requirements of this section in all subcontracts that may involve international air transportation.

4 **ARTICLE 45. SEISMIC SAFETY REQUIREMENTS**

5 CONSULTANT agrees that any new building or addition to an existing building will be designed
6 and constructed in accordance with the standards for Seismic Safety required in Department of
7 Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent
8 required by the regulation. CONSULTANT also agrees to ensure that all work performed under this
9 contract including work performed by a subcontractor is in compliance with the standards required by the
10 Seismic Safety Regulations and the certification of compliance issued on the project.

11 **ARTICLE 46. DEBARMENT AND SUSPENSION**

12 CONSULTANT shall not do business with a subcontractor or other participant who is debarred,
13 suspended or otherwise disqualified. CONSULTANT shall comply with 2 CFR Part 180, as adopted and
14 supplemented by 2 CFR Part 1200. CONSULTANT shall include these requirements in any lower tier
15 covered transaction it enters into.

16 **ARTICLE 47. PROHIBITION**

17 CONSULTANT, including all subcontractors (at any tier) regardless of the level of services
18 provided by said subcontractor(s), that is awarded this contract for PS&E for the Anaheim Canyon
19 Metrolink Station Improvement Project is prohibited from participation (at any tier) on any team pertaining
20 to construction management services or construction services for the delivery of the Anaheim Canyon
21 Metrolink Station Improvement Project.

22 **ARTICLE 48. FORCE MAJEURE**

23 Either party shall be excused from performing its obligations under this Agreement during the time
24 and to the extent that it is prevented from performing by an unforeseeable cause beyond its control,
25 including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products,
26 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.

This Agreement shall be made effective upon execution by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C- 7-1609 to be
executed on the date first above written.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Darrell Johnson
Chief Executive Officer

APPROVED AS TO FORM:

By _____

James M. Donich
General Counsel

APPROVED:

By _____

James G. Beil
Executive Director, Capital Programs

Date _____

DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT PROVISIONS FEDERALLY FUNDED CONTRACTS WITH DBE GOALS

I. DBE Participation

It is the Consultant's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26 and the Orange County Transportation Authority's (Authority's) DBE program developed pursuant to these regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55 that is, a DBE firm 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.
- D. Consultant must not claim DBE participation as attained until the amount to be claimed is paid and fully adheres to DBE crediting provisions.

If the Consultant has committed to utilize DBE(s) in the performance of this DOT-assisted contract, the Consultant's submitted "DBE Participation Commitment Form" will be utilized to monitor Consultant's DBE commitments, unless otherwise directed and/or approved by the Authority prior to the Consultant effectuating any changes to its DBE participation commitment(s) (*Refer to Subsection H: "Performance of DBE Subconsultants"*).

Consultant must complete and submit all required DBE documentation to effectively capture all DBE utilization on the Authority's DOT-assisted contracts whether achieved race neutrally or race consciously. Even if a Consultant has not committed to utilize DBE(s) in the performance of this contract, the Consultant must execute and submit all required DBE forms and other related documentation as specified under this contract or as otherwise requested by the Authority. No changes to the Consultant's DBE Commitment must be made until proper protocols for review and approval of the Authority are rendered in writing.

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

- A. Take appropriate actions to ensure that it will continue to meet the DBE Commitment at the minimal level committed to at award or will satisfy the good faith efforts to meet the DBE Commitment, when change orders or other contract modifications alter the

dollar amount of the contract or the distribution of work. The Consultant must apply and report its DBE goal commitments against the total Contract Value, including any contract 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), the 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 project is subject to these stipulated regulations and the Authority's DBE program. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of DBEs as defined in 49 CFR, Part 26 in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's DOT-assisted contracting opportunities.

- A. Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and subcontracts.
- B. Ensure non-discrimination in the award and administration of Authority's DOT-assisted contracts.
- C. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- D. Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- E. Help remove barriers to the participation of DBEs in DOT-assisted contracts.
- F. Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.
- G. 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 the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations must prevail.

III. Authority's DBE Policy Implementation Directives

Pursuant to the provisions associated with federal regulation 49 CFR, Part 26, the Disadvantaged Business Enterprise (DBE) program exists to ensure participation, equitable competition, and assistance to participants in the USDOT DBE program. Accordingly, based on the Authority's analysis of its past utilization data, coupled with its examination of similar Agencies' Disparity Study and recent Goal Methodology findings the Authority has implemented the reinstatement of the DBE program utilizing both race-conscious and race-neutral means across the board as all protected groups participation have been affected using strictly race neutral means on its FTA-assisted contracts.

The Authority reinstates the use of contract goals and good faith efforts. 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. Additionally, contract-specific goals are now specifically targeted at DBEs (*DBEs owned and controlled by Black Americans, Hispanic Americans, Asian-Pacific Americans, Native Americans, Asian-Pacific Americans, Sub-Continent Asian Americans, and Women*). In the event of a substitution, a DBE must be substituted with another DBE or documented adequate good faith efforts to do so must be made, in order to meet the contract goal and DBE contract requirements.

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 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any 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 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 relevant regulations promulgated pursuant thereto, except that a small business concern must not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.
3. **"Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and

who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:

- a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
 - e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - f) Women, regardless of ethnicity or race.
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 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.
7. **"Fraud"** includes a firm that does not meet the eligibility criteria of being a certified DBE and that attempts to participate in a 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 the case to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any 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 a recognized California Unified Certification Program Certifying Agency 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 on the contract, Consultant must complete and submit the following DBE exhibits (forms) consistent with Consultant DBE Goal Commitment within the specified timelines. Even if no DBE participation will be reported, the Consultant must execute and return the form:

- 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 a Form 103 to the Authority by the 10th of each month until completion of the contract. The Consultant must submit its first Form 103 following the first month of contract activity. Upon completion of the contract, the Consultant must complete and submit a "Final: Monthly DBE Subconsultant Commitment and Attainment Report Summary and Payment Verification" (Form 103) to facilitate reporting and capturing actual DBE attainments at conclusion of the contract.

The Form 103 must include the following information:

1. General Contract Information – Including Contract Number and Name, Prime Consultant and the following:
 - a) Original Contract Amount
 - b) Running Total of Change Order Amount
 - c) Current Contract Amount
 - a) Amount Paid to Consultant during Month
 - b) Amount Paid to Consultant from Inception to Date

- c) DBE Contract Goal
- d) Total Dollar Amount of DBE Commitment
- e) DBE Commitment as Percentage of Current Contract 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 Type of Operation, 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 during month and Amount paid to Consultant to date.

3. Consultant Assurance of Full Compliance with Prompt Payment Provisions

Consultant to sign the prompt payment assurance statement of compliance contained within the Form 103. Consultant is to further maintain and submit at the request of Authority 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 payments made. The Payment and Retention Reporting tally must also include:

DBE(s) and Non DBE(s) Invoice Number, Invoice Amount, Invoice Date, Prime 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 Prime Consultant's Invoice. The report must also 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 DBE and Non DBE.

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. Verification of payments and/or a signed Verification of Payment by the applicable DBE or Non DBE must be submitted with Form 103 to authenticate reported payments.

4. DBE Subcontract Agreements

The Consultant must submit to the Authority copies of executed subcontracts and/or purchase orders (PO) for all DBE firms participating on the contract within ten working days of award. The Consultant must immediately notify the Authority in writing of any

problems it may have in obtaining the subcontract agreements from listed DBE firms within the specified time.

5. "Monthly DBE Trucking Verification" Form

Prior to the 10th of each month, the Consultant must submit documentation on the "Monthly DBE Trucking Verification" Form to the Authority showing the amount paid to DBE trucking companies. The Consultant must also obtain and submit documentation to the 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, the Contactor may count only the fee or commission the DBE receives as a result of the lease arrangement.

The Consultant must also obtain and submit documentation to the 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.

6. "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subconsultants"

Upon completion of the contract, a summary of these records must be prepared on the: "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subconsultants" and certified correct by the Consultant or the Consultant's authorized representative, and must be furnished to the Engineer. The form must be furnished to the Authority within 90 days from the date of contract acceptance. The amount of \$10,000 will be withheld from payment until a satisfactory form is submitted.

7. "Disadvantaged Business Enterprises (DBE) Certification Status Change"

If a DBE Sub 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 the Consultant in writing with the date of certification (Attach DBE certification/Decertification letter). The Consultant must furnish the written documentation to the AUTHORITY.

Upon completion of the contract, 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, please indicate "No Changes". The certified form must be furnished to the Authority within 90 days from the date of contract acceptance.

V. DBE Eligibility and Commercially Useful Function Standards

A DBE must be certified at the time of Proposal submission:

1. A certified DBE must be a small business concern as defined pursuant to Section 3 of the U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
2. A DBE may participate as a Prime Consultant, Subconsultant, joint venture partner with a Prime or Subconsultant, 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 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. At time of proposal submission, DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources:
 - A. The CUCP web site, which can be accessed at <http://www.californiaucp.com>; or the Caltrans "Civil Rights" web site at <http://www.dot.ca.gov/hq/bep>.
1. A DBE must perform a commercially useful function in accordance with 49 CFR 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 contract, either as a Prime Consultant or Subconsultant, at any tier, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards DBE participation. If the 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 actually performs the work with their own forces. Services subcontracted to a Non-DBE firm may not be

credited toward the Prime Consultant's DBE attainment.

2. Consultant is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward DBE attainment, as follows:
 - a) Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a regular dealer; or
 - b) One hundred percent (100%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a DBE manufacturer.
3. The following types of fees or commissions paid to DBE Subconsultants, Brokers, and Packagers may be credited toward the prime 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 Contract;
 - 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 Contract.
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 from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease

arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

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 contract, 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 contract. If a DBE Consultant performs the installation of purchased materials and supplies they are eligible for full credit of the cost of the materials.

VII. Performance of DBE Subconsultants

DBEs must perform work or supply materials as listed in the "DBE Participation Commitment Form" specified under "*DBE Proposal Submission Requirements*" of these special provisions. Do not terminate a DBE listed Subconsultant for convenience and perform the work with your own forces or obtain materials from other sources without prior written authorization from the AUTHORITY.

The AUTHORITY grants authorization to use other forces or sources of materials for requests that show any of the following justifications (written approval from the AUTHORITY must be obtained prior to effectuating a substitution):

- A. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
- B. You stipulate a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
- C. Work requires a Consultants' license and listed DBE does not have a valid license under Consultants License Law.
- D. Listed DBE fails or refuses to perform the work or furnish the listed materials.
- E. Listed DBE's work is unsatisfactory and not in compliance with the contract.
- F. Listed DBE delays or disrupts the progress of the work.

G. Listed DBE becomes bankrupt or insolvent.

If a listed DBE Subconsultant is terminated, you must make good faith efforts to find another DBE Subconsultant to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as a DBE at the time of request for substitution. The AUTHORITY does not pay for work or material unless it is performed or supplied by the listed DBE, unless the DBE is terminated in accordance with this section.

VIII. Additional DBE Subconsultants

In the event Consultant identifies additional DBE Subconsultants or suppliers not previously identified by Consultant for DBE participation under the contract, Consultant must notify the Authority by submitting "Request for Additional DBE Firm" to enable Consultant to capture all DBE participation. 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 specified 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 federally -assisted contracts. Proposers are 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. Consultant's Assurance Clause Regarding Non-Discrimination

In compliance with State and Federal anti-discrimination laws, the Consultant must affirm that they will not exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, the Consultant must affirm that they will consider, and utilize Subconsultants and vendors, in a manner consistent with non-discrimination objectives.

XI. Prompt Payment Clause

Upon receipt of payment by Authority, Consultant agrees to promptly pay each Subconsultant for the satisfactory work performed under this Agreement, no later than seven

(7) calendar days. Consultant agrees further to return retainage payments to each Subconsultant within thirty (30) calendar days after the Subconsultant's work is satisfactorily completed. Authority reserves the right to request the appropriate documentation from Consultant showing payment has been made to the Subconsultants. Any delay or postponement of payment from the above referenced time frames may occur only for good cause following written approval by Authority.

In accordance with 49 CFR part 26.29 "Prompt Payment Provisions" (DBE Final Rule) the Authority will elect to utilize the following method to comply with the prompt payment of retainage requirement:

Hold retainage from the Consultant and provide for prompt and regular incremental acceptances of portions of the Consultant, pay retainage to prime Consultants based on these acceptances, and require a contract clause obligating the Consultant to pay all retainage owed to the Subconsultants for satisfactory completion of the accepted work within thirty (30) days after payment to the Consultant.

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

These prompt payment provisions must be incorporated in all subcontract agreements issued by Consultant under this Agreement. Each subcontract must require the Subconsultant to make payments to sub-Subconsultants and suppliers in a similar manner.

XII. 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. Consultant's failure to comply constitutes a material breach of contract, wherein the Authority will impose all available administrative sanctions including payment withholdings, necessary to effectuate full compliance. In instances of identified non-compliance, a Cure Notice will be issued to the Consultant identifying the DBE non-compliance matter(s) and specifying the required course of action for remedy.

The 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 the Authority to reconsider the Authority's DBE determination. Failure to respond within the ten (10) working day period must constitute a waiver of the Consultant's right to appeal. If the Consultant files an appeal, the 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 the Consultant's appeal, the Authority decides to uphold the decision to impose DBE administrative remedies on the Consultant, the written determination must state the specific remedy(s) 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 contract and is subject to administrative remedies, including, withholding at minimum of two (2%) percent of the invoice amount due per month for every month that the identified non-compliance matter(s) is not remedied. Upon satisfactory compliance the Authority will release all withholdings.

In addition to administrative remedies defined in this section, the 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.

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RFP 7-1609
EXHIBIT C

ORANGE COUNTY TRANSPORTATION AUTHORITY CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: _____ RFP Title: _____

To be completed only if campaign contributions have been made in the preceding 12 months.

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"/> Subcontractor | Yes _____ | No _____ |
| <input type="radio"/> Agent/Lobbyist hired by Prime
to represent the Prime in this RFP | Yes _____ | No _____ |

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

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

Name of Board Member: _____

Name of Contributor: _____

Date(s): _____

Amount(s): _____

Name of Board Member: _____

Name of Contributor: _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Contributor

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Michael Hennessey, Chairman

Lisa A. Bartlett, Vice Chair

Laurie Davies, Director

Barbara Delgleize, Director

Andrew Do, Director

Lori Donchak, Director

Steve Jones, Director

Mark A. Murphy, Director

Richard Murphy, Director

Al Murray, Director

Shawn Nelson, Director

Miguel Pulido, Director

Tim Shaw, Director

Todd Spitzer, Director

Michelle Steel, Director

Tom Tait, Director

Greg Winterbottom, Director

EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS

STATUS OF PAST AND PRESENT CONTRACTS FORM

On the form provided below, Offeror 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 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 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 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. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

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

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

Name

Date

Title

Last Rev. 08/26/2015

**EXHIBIT E: DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
AND FORMS**

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION PROGRAM AND FORMS

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 could reasonably be expected to compete for subcontracting opportunities on this project based on their likely availability for work. The DBE Goal for this contract is pending %.

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:

- 2.1 Implement strategies that promote the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access and opportunities to participate in all of Authority's DOT-assisted contracting opportunities.
- 2.2 Ensure non-discrimination in the award and administration of Authority's DOT-assisted contracts.
- 2.3 Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- 2.4 Ensure that only firms that meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- 2.5 Help remove barriers to the participation of DBEs in DOT-assisted contracts.
- 2.6 Provide training and other assistance through our resource partners to address capital, bonding and insurance needs.
- 2.7 Assist in the development of firms that can compete successfully in the marketplace outside the 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 DOT-assisted contracts, the Regulations shall prevail.

Race-Neutral/Race-Conscious DBE Program Measures

The Authority will utilize both Race-Neutral and Race-Conscious means to meet its overall DBE Program goals.

Race-Neutral measures will include but are not limited to conducting outreach, training, providing other resource assistance and assessing proposal delivery schedules to ensure that DBEs interested in proposing for 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 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 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 reinstatement of contract goals and good faith efforts. The Authority reinstates the use of meeting the contract-specific goal by committing to utilize DBEs or documenting a bona fide good faith effort to do so, as a condition of award. Contract-specific goals are specifically targeted at DBEs (*DBEs owned and controlled by Black Americans, Hispanic Americans, Asian-Pacific Americans, Native Americans, Asian-Pacific Americans, Sub-Continent Asian Americans, and Women*). In the event of a substitution, a DBE must be substituted with another DBE or documented adequate good faith efforts to do so must be made, in order to meet the contract goal and DBE contract requirements.

3.0 Definitions

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

- 3.1 ***"Disadvantaged Business Enterprise (DBE)"*** means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any 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 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 relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.
- 3.3 ***"Socially and Economically Disadvantaged Individuals"*** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:
- 3.3.1 "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- 3.3.2 "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- 3.3.3 "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- 3.3.4 "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

3.3.5 "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and

3.3.6 Women, regardless of ethnicity or race.

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 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 other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any 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 shall complete and submit the following DBE Exhibits (forms) at the times specified with their Proposal:

- “DBE Participation Commitment(s) Form” (Exhibit E-1)
- “Bidders List” (Exhibit E-2)
- “DBE Information - Good Faith Efforts” (Exhibit E-3)

4.1 “DBE Participation Commitment(s) Form” (Exhibit E-1) 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 A description of the work that each DBE will perform or provide;
- 4.1.3 The dollar amount of the work to be performed or provided by the DBE;
- 4.1.4 Valid DBE Certification eligibility status, in conformance with 49 CFR, Part 26;
- 4.1.5 The Proposer shall also submit, for each DBE to perform under this contract, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract proposal can serve in lieu of the written confirmation).

4.2 “Bidders List” (Exhibit E-2)

The Authority is required by Regulations to create and maintain a “Bidders List” of all firms proposing or quoting on the Authority’s DOT-assisted contracts for use in calculating the Authority’s overall DBE goal. 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, quote and/or proposal, including firms who were contracted by the Prime Proposer.

The “Bidders List” shall be included with the proposal submission.

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

A Proposer must, in order to be a responsible and/or responsive proposer, make good faith efforts to meet the goal. The Proposer can meet this requirement in either of two ways. First, the Proposer can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn’t meet the established DBE goal, the proposer 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 proposed participation of DBEs listed on the Proposer’s “DBE Participation Commitment(s) Form”, it is at the Proposer’s discretion (not mandatory) whether or not 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 Participation Commitment(s) Form” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

Good Faith Efforts documentation must be submitted with the proposal.

Good Faith Efforts documentation must include the following information and supporting documents, as necessary:

- 4.3.1 Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
- 4.3.2 Names of certified DBEs and dates on which they were solicited to propose on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
- 4.3.3 Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection and rejection of the DBE.
- 4.3.4 Name and date of each publication in which you solicited DBE participation for the project. Attach copies of the published advertisements (In the event the RFP submission due date is extended, proposer's are to re-advertise the new proposal due date).
- 4.3.5 Names of agencies and organizations, and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. Proposer to provide copies of supporting documents of this effort.
- 4.3.6 List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.

- 4.3.7 List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, and other technical assistance afforded. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date. Provide copies of supporting documents, as appropriate.
- 4.3.8 Any additional data to support demonstration of good faith efforts undertaken prior to proposal submission shall be provided.

For further guidance refer to the United States Department of Transportation's (USDOT) DBE Program, Appendix A of Title 49 CFR Part 26- "Guidance Concerning Good Faith Efforts."

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RFP 7-1609
EXHIBIT E-1



DBE PARTICIPATION COMMITMENT(S) FORM

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

Proposer to Complete this Section

1. RFP No.: _____
2. Project Name/Description: _____
3. Prime Proposer Name: _____
4. Contract DBE Goal %: _____

DBE Commitment Information

5. Proposed DBE Firm (Name and Address)	6. DBE Certification Number	7. Description of Scope of Services/Work to be Provided	8. Dollar Value (\$) and/or Percentage (%) Of Contract	9. Percentage (%) of Work to be Performed by DBE Firm(s)

Note: The proposer shall also submit, for each DBE to perform under this contract a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract proposal can serve in lieu of the written confirmation).

10. Total Value Claimed (\$) \$ _____	11. Total DBE (%) Claimed towards Goal: _____ %
---	---

Proposer Assurance: The information on this form is complete and accurate and the proposer certifies that all DBE certifications and written confirmation documentation has been submitted to support the proposed DBE Commitment.

12. Preparer's Name (Print)

13. Preparer's Signature

14. Preparer's Title

15. Date

16. (Area Code) Tel. No.

17. Email Address

INSTRUCTIONS - DBE Participation Commitment(s) Form

Consultant Section

The Consultant shall:

1. **RFP No.-** Enter the RFP Number.
2. **Project Name/Description** - Enter the name and/or description of the project.
3. **Prime Proposer Name** - Enter the consultant's firm name.
4. **Contract DBE Goal %** - Enter the contract DBE goal percentage.
5. **Proposed DBE Firm** - Enter name and address of the proposed DBE Firm.
6. **DBE Certification Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date proposals are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract).
7. **Description of Scope of Services/Work to be Provided** - Enter the scope of services/work that the proposed DBE Firm will be performing for this project and is eligible to perform the scope of services/work.
8. **Dollar Value (\$) and/or Percentage of Contract-** Enter the proposed dollar value and/or percentage of commitment each listed DBE firm.
9. **Percentage (%) of Work to be Performed by DBE Firm(s)** - Percent of participation listed in column 8 of work to be performed or services to be provided by DBE firms. This percentage should include work to be self-performed by the listed DBE as well as work that will be performed by lower-tier subconsultants to the listed DBE. DBE credit will only be credited for work performed by DBE firms, non-DBE subconsultants should not be reflected in the percentage (%).
10. **Total Value Claimed (\$)**-Enter the total dollar value of DBE credit claimed.
11. **Total DBE % Claimed towards Goal** - Enter the total participation claimed. If the Total % Claimed is less than item "4. Contract DBE Goal", a Good Faith Effort (GFE) is required.
12. **Preparer's Name (Print)** - Clearly enter the name of the authorized person signing the form for the consultant.
13. **Preparer's Signature** - The person completing this section of the form for the consultant's firm must sign their name.
14. **Preparer's Title** - Enter the position/title of the authorized person signing the form for the consultant.
15. **Date** - Enter the date the form is signed by the proposer.
16. **(Area Code) Tel. No.** - Enter the area code and telephone number of the authorized person signing the form for the consultant.
17. **Email Address-** Enter the email address of the authorized person signing the form for the consultant.

PLEASE NOTE: A firm is only eligible to count towards DBE participation in the NAICS codes contained within its California Unified Certification Program (CUCP) DBE Profile. Proposers are to verify that listed subconsultants contain DBE certification in the NAICS codes that they are being listed to perform.

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RFP 7-1609
EXHIBIT E-2

BIDDERS LIST

Proposer: _____

RFP No.: _____

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 at the time of proposal submission, or as otherwise specified in the solicitation. The AUTHORITY will utilize this information to assist in the AUTHORITY's overall DBE goal-setting process.

Prime Proposer's Information:	
Name of Prime's Firm:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:
Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? Yes <input type="checkbox"/> No <input type="checkbox"/>	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): __African American __Asian Pacific American __Native American __Woman __Hispanic American __Subcontinent Asian American __Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million
Provide the following information for every firm (DBE and non-DBE) that submitted proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract:	
Firm Name:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:

DRAFT

RFP 7-1609
EXHIBIT E-2

Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? Yes <input type="checkbox"/> No <input type="checkbox"/>	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): __African American __Asian Pacific American __Native American __Woman __Hispanic American __Subcontinent Asian American __Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

Firm Name:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:
Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? Yes <input type="checkbox"/> No <input type="checkbox"/>	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): __African American __Asian Pacific American __Native American __Woman __Hispanic American __Subcontinent Asian American __Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

If necessary, this "Bidders List" form can be duplicated to include all firms (DBE and non-DBE) that have submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract.
Failure of the Proposer to submit the required "Bidders List" form may deem the Proposer non-responsive.

RFP 7-1609
EXHIBIT E-3



- A. Items of work the Bidder made available to DBE Firms; a description of work and approximate dollar amount, as a percentage of total work made available to DBEs by the Bidder, a breakdown of contract work provided (including those items normally performed by the Bidder with its own forces) into economically feasible units to facilitate DBE participation sufficient to meet the DBE contract goal. It is the Bidder's responsibility to demonstrate that sufficient work was made available to facilitate DBE participation as follows (please provide documents that sufficiently evidence the effort):

[illegible]

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RFP 7-1609
EXHIBIT E-3

- B. Solicitation Effort Documentation; the names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used to following up initial solicitations to determine with certainty whether the DBEs were interested (please attach all copies of solicitation, telephone records, fax confirmations, etc.), amount of DBEs to repond, the DBE firms were provided information about the contract (location of project, contract number, bid date, items of work made available and contact information) in the Invitation to bid from the Bidder, the Bidder solicited through all reasonable means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract, Bidder to provide proof of aforementioned items, and DBE's in the market area for the work identified in 'Item A' as follows:

Names of DBEs Solicited Methods and Dates	Date of Initial Solicitation	Follow Up

- C. Rejected DBE Bid Documentation; the names, addresses, phone numbers, and amount of rejected DBE firms, the reasons for the Bidder's rejection of the DBE firms, the firms selected and accepted for that work (please attach all copies of quotes from the firms involved) and the price difference for each DBE if the selected firms is not a DBE, include an explanation of quote(s) rejected.

Names, addresses and phone numbers of rejected DBEs and the reasons for the Bidder's rejection of the DBEs as follows:

Names, addresses and phone numbers of firms selected for the work

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RFP 7-1609

EXHIBIT E-3

- D. Publication Efforts Made to Advertise the Projects to Solicit DBE Participation; names and dates of each publication in which a request for DBE participation for this project was placed by the Bidder (please attach copies of advertisements or proof of publications). (Please note: If IFB due date is extended, Bidder is to re-advertise new bid due date.)

Publications	Dates of Advertisement

- 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 (please attach copies of requests to agencies and any responses received), as follows:

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

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

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RFP 7-1609
EXHIBIT E-3

- H. Additional Data to Support a Demonstration of Good Faith Efforts; (for additional data please use additional sheets as necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

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 other were recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
6. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:
 - a. An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.
 - b. A member of the uniformed services, as defined in the subsection

101(3), Title 37, United States Code.

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

B. PROHIBITIONS

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

Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities.

Technical discussions and other activities regarding the application of adaptation of the person's products or services for

an agency's use.

- (4) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

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

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

Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.

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

b. Professional and technical services

- (1) The prohibition on the use of appropriated funds, in subparagraph C.1. of this clause, does not apply in the case of:

A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as condition for receiving that Federal action.

Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application or that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include contractors and trade associations.

- (2) For purposes of paragraph C.3.a.(1) of this clause, professional and technical services shall be limited to advise and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission, or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.
- (3) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- (4) Only those services expressly authorized by paragraph C.3.a.(1) and (2) of this clause are permitted under this clause.
- (5) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

c. Disclosure

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

would be prohibited under subparagraph B.1. of this clause, if paid for with appropriated funds.

- (2) The consultant shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph II.A. of this clause. An event that materially affects the accuracy of the information reported includes:

A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

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

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

- (3) The consultant shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime consultant. The prime consultant shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding consultant.

d. Agreement

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

e. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be

applicable.

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

f. Cost Allowability:

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

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RFP 7-1609
Exhibit F

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf (name of 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 making lobbying contacts 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. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

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

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

Executed this _____ day of _____, 201__

By _____
(Signature of authorized official)

(Title of authorized official)

DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by
OMB
003480045

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

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.

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RFP 7-1609
Exhibit F

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Approved by
OMB
003480045

Reporting Entity: _____ Page _____ of _____

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Authorized for Local Reproduction

EXHIBIT G: SAFETY SPECIFICATIONS

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

- A. The Contractor, its subcontractors, suppliers, and employees have the obligation to comply with all Orange County Transportation Authority (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's 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 HSEC 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.

1.2 INJURY AND ILLNESS PREVENTION PLAN

- A. The Contractor shall submit to the Authority, a copy of their company Injury and Illness Prevention Plan (IIPP) in accordance with 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.
- B. Contractor shall provide a copy of the Policy or Program of Company's Substance Abuse Prevention Policy that complies with the 1988 Drug Free Workplace Act.

1.3 HAZARD COMMUNICATION

- A. 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 MSDS for all applicable products used, if any.
- B. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.

1.4 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.
- B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the general public that arise from the performance of Authority contract work. 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 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, 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 the task planning documentation, and the corrective action initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report acceptable to Authority.

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 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. Authority Construction Management Procedures Manual
- E. Authority Yard Safety Rules

END OF SECTION

EXHIBIT H: CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES

CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES

I HEREBY CERTIFY that I am the _____, and duly authorized representative of the firm of _____, whose address is _____, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this contract.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this contract involving participation of federal-aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

(Date)

(Signature)

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 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:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:
