

DRAFT REQUEST FOR PROPOSALS (RFP) 9-1571

**PUBLIC OUTREACH FOR INTERSTATE 405
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:	October 28, 2019
Pre-Proposal Conference Date:	November 6, 2019
Question Submittal Date:	November 8, 2019
Proposal Submittal Date:	December 3, 2019
Interview Date:	January 7, 2020

FEDERAL HIGHWAY ADMINISTRATION FUNDED PROJECT

TABLE OF CONTENTS

SECTION I:	INSTRUCTIONS TO OFFERORS	1
SECTION II:	PROPOSAL CONTENT	9
SECTION III:	EVALUATION AND AWARD	18
EXHIBIT A:	SCOPE OF WORK.....	21
EXHIBIT B:	PRICE SUMMARY SHEET	22
EXHIBIT C:	PROPOSED AGREEMENT	27
EXHIBIT D:	CAMPAIGN CONTRIBUTION DISCLOSURE FORM.....	28
EXHIBIT E:	STATUS OF PAST AND PRESENT CONTRACTS.....	33
EXHIBIT F:	DISADVANTAGED BUSINESS ENTERPRISE PROGRAM AND FORMS.....	35
EXHIBIT G:	REQUEST FOR DBE SUBCONTRACTOR SUBSTITUTION	50
EXHIBIT H:	RESTRICTIONS ON LOBBYING.....	53
EXHIBIT I:	SAFETY SPECIFICATIONS	65
EXHIBIT J:	CERTIFICATION OF CONSULTANT COMMISSION AND FEES	72
EXHIBIT K:	PROPOSAL EXCEPTIONS AND/OR DEVIATIONS.....	74



October 28, 2019

NOTICE OF REQUEST FOR PROPOSALS (RFP)

RFP 9-1571: "PUBLIC OUTREACH FOR INTERSTATE 405 IMPROVEMENT PROJECT"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to continue implementation of the comprehensive public outreach program during the construction phase of the Interstate 405 Improvement Project. The budget for this effort is \$3,360,000 for a four-year initial term.

The Authority intends to award a single contract as a result of this procurement.

The Authority has set a twelve percent (12%) Disadvantaged Business Enterprise (DBE) participation goal for this project. Award of this contract is contingent upon Consultant meeting the DBE attainment requirements including the good faith effort to meet the established goal.

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

Offerors are advised that all Consultant proposals and supporting documents for the project contract are subject to audit or review by the California Department of Transportation (Caltrans) or the Federal Highways Administration (FHWA).

Proposals must be received in the Authority's office at or before 2:00 p.m. on December 3, 2019.

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: Iris Deneau, 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: Iris Deneau, Senior Contract Administrator**

Note: The Authority utilizes a third-party delivery service; therefore, anticipate a 48-hour delay in delivery of proposals mailed to the P.O. Box listed above. Proposals are considered received once time stamped at the Authority's physical address.

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 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>.

To receive all further information regarding this RFP 9-1571, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Consultant Services - General
	Consultant Services - Transit Planning
	Consultant Services - Transportation Planning
Marketing, Advertising & Media Services	Communications Marketing Services
	Copywriting Services
	Graphic Arts Design Services (Not Printing)
	Graphic Production Services
	Mailhouse Services
	Photography Services
	Public Relations/Outreach Services
Printing & Reproduction Services	Printing and Related Services
Services (General)	Language
	Translator/Interpreter Services

A pre-proposal conference will be held on **November 6, 2019** at **10:00 a.m.** at the Authority's Administrative Office, 550 South Main Street, Orange, California, in Conference Room 07. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established **January 7, 2020** 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 **November 6, 2019** at **10:00 a.m.** the Authority's Administrative Office, 550 South Main Street, Orange, California, in Conference Room 07. 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:

Iris Deneau, Senior Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560. 5786, Fax: 714.560.5792
Email: ideneau@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 (email), 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 E.2. below. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter which will be sent to all firms registered on CAMM NET under the commodity codes specified in this RFP.

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference, must be put in writing and must be received by the Authority no later than 5:00 p.m. on **November 8, 2019**.
- 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: ideneau@octa.net.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET no later than **November 14, 2019**. 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 Iris Deneau, Senior Contract Administrator.

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

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Consultant Services - General
	Consultant Services - Transit Planning
	Consultant Services - Transportation Planning
Marketing, Advertising & Media Services	Communications Marketing Services
	Copywriting Services
	Graphic Arts Design Services (Not Printing)
	Graphic Production Services
	Mailhouse Services
	Photography Services
	Public Relations/Outreach Services
Printing & Reproduction Services	Printing and Related Services
Services (General)	Language
	Translator/Interpreter Services

Inquiries received after 5:00 p.m. on November 8, 2019 will not be responded to.

F. SUBMISSION OF PROPOSALS

Offeror is responsible for ensuring third-party deliveries arrive at the time and place as indicated in this RFP.

1. Date and Time

Proposals must be received in the Authority's office at or before 2:00 p.m. on **December 3, 2019**.

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: Iris Deneau, 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: Iris Deneau, Senior Contract Administrator**

Note: The Authority utilizes a third-party delivery service; therefore, anticipate a 48-hour delay in delivery of proposals mailed to the P.O. Box listed above. Proposals are considered received once time stamped at the Authority's physical address.

3. Identification of Proposals

Offeror shall submit an **original and six (6) copies** of its proposal in a sealed package, addressed as shown above in F.2. The outer envelope must show the Offeror's name and address and clearly marked with RFP number. In addition to the above, Proposers shall also include one (1) electronic copy of their entire RFP submittal package in "PDF" format, on a CD, DVD, or flash drive.

4. Acceptance of Proposals

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

its own convenience.

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

G. PRE-CONTRACTUAL EXPENSES

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

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

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

H. JOINT OFFERS

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

I. TAXES

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

J. PROTEST PROCEDURES

The Authority has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting the Contract Administrator responsible for this procurement. Any protests filed by an Offeror in connection

with this RFP must be submitted in accordance with the Authority's written procedures.

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be with fully-burdened labor rates and anticipated expenses for work specified in the scope of work, included in the RFP as Exhibit A. The Agreement will have a four-year initial term with an option term of up to 24 months.

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. 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.

N. DISADVANTAGED BUSINESS ENTERPRISE

The Authority has established a twelve percent (12%) Disadvantaged Business Enterprise (DBE) participation goal for the services required in this solicitation.

O. NONDISCRIMINATION

The Authority hereby notifies all Offerors that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

P. PRIME AND LOWER TIER DEBARMENT

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

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" x 17" 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 Iris Deneau, 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, telephone 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) Possess a full range of professional public outreach skills and demonstrate an understanding of the issues, audiences, and technical processes associated with construction to inform the community of such a complex project.
- (5) Demonstrate an understanding of Orange County and the full range of perspectives related to Orange County transportation issues.
- (6) Identify subcontractors by company name, address, contact person, telephone number, email address, and project function. Describe Offeror's experience working with each subcontractor.
- (7) 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.

- (8) 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 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) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (4) 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 work 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) Provide a project budget spreadsheet that at a minimum, identifies the following information: a) the activities that would be undertaken in completing the work; b) specify who would perform them; c) the number of hours anticipated for each member of the project staff; d) other direct costs; and e) the total proposed project cost. ***Note: Specific individual hourly rates for proposed project team shall not be included in this spreadsheet.***
- (3) Identify methods that Offeror will use to ensure quality control, as well as budget and schedule control for the project.
- (4) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (5) 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.
- (6) Provide samples of past collateral for similar public outreach campaigns. Copies of samples should be included with the original proposal and each proposal copy. Paper samples, not CDs, should be provided.

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 C), using the form entitled "Proposal Exceptions and/or Deviations" included in this RFP. This Proposal Exceptions and/or Deviations form (Exhibit K) 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 C). Offerors will not be allowed to submit the Proposal Exceptions and/or Deviations form

(Exhibit K) 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/or deviations that “pass” do not mean that the Authority has accepted the change but that it is a potential negotiable issue. Exceptions and/or 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

As part of the cost and price proposal, the Offeror shall submit proposed pricing to provide the services for work described in Exhibit A, Scope of Work.

The Offeror shall complete the "Price Summary Sheet" form included with this RFP (Exhibit B), **as a separate sealed package from the proposal.** **No information regarding individual hourly rates shall be mentioned anywhere in the proposal content.**

It is anticipated that the Authority will issue a time-and-expense price contract specifying fully-burdened labor rates and anticipated expenses to complete the Scope of Work.

All proposals **must include Exhibit B, Price Summary Sheet, as a separate sealed package from the proposal.**

5. Appendices

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

B. FORMS

1. Campaign Contribution Disclosure Form

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

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

The prime contractor, subconsultants, lobbyists, and agents are required to report all campaign contributions made from the proposal submittal date up to and until the Board of Directors makes a selection, which is currently scheduled for **February 24, 2020**.

Offeror is required to submit only **one** (1) copy of the completed form(s) as part of its proposal and it must be included in only the **original** proposal.

2. Status of Past and Present Contracts Form

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

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

3. 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 \$100,000 that must be disclosed pursuant to section 1352, Title 31, U.S. Code.

This RFP includes, under Exhibit H, 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.

4. Safety Specifications

Offerors shall comply with Safety Specifications Level 2 as included in this RFP as Exhibit I, during the term of the awarded Agreement.

5. 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.

6. Request for DBE Subcontractor/Supplier Substitution

Substitution of subcontractors shall be in accordance with the Contract terms and condition. If a listed or approved DBE Subcontractor is unable to perform the work in accordance with the Contract Specifications, the Prime Contractor shall replace the Subcontractor with another DBE Subcontractor, or make good faith efforts to do so in accordance with the Contract terms and conditions. Such request for substitution is subject to approval by the Authority.

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

Offerors shall complete and submit to the Authority in their proposal Exhibits F-1, F-2, and F-3 per the instructions set forth in Section II: "Instructions to Offerors" and Exhibit F: "Disadvantaged Business Enterprise" –

Requirements and Instructions.

- F-1 DBE Participation Commitment Form
- F-2 DBE Information – Good Faith Efforts
- F-3 Bidders List
- G Request for DBE Subcontractor/Supplier Substitution

8. Proposal Exceptions and/or Deviations Form

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

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 30%**

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 30%**

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 20%**

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; reasonableness of proposed schedule; utility of suggested technical or procedural innovations; and quality of samples.
- 4. Cost and Price 20%**

Reasonableness of the fully-burdened rates and competitiveness with other offers received; adequacy of data in support of figures quoted.

B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **January 7, 2020** 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 Legislative and Communications Committee, the Offeror(s) with the highest ranking. The Legislative and Communications Committee will review the evaluation committee's recommendation and forward its recommendation to the Board of Directors for final action.

C. AWARD

The Authority will evaluate the proposals received and will submit, with approval of the Legislative and Communications Committee, the proposal considered to be the most competitive to the Authority's Board of Directors, for consideration and selection. The Authority may also negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offerors simultaneously and, thereafter, to award a contract to the Offeror offering the most favorable terms to the Authority.

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

Scope of Work

I-405 Improvement Project Construction Public Outreach

BACKGROUND

The Orange County Transportation Authority (OCTA), in cooperation and partnership with the California Department of Transportation (Caltrans), is improving Interstate 405 (I-405) between State Route 73 (SR-73) and Interstate 605 (I-605). The I-405 Improvement Project (Project) will add two lanes in each direction, one general purpose lane (OC Go/Measure M2 Project K) and one lane that will be combined with the existing HOV lane to create the 405 Express Lanes.

The \$1.9 billion Project is funded through a combination of Local, State, and Federal funds, as well as a Federal Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan secured by toll revenues. The OC Go portion of the Project is funded mostly through a combination of local, state, and federal funds. The Express Lanes portion will be paid for by those who choose to pay a toll and use the lanes.

The Project, currently in construction, includes replacing 18 bridges, widening several structures, and building a new Express Lanes connector between SR-73 and I-405. The 16-mile Project also includes construction of 170 sound walls and retaining walls. There are currently 12 bridges under construction and one completed.

Significant milestones include:

- On November 14, 2016, the OCTA Board of Directors (Board) awarded the design-build (DB) contract to OC 405 Partners
- On January 31, 2017, OCTA executed the contract with OC 405 Partners and issued Notice to Proceed (NTP) No. 1
- On June 26, 2017, the OCTA Board approved the TIFIA loan
- On July 20, 2017, OCTA issued NTP No. 2 to OC 405 Partners
- On January 26, 2018, OCTA commemorated the start of construction with a groundbreaking event attended by more than 600 people
- On March 6, 2018, construction officially began

A consultant is currently providing public outreach services to OCTA. Services include, but are not limited to, messaging, collateral development, graphic design, business outreach, logistics, and implementation of all aspects of the Project Public Outreach Program and associated comprehensive public outreach plan as outlined in the original scope of work of the current contract.

The contract with the current consultant will end no later than June 30, 2020.

Role of the Consultant/Scope of Services

Under RFP 9-1571, OCTA is seeking consultant assistance to continue implementation of the comprehensive public outreach program in coordination with the technical team and construction contractor during the Project's construction phase. The Consultant will be an extension of OCTA staff. As stewards of taxpayer dollars, OCTA is responsive to the concerns and needs of the community during construction.

The outreach program shares with the public the general scope of the Project, anticipated and actual construction impacts, mitigation measures, and closures and detours, as well as the Project's progress. The Consultant also will assist the Project contractor with pre-construction survey notification and scheduling, right-of-way access notification, and emergency notification.

The Consultant should have a full range of professional public outreach skills and demonstrate an understanding of the issues, audiences, and technical processes associated with construction to inform the community of such a complex project. Experience conducting public outreach for a highway and/or design-build project is preferred.

The Consultant's team shall have a demonstrated understanding of Orange County and the full range of perspectives related to Orange County transportation issues. The selected Consultant team will report directly to OCTA's Community Outreach Project Manager (COPM). They will also attend internal and partner agency coordination meetings and weekly meetings with the Project contractor, as well as corridor cities.

OCTA seeks a consultant team with demonstrated skills, experience, and knowledge conducting public outreach with the ability to:

- Maintain and expand the stakeholder database
- Foster positive working relationships with diverse communities including residents, businesses, local jurisdictions, and other stakeholders within and outside of the Project area
- Plan and execute neighborhood meetings and staff community events
- Decipher technical information and communicate it to the public in concise, understandable terms
- Utilize digital communications and social networking, maintain a smartphone application (app), and develop other interactive media tactics to engage a wide range of stakeholders
- Catalog all constituent correspondence via phone, email, etc., in a searchable format
- Maintain a database of Project collateral, photos, and videos
- Plan and execute small and large-scale special events and milestone celebrations
- Assist with resolving constituent issues and maintain a "boots on the ground" community presence

Consultant Management

The OCTA COPM will be the key contact and will direct the selected Consultant. Under the direction of the OCTA COPM, the Consultant will be responsible for implementing a comprehensive public outreach program for the construction phase of the Project. The Consultant will utilize existing OCTA, Project, and affiliated logos (i.e., Caltrans, Federal Highway Administration, and OC Go/Measure M) in Project identification.

The public outreach Consultant must be able to integrate quickly into existing processes and programs and will be expected to work with the technical consultants and Project contractor. Likewise, the technical team and/or Project contractor is asked to support outreach efforts by attending community meetings, reviewing draft collateral materials/constituent responses, as well as providing needed staff support and construction schedule information.

Goal of Public Outreach Program

The primary goal of the public outreach program is to inform motorists, merchants, employers, residents, elected officials, civic organizations, and government agencies about Project parameters, as well as anticipated construction impacts and steps that are taken by OCTA and the Project contractor to minimize those impacts. The Consultant shall assist OCTA with proactively providing public information through written and electronic media sources and providing quick responses and resolutions to community concerns during the construction period.

The public outreach program will educate the community on the requirements of construction and ultimate Project benefits. When community members are notified of construction needs, they are much more tolerant of construction. Some construction impacts include long-term closures, temporary lane and full-freeway closures at night, detours, vibration, noise, sound wall removal, temporary construction easement implementation, temporary utility impacts, and dust. In addition, there are many technical Project elements such as falsework, k-rail, demolition, pile driving, retaining and sound walls, etc., which need to be explained to the public. Historically, public outreach programs have played an instrumental role in reducing impacts caused by construction through development and distribution of Project information and by identifying and resolving sensitive issues before they become critical.

CONSULTANT'S SCOPE OF SERVICES

Project Staffing and Administration

The following key staff must be provided by the Consultant.

Project Manager

The Consultant shall ensure adequate staffing to achieve the objectives of the public outreach program. The Consultant's project manager shall be responsible for the overall and daily management of the Consultant's team and day-to-day communications with the OCTA COPM.

The Consultant's project manager shall ensure the timely and integrated execution of all public outreach tasks. The Consultant's project manager may be removed and replaced

only with the written consent of the OCTA COPM. Due to the importance of consistent project management, for continuity, institutional knowledge, and to facilitate timely completion of the Project materials, OCTA will consider the unauthorized removal of the Consultant's project manager as grounds for termination of the contract. OCTA reserves the right to require the Consultant to remove and replace the Consultant's project manager or any member of the Consultant/sub-consultant team from the Project for cause.

The Consultant's project manager shall communicate and coordinate in a timely manner all work and progress on the outreach program with the OCTA COPM.

Due to the rapid pace of design-build and the scope of this Project, multiple bridges and structures are under construction simultaneously. The Consultant must be staffed accordingly to handle the level of effort required to respond rapidly and adapt to Project demands. The Consultant team should clearly demonstrate the ability to dedicate ample time to this Project to respond to constituent correspondence and emergency situations, and to attend events during normal business hours, after hours and on weekends.

Community Liaisons

The Consultant is requested to provide three (3) to four (4) community liaisons to respond to written and verbal constituent correspondence, identify potential problems for early resolution, facilitate communication and solve problems, establish face-to-face rapport with merchants, employers, residents, Project partners, and the Project contractor, as well as assist in organizing community meetings and presentations along the Project corridor.

Dedicated community liaisons are expected to be "boots on the ground" and in the trenches every day, interacting with the Project contractor, OCTA, Caltrans, and the community at-large. Consultant should propose community liaisons with established contacts and with expertise in communicating about highway construction and in public outreach best practices. Community liaisons need a general understanding of construction terms, methods, and associated community impacts. The level of effort per liaison will range from 30% to 100% of their time, depending on current level of construction activity.

Account Coordinator

Consultant will be required to provide logistics support and event coordination and staffing, ensure contract compliance, and review metrics for completeness and accuracy.

Graphic Design and Creative Services

The Consultant must provide multiple creative services professionals to create digital communications, flyers, brochures, poster boards, maps, graphics, advertisements, and other collateral in a clear, informative manner. It is often necessary for collateral to be developed and distributed within the same day due to the dynamic nature of the Project. Consultant must provide samples of past collateral development to demonstrate ability to provide relevant, easy-to-understand graphics, and copy to the public for an infrastructure project.

Large-format printing will be required on occasion. Day-to-day, simple printing needs such as canvassed flyers will be handled in-house at OCTA by OCTA's Reprographics Department.

Data Entry/Business Analyst

Consultant will be required to update the Project database on a weekly and in some cases daily basis. In addition, all outreach metrics must be carefully cataloged monthly. The Project record also includes photography, video, and correspondence (written and digital) that must be archived and searchable.

Diverse Communities Outreach Specialists

Consultant shall provide staff fluent in Spanish and Vietnamese to attend and staff events, return calls, provide translation, and respond to constituent inquiries.

Subconsultant Services

In addition to providing several dedicated community liaisons, the Consultant must partner with a subconsultant(s), as needed, to provide the following services if they do not have the ability in-house:

- Literature canvassing/courier
- Printing
- Graphic design / creative services
- Advertising
- Automated calls
- Social media support
- Title VI compliance
- Environmental justice State and Federal policy compliance
- Copywriting
- Special event planning and implementation
- Translation (Spanish and Vietnamese)
- Project helpline support
- Photography/video/graphic simulations
- Interactive web-based detour maps
- Mail house services/postage
- iOS and Android application maintenance and support

Photography / Video

The Consultant will regularly document the Project progress via photography and video. The Consultant shall keep an archive of photography and video footage, marked with date and construction activity for future reference.

It is recommended the Consultant coordinate photo and video shoots as needed. Archive should be accessible remotely through a "cloud" or web-based platform.

In addition, time lapse video production may be requested to document certain construction activities such as bridge demolition or reconstruction.

It also may be necessary to produce Project status videos using a smartphone in languages other than English.

Committee Support

Stakeholder Working Group (SWG)

The SWG was developed as a vehicle for a cross-section of community stakeholders from throughout the Project area to be directly engaged in the Project design and construction and to provide feedback. The SWG members are charged with serving as liaisons between the Project team and the organizations they represent. Currently, the SWG is composed of residents, educators, emergency responders, local elected officials' staff, business owners, health care providers, and other stakeholder communities. The SWG meets as needed and will continue to do so throughout construction.

Corridor Cities Task Force

OCTA and the Project contractor meet monthly with corridor cities and emergency service providers. The Consultant may be asked to attend the meetings and assist with meeting coordination, collateral, and presentation materials.

The Consultant shall coordinate meeting logistics, including refreshments, for all Project committees as requested.

Coordination and Administration

Coordination and administration of the outreach program shall include, but not be limited to the following:

Monthly Progress Report

The monthly progress report shall be a snapshot of the outreach activities performed the prior month. A tally of all construction alerts, e-blasts, automated calls, cost per impression, as well as social media metrics should be captured in this document. It shall also include a forecast of communication needs for the coming months and resources needed. A calendar of presentations and other important milestones should be included in this document. An existing template is available and will continue to be used for this report.

Monthly Invoices

Monthly invoices shall be submitted to the OCTA COPM for approval and payment. They shall include a summary of Project budget activity to date and identify costs against each major task, and/or subtask as appropriate. Specific billing requirements will be provided by OCTA staff upon award of the contract.

Project Archive

A digital library is available of all outreach materials produced to date during the Project. This library will continue to be maintained by the Consultant. At end of the contract, all digital files, including native files, shall be provided to OCTA.

Target Audiences

The following stakeholders have been identified from previous outreach efforts. The Consultant shall include the following entities in their outreach efforts as appropriate.

Primary Corridor Cities/Communities

- Costa Mesa
- Fountain Valley
- Huntington Beach
- Westminster
- Garden Grove
- Seal Beach
- Los Alamitos
- Community of Rossmore
- Leisure World
- Long Beach

Other Neighboring Cities

- Cypress
- Stanton
- Irvine
- Santa Ana
- Newport Beach

Community Stakeholders

- Elected Officials
- Residents
- Merchants
- Commuters
- Bicyclists
- Large and Small Employers
- Chambers of Commerce
- Homeowners Associations
- School Districts
 - Elementary
 - Middle school
 - High school
- Colleges and Universities
- Long Beach Veterans Hospital
- Medical Facilities
- U.S. Naval Weapons Station
- Los Alamitos Armed Forces Reserve Center
- Major shopping and entertainment venues
- Tourism Industry
- Emergency Services
- Media
- Traffic Reporters

- Regional Airports
- California Trucking Association

Comprehensive Public Outreach Plan

The Consultant's team shall execute currently established outreach tactics for the construction phase of the Project and recommend additional enhancements for OCTA's consideration. The Consultant shall provide a detailed breakdown of hours for professional services in their proposal.

The public outreach plan must meet the following objectives:

- Execute existing processes and programs established for the Project
- Recommend any additional methods to maximize the efficiency and effectiveness by which information is distributed to interested stakeholders
- Present technical information in ways that can be clearly understood by the general public
- Generate awareness of the Project as construction continues
- Use communication tactics appropriate for the nature of information to be distributed and the input required in a cost-effective manner
- Proactively reach out to community leaders and interest groups to build awareness as construction continues
- Serve as reference for questions about the Project
- Help the public understand construction activities, right-of-way acquisition, road closures, noise, dust, night work, and other construction impacts they will experience during construction
- Inform the public of the Project's ultimate benefits
- Utilize social networking and other interactive media tactics to reach as many target audiences as possible
- Encourage employers to provide their employees material to help them plan their commutes and consider alternate transportation modes
- Build strong relationships with local school districts and develop educational materials describing the Project that address safety within the construction area
- Disseminate construction/detour information to visitors planning trips to venues in the area
- Create interactive detour maps/simulations to convey important Project details such as detours and bridge construction staging
- Identify non-English speaking communities impacted by construction and develop multilingual collateral materials
- Implement the existing presentation program with OCTA COPM and promote the program to community and civic organizations. A presentation with visual aids and handouts will be developed by the Consultant for each speaking engagement
- Notify residents and merchants of construction through such tools as emails and canvassed construction alerts. The Consultant will identify a budget for postage and hand-delivered collateral material
- Comply with State and Federal Environmental Justice policies and Title VI requirements

- Maintain business profiles for all businesses in the Project corridor impacted by construction
- Catalog and track outreach monthly metrics including phone calls, emails, meeting attendance, presentations, flyer distribution, digital communications, text messages, automated calls, etc.
- Maintain and update online interactive map
- Maintain Waze integration of closures and detours

A variety of methods and tools are currently being used for the public outreach program, such as one-on-one meetings with city officials and interested stakeholders, city council presentations, ad-hoc committees, weekly e-newsletters, flyers, door hangers, open houses, etc. OCTA is seeking the Consultant's expertise to determine the best strategy to continue keeping the community informed during the construction phase.

Neighborhood meetings usually take place on Saturday mornings prior to the start of major construction activities, and OCTA plans to utilize them the duration of construction. There are approximately two (2) neighborhood meetings a month. The neighborhood is canvassed with flyers or door hangers prior to the meeting. A literature table and Project drawings are displayed, and donuts and coffee are provided to attendees. In an era when families are pressed for time, a meeting on the weekend is well received, and attendance typically varies from 20-100 individuals.

The Consultant must be available to attend and fully staff neighborhood meetings on weekends and periodically on weeknights.

The Consultant will be required to review the construction schedule and coordinate public outreach activities to coincide with the technical team's effort.

Appropriate public involvement techniques should include, but not be limited to the following. Consultant support is needed as detailed below:

- Social Media
 - Develop engaging and informative posts
 - Post information on social media sites as requested utilizing pre-approved content
 - Track all metrics on a monthly basis
- Speakers Bureau Presentations
 - Contact organizations and offer presentations
 - Coordinate presentation logistics including PowerPoint presentation, handouts, meeting notes, and associated follow-up
- Open houses and neighborhood meetings
 - Meeting logistics, refreshments, and meeting notes
 - Promotion activities for the meetings, including ads, flyers, and email blasts
 - Collateral/exhibit development
- One-on-one briefings with city staff, and community and business stakeholders as needed
 - Attend and take meeting notes
- Correspondence Log

- Document emails and phone calls, as well as public comments/questions taken at meetings, presentations, and briefings.
 - Record minutes/notes during meetings for the Project record
- Constituent Complaint/Compliment Log
 - Document all complaints and steps taken to respond to and resolve the concern, if applicable. Compliments should also be documented and shared with Project team.
- Business Profiles
 - Maintain and update existing profiles for all businesses impacted by construction currently in Project database. The profile shall include hours of operation, access concerns, delivery hours, photos, and point of contact information. Add new profiles as needed.
- Construction Safety Awareness Program
 - Develop presentations or collateral as needed
- Digital Library
 - Coordinate with OCTA webmaster to create a digital library of Project documents and resources on the Project website
- Paid Advertising
 - Create a paid advertising (traditional and online) program regarding the Project and important events/milestones as requested
- Internal (weekly) and External (bi-monthly) Public Awareness Campaign Meetings
 - Draft agendas, meeting notes, and associated follow-up
- Miscellaneous Collateral
 - E-newsletters – develop and write copy, as well as coordinate graphics
 - Construction Alerts – develop, write copy, print, and distribute
 - Detour and Closure Maps - develop, write copy, print, and distribute
 - Meeting Ads and Miscellaneous Notification - develop, write copy, print, and distribute
 - Website – coordinate with OCTA's Webmaster to create and update web content

I-405 Android and iOS Application

OCTA developed a smart phone app for the Project, which is updated regularly. Consultant must be available to update digital application content including copy, photos, and video in a timely manner.

Waze Partnership

In addition to deploying traditional public outreach strategies, the Project's Community Outreach Team has partnered with Waze (<http://www.waze.com/>), the free, real-time crowdsourced traffic and navigation app powered by the world's largest community of drivers. Leveraging the approximately 55,000 reported Waze app users ("Wazers") in Orange County, OCTA provides near-real-time, agency-approved construction and road closure data that will affect users' daily routes. OCTA and its current consultant are among the Connected Citizens Program's (CCP) elite group of 500 city, state, and county government agencies, nonprofits, and first responders across the globe who are taking advantage of this technology. This partnership gives Orange County drivers a greater ability to avoid road closures and traffic jams.

The Community Outreach Team strives to communicate construction activities in near real-time with commuters along the Project corridor. On average, OCTA's data feed reports about nine (9) closures or construction activities per day. Approximately 100-150 Wazers actively engage with each reported construction activity with "thumbs up" and/or comments. This instant feedback indicates the reported construction activities are being consumed in real time.

Waze's mapping algorithm is designed to prevent congestion by distributing traffic on all public streets. OCTA proactively reports agency and city-approved detour routes to be included in Waze's algorithm. These detour routes are then used and validated through Waze's calculations and can be offered as alternate routes. This gives the agency an advantage over relying on Wazers' reported GPS data to calculate a suggested route around a closure.

The Consultant must maintain the relationship with WAZE and continue to troubleshoot any challenges that may arise during construction.

OCTA Website and Interactive Map

The Project has a website that includes general Project information, frequently asked questions, closure, detour, and other construction-related information. Consultant must coordinate with OCTA digital services staff to update content, including daily closure and detour list, as needed.

OCTA maintains an interactive map on the OCTA website with detailed closure and detour information, as well as other content about ongoing and future bridge improvements. The map is fully integrated with the WAZE app. The Consultant must have the resources available to update this map multiple times a day.

Other Outreach Support

Government Relations

The OCTA Government Relations Department leads all communications with local, state, and federal elected officials and their staff, including coordinating meetings and correspondence. The Consultant may recommend a Government Relations strategy for the construction phase of the Project. However, the OCTA Government Relations Department will have final approval of the strategy and will guide the implementation as needed.

Media Relations

The OCTA Public Information Office leads all communications with print, television, radio, and online media. The Consultant may recommend a Media Relations strategy for the construction phase of the Project. However, the OCTA Public Information Office will have final approval of the strategy and will guide the implementation as needed.

Dedication Event/Milestone Event Planning/Project Tours

Several small-scale special events may be requested to commemorate Project milestones such as the completion of bridges. A dedication event will take place at a

prominent location in the Project area to attract a minimum of 300 people. Event costs should be minimized and sponsorship is encouraged.

Consultant activities will include planning and executing the events, coordinating logistics, and seeking appropriate speakers. The Consultant may also be asked to assist the OCTA Public Information Office with inviting the media and planning media tours.

The Consultant may be asked to assist with planning and implementing periodic Project tours, including general logistics, content, refreshments, and other coordination. Transportation will be provided by OCTA.

Evaluation

The Consultant may be asked to evaluate the Project construction outreach program annually to measure the effectiveness of communication tactics. The Consultant may be requested to create quantitative surveys on general Project awareness and level of satisfaction with outreach efforts as needed.

Other Tasks as Deemed Necessary by Project Demands

The Consultant shall provide other unanticipated communication programs, materials, and supplies for the I-405 construction outreach program on an as-needed basis.

PRICE SUMMARY SHEET

REQUEST FOR PROPOSALS (RFP) 9-1571

Pricing Instructions:

The Offeror must submit this Exhibit B, Price Summary Sheet, **as a separate sealed package from the proposal**. No information regarding hourly rates shall be mentioned anywhere in the proposal content.

The Offeror shall provide proposed price for the services described in the Scope of Work, Exhibit A. Hourly rates shall be fully-burdened rates to include all direct costs, indirect costs, tax, and profits. The Authority's intention is to award a time-and-expense price contract.

Pricing forms must be completed and properly filled out in order to be deemed responsive.

SCHEDULE I --- HOURLY RATE SCHEDULE

Enter below the proposed price for the services described in the Scope of Work, Exhibit A. Prices shall be fully-burdened rates to include all direct costs, indirect costs, tax, and profits. *Anticipated overtime pay shall not be factored into the fully-burdened hourly rates. The Authority's intention is to award a time-and-expense price contract.

Term: May 1, 2020 through April 30, 2024

	Fully-Burdened Hourly Rates			
	Year 1	Year 2	Year 3	Year 4
Job Function	5/1/20 – 4/30/21	5/1/21 – 4/30/22	5/1/22 – 4/30/23	5/1/23 – 4/30/24
Project Manager	\$ _____	\$ _____	\$ _____	\$ _____
Community Liaison	\$ _____	\$ _____	\$ _____	\$ _____
Data Entry/Business Analyst	\$ _____	\$ _____	\$ _____	\$ _____
Graphic Designer	\$ _____	\$ _____	\$ _____	\$ _____
Account Coordinator	\$ _____	\$ _____	\$ _____	\$ _____
Diverse Communities Outreach Specialist	\$ _____	\$ _____	\$ _____	\$ _____

FOR COST ANALYSIS PURPOSES:

- *Provide fully-burdened hourly rates for the above-designated job categories. The fully-burdened hourly rates will be included in the resulting agreement should your proposal be selected for contract award.*
- *Each proposed hourly rate for the respective Job Function will be weighed according to the percentages specified in the "Evaluation Weight" column in the table below.*

Job Function	Evaluation Weight for Hourly Rate(s)
Project Manager	10%
Community Liaison	45%
Graphic Designer	15%
Data Entry/Business Analyst	15%
Account Coordinator	5%
Diverse Communities Outreach Specialist	10%

Other Labor Charges:

	Fully-Burdened Hourly Rates			
	Year 1 5/1/20 – 4/30/21	Year 2 5/1/21 – 4/30/22	Year 3 5/1/22 – 4/30/23	Year 4 5/1/23 – 4/30/24
	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____

Option Term: May 1, 2024 through April 30, 2026

Job Function	Fully-Burdened Hourly Rate	
	5/1/24 – 4/30/25	5/1/25 – 4/30/26
Project Manager	\$ _____	\$ _____
Community Liaison	\$ _____	\$ _____
Data Entry/Business Analyst	\$ _____	\$ _____
Graphic Designer		
Account Coordinator	\$ _____	\$ _____
Diverse Communities Outreach Specialist	\$ _____	\$ _____

Other Labor Charges:

Job Function	Fully-Burdened Hourly Rate	
	5/1/24 – 4/30/25	5/1/25 – 4/30/26
	\$ _____	
	\$ _____	
	\$ _____	
	\$ _____	

SCHEDULE II ---- OTHER DIRECT COSTS SCHEDULE

Type of ODC		Quantity	Unit Rate	Budget Amount
1.				
2.				
3.				
4.				
5.				
6.				
<i>Additional ODC required and authorized by the Authority but not included in this Agreement will be reimbursed either (a) "At Cost" OR (b) up to the applicable Current Rate listed in this Schedule II, whichever is less.</i>				
<i>Supporting documentation must accompany invoice.</i>				

* Please note the following:

- The Authority will not reimburse Consultant for hours charged to perform activities associated with the preparation and review of invoices submitted to the Authority.
- The Authority will not reimburse Consultant for local meals and travel time, unless previously approved, or any other expenses not included within this Exhibit B.

Reimbursable Mileage Practice

Week Day Travel

Normal Business Hours

- Office Base* to event/meeting (one-way only if Consultant does not return to base office)

After Business Hours

- Office Base* to event/meeting
- Event/Meeting to Home

Week End Travel

- Home to Event
- Event to Home

*Office Base exceeds 50 miles may claim home to event.

Note: Full home address is not necessary. Cross streets and city are sufficient.

1. I acknowledge receipt of **RFP 9-1571** and Addenda No.(s)____.
2. This offer shall remain firm for _____ days from the date of proposal.
(Minimum of 120)

COMPANY NAME

ADDRESS

TELEPHONE

FACSIMILE #

EMAIL ADDRESS

SIGNATURE OF PERSON
AUTHORIZED TO BIND OFFEROR

NAME AND TITLE OF PERSON
AUTHORIZED TO BIND OFFEROR

DATE SIGNED

EXHIBIT C: PROPOSED AGREEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PROPOSED AGREEMENT NO. C- 9-1571

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

THIS AGREEMENT is effective this _____ day of _____, 2020 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street, PO Box 14184, Orange, CA 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and, , (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONSULTANT to continue implementation of the comprehensive public outreach program during the construction phase of the Interstate 405 Improvement Project between State Route 73 and Interstate 605; 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;

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 the performance of any

EXHIBIT C

1 terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of
2 AUTHORITY's right to such performance by CONSULTANT or to future performance of such terms or
3 conditions and CONSULTANT obligation in respect thereto shall continue in full force and effect.
4 Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when
5 specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written
6 Amendment to this Agreement and issued in accordance with the provisions of this Agreement.

ARTICLE 2. AUTHORITY DESIGNEE

7
8 The Chief Executive Officer of AUTHORITY, or designee, shall have the authority to act for and
9 exercise any of the rights of AUTHORITY, as set forth in this Agreement.

ARTICLE 3. SCOPE OF WORK

10
11 A. CONSULTANT shall perform the work necessary to complete in a manner satisfactory to
12 AUTHORITY, the services set forth in Exhibit A, entitled "Scope of Work," which is attached to, and by
13 this reference, incorporated in and made a part of this Agreement. All services shall be provided at the
14 times and places designated by AUTHORITY.

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

Names**Functions**

17
18
19
20
21 C. No person named in paragraph B of this Article, or his/her successor approved by
22 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or
23 level of commitment hereunder be changed, without the prior written consent of AUTHORITY. Should
24 the services of any key person become no longer available to CONSULTANT, the resume and
25 qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as
26 possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key

1 person, unless CONSULTANT is not provided with such notice by the departing employee. AUTHORITY
2 shall respond to CONSULTANT within seven (7) calendar days following receipt of these qualifications
3 concerning acceptance of the candidate for replacement.

4 **ARTICLE 4. TERM OF AGREEMENT**

5 A. This Agreement shall commence May 1, 2020, and shall continue in full force and effect
6 through April 30, 2024 (Initial Term), unless earlier terminated or extended as provided in this Agreement.

7 B. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to
8 an additional twenty-four (24) months, commencing May 1, 2024, and continuing through April 30, 2026
9 (Option Term), and thereupon require CONSULTANT to continue to provide services, and otherwise
10 perform, in accordance with Exhibit A, entitled "Scope of Work," and at the rates set forth in Article 5,
11 "Allowable Costs and Payment."

12 C. AUTHORITY's election to extend the Agreement beyond the Initial Term shall not diminish
13 its right to terminate the Agreement for AUTHORITY's convenience or CONSULTANT's default as
14 provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period
15 extending from May 1, 2020 through April 30, 2026, which period encompasses the Initial Term and
16 Option Term.

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

18 A. For CONSULTANT's full and complete performance of its obligations under this
19 Agreement and subject to the maximum cumulative payment obligation provision set forth in Article 7,
20 "Maximum Obligation" AUTHORITY shall pay CONSULTANT on a specified rate of compensation basis.

21 B. The CONSULTANT will be paid as promptly as fiscal procedures will permit upon receipt
22 by the AUTHORITY's Accounts Payable office of itemized invoices in duplicate. Drive time may not be
23 charged to AUTHORITY. Invoices shall be submitted no later than forty-five (45) calendar days after the
24 performance of the work for which the CONSULTANT is billing. Invoices shall detail the work performed
25 on each project task as applicable. Invoices shall follow the format stipulated for the approved Cost
26 Proposal and shall reference this Agreement number and project title. Final invoice must contain the final

EXHIBIT C

1 cost and all credits due the AUTHORITY, and must be reimbursed by CONSULTANT prior to the
2 expiration or termination of this Agreement. The final invoice shall be submitted to the AUTHORITY within
3 60-calendar days after completion of the CONSULTANT's work.

4 C. For each full hour of labor satisfactorily performed by CONSULTANT's personnel under
5 this Agreement, AUTHORITY shall reimburse CONSULTANT at the hourly labor rates specified in
6 Exhibit B, entitled "Price Summary Sheet," which is attached to and by this reference, incorporated in and
7 made a part of this Agreement. The specified hourly rates shall include direct salary costs, employee
8 benefits, overhead and fee (profit). These rates are not adjustable for the term set in this Agreement. In
9 addition, AUTHORITY shall reimburse CONSULTANT for actual direct costs other than salary costs
10 shown in Exhibit B, which are directly incurred by its personnel in the performance of work under this
11 Agreement. AUTHORITY will not reimburse CONSULTANT for local meals except for those authorized
12 for travelling personnel as shown in the attached Exhibit B.

13 D. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments
14 corresponding to the specified rates (labor and other direct costs) expended by CONSULTANT. Work
15 completed shall be documented in a monthly progress report prepared by CONSULTANT, which shall
16 accompany each invoice submitted by CONSULTANT. CONSULTANT shall also furnish such other
17 information as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole
18 discretion, AUTHORITY may decline to make full payment for any work until such time as
19 CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully
20 completed all work required. AUTHORITY's payment in full for any work completed shall constitute
21 AUTHORITY's final acceptance of CONSULTANT's work.

22 E. Each invoice submitted shall be accompanied by the monthly progress report specified
23 in paragraph D of this Article. AUTHORITY shall remit payment within thirty (30) calendar days of the
24 receipt and approval of each invoice. Each invoice shall include the following information:

- 25 1. Agreement No. C- 9-1571;
- 26 2. Specific work for which payment is being requested;

EXHIBIT C

3. The time period covered by the invoice;

4. Labor performed during the billing period (staff name, hours charged, hourly billing rate, current charges and cumulative charges,);

5. Itemized expenses including support documentation incurred during the billing period;

6. Total monthly invoice by task (including project-to-date cumulative invoice amount);

7. Monthly Progress Report;

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

9. Any other information as otherwise requested by AUTHORITY to substantiate the validity of an invoice.

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

ARTICLE 6. PROMPT PAYMENT CLAUSE

A. CONSULTANT agrees to pay each subconsultant for the satisfactory work performed under this Agreement, no later than seven (7) calendar days from the receipt of each payment CONSULTANT receives from AUTHORITY. CONSULTANT agrees further to return retention 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

EXHIBIT C

CONSULTANT showing payment has been made to the subconsultants and CONSULTANT agrees to provide said documentation upon request. Any delay or postponement of payment from the above referenced time frames may occur only for good cause following written approval by AUTHORITY.

B. 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 penalty of two percent (2%) of the invoice amount due per month for every month that payment is not made.

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

ARTICLE 7. MAXIMUM OBLIGATION

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

ARTICLE 8. NOTICES

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

/

/

/

/

/

/

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, California 92863-1584

ATTENTION:

ATTENTION: Iris Deneau

Senior Contract Administrator

Tel: (714) 560 –5786

Email: ideneau@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 Liability, and Property Damage with a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate;

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

EXHIBIT C

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

4. Employers' Liability with minimum limits of \$1,000,000.00.

B. Proof of such coverage, in the form of a certificate of insurance, with AUTHORITY, its officers, directors, employees and agents, designated as additional insureds as required by contract. In addition, provide an insurance policy blanket additional insured endorsement. Both documents must be received by AUTHORITY prior to commencement of any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective date of this Agreement. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by the AUTHORITY. Furthermore, AUTHORITY reserves the right to request certified copies of all related insurance policies.

C. CONSULTANT shall include on the face of the certificate of insurance the Agreement No. C- 9-1571; and, the Senior Contract Administrator's Name, Iris Deneau.

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 9-1571; (3) CONSULTANT's proposal dated _____; and (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 12. CHANGES

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

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

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

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

12 **ARTICLE 13. DISPUTES**

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

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

25 **ARTICLE 14. TERMINATION**

26 A. AUTHORITY reserves the right to terminate this Agreement upon thirty (30) calendar days

1 written notice to CONSULTANT with the reasons for termination stated in the notice.

2 B. AUTHORITY may terminate this Agreement with CONSULTANT should CONSULTANT
3 fail to perform the covenants herein contained at the time and in the manner herein provided. In the event
4 of such termination, AUTHORITY may proceed with the work in any manner deemed proper by
5 AUTHORITY. If AUTHORITY terminates this Agreement with CONSULTANT, AUTHORITY shall pay
6 CONSULTANT the sum due to CONSULTANT under this Agreement prior to termination, unless the cost
7 of completion to AUTHORITY exceeds the funds remaining in the Agreement. In which case the overage
8 shall be deducted from any sum due CONSULTANT under this Agreement and the balance, if any, shall
9 be paid to CONSULTANT upon demand. Said termination shall be construed in accordance with the
10 provisions of the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 49, of the Federal
11 Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination
12 for convenience.

13 C. If AUTHORITY sees fit to terminate this Agreement for convenience, said notice shall be
14 given to CONSULTANT in accordance with the provisions of the FAR referenced above and Article 8
15 "Notices", herein. Upon receipt of said notification, CONSULTANT agrees to comply with all applicable
16 provisions of the FAR pertaining to termination for convenience.

17 D. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or
18 state proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT
19 makes an assignment for the benefit of creditors, or for cause if CONSULTANT fails to perform in
20 accordance with the scope of work or breaches any term(s) or violates any provision(s) of this Agreement
21 and does not cure such breach or violation within ten (10) calendar days after written notice thereof by
22 AUTHORITY. CONSULTANT shall be liable for any and all reasonable costs incurred by AUTHORITY
23 as a result of such default or breach including, but not limited to, reprocurement costs of the same or
24 similar services defaulted by CONSULTANT under this Agreement. Such termination shall comply with
25 CFR Title 48, Chapter 1, Part 49, of the FAR.

26 /

ARTICLE 15. INDEMNIFICATION

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

ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS

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

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

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

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

1 E. All subcontracts in excess of \$25,000 entered into as a result of this Agreement, shall
2 contain all the provisions stipulated in this Agreement to be applicable to subcontractors.

3 F. Any substitution of subcontractors must be approved in writing by AUTHORITY's Contract
4 Administrator, prior to the start of work by the subcontractor.

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

11 Subcontractor Name/Address

Subcontractor Functions

12
13
14 **ARTICLE 17. AUDIT AND INSPECTION OF RECORDS**

15 A. For the purpose of determining compliance with the Public Contract Code 10115, et seq.
16 and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other
17 matters connected with the performance of the contract pursuant to Government Code 8546.7;
18 CONSULTANT, subconsultants, and AUTHORITY shall maintain and make available for inspection all
19 books, documents, papers, accounting records, and other evidence pertaining to the performance of the
20 Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make
21 such materials available at their respective offices at all reasonable times during the Agreement period
22 and for four (4) years from the date of final payment under the Agreement. The state, State Auditor,
23 AUTHORITY, FHWA, or any duly authorized representative of the Federal Government shall have access
24 to any books, records, payroll documents, facilities and documents of CONSULTANT and its certified
25 public accountants (CPA) work papers that are pertinent to the Agreement and indirect cost rate (ICR)
26 for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

EXHIBIT C

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

5 C. AUTHORITY's right to audit books and records directly related to this Agreement shall
6 also extend to all first-tier subcontractors performing work identified in Article 16 "Assignments and
7 Subcontracts" of this Agreement, and such language must be included in CONSULTANT's agreements
8 with its subcontractors.

9 **ARTICLE 18. AUDIT REVIEW PROCEDURES**

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

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

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

17 D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are
18 subject to audits or reviews such as, but not limited to, an Agreement audit, an incurred cost audit, an
19 ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost
20 proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48
21 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper
22 review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are
23 allowed full access to the CPA's work papers including making copies as necessary. The Agreement,
24 cost proposal, and ICR shall be adjusted by CONSULTANT and approved by AUTHORITY's Contract
25 Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual
26 terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if

EXHIBIT C

1 directed by AUTHORITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review
2 recommendations, or to ensure that the federal, state or local governments have access to CPA work
3 papers, will be considered a breach of Agreement terms and cause for termination of the Agreement and
4 disallowance of prior reimbursed costs.

5 E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by The
6 California Department of Transportation's Audit and Investigation (Caltrans). Caltrans, at its sole
7 discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall
8 be adjusted by CONSULTANT and approved by the AUTHORITY's Contract Administrator to conform to
9 the Work Paper Review recommendations included in the management letter or audit recommendations
10 included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review
11 recommendations included in the management letter or audit recommendations included in the audit
12 report will be considered a breach of the Agreement terms and cause for termination of the Agreement
13 and disallowance of prior reimbursed costs.

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

23 a. If the proposed rate is less than 150% - the provisional rate reimbursed will be
24 90% of the proposed rate.

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

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

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

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

13 4. CONSULTANT may submit to AUTHORITY final invoice only when all of the following
14 items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited
15 ICR; (2) all work under this Agreement has been completed to the satisfaction of AUTHORITY; and, (3)
16 Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to the
17 AUTHORITY, no later than 60 days after occurrence of the last of these items. The provisional ICR will
18 apply to this Agreement and all other Agreements executed between AUTHORITY and the
19 CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

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

21 A. CONSULTANT agrees that the Agreement Cost Principles and Procedures, CFR, Title 48,
22 Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

23 B. CONSULTANT also agrees to comply with federal procedures in accordance with CFR,
24 Title 49, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State
25 and Local Governments.

26 C. Any costs for which payment has been made to CONSULTANT that are determined by

subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to AUTHORITY.

ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS

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

ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY

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

ARTICLE 22. PROHIBITED INTERESTS

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

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

ARTICLE 23. OWNERSHIP OF REPORTS AND DOCUMENTS

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

EXHIBIT C

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

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

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

19 E. All subcontracts entered into as a result of this Agreement, shall contain all the
20 provisions of this Article.

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

22 A. In lieu of any other warranty by CONSULTANT against patent or copyright infringement,
23 statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any claim or suit
24 against AUTHORITY on account of any allegation that any item furnished under this Agreement or the
25 normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently
26 existing U.S. letters patent or copyright and CONSULTANT shall pay all costs and damages finally

EXHIBIT C

1 awarded in any such suit or claim, provided that CONSULTANT is promptly notified in writing of the suit
2 or claim and given authority, information and assistance at CONSULTANT's expense for the defense of
3 same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim results from: (1)
4 AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form infringes upon any
5 presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other
6 material not provided by CONSULTANT when such use in combination infringes upon an existing U.S.
7 letters patent or copyright.

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

16 **ARTICLE 25. FINISHED AND PRELIMINARY DATA**

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

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

26 C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with

EXHIBIT C

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

6 D. All subcontracts entered into as a result of this contract shall contain all of the provisions
7 of this Article.

8 E. It is expressly understood that any title to preliminary technical data is not passed to
9 AUTHORITY, but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,
10 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the
11 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given
12 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to
13 AUTHORITY, if CONSULTANT causes AUTHORITY to exercise Article 14 "Termination", and a price
14 shall be negotiated for all preliminary data.

15 **ARTICLE 26. STATEMENT OF COMPLIANCE**

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

18 A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under
19 penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt,
20 complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title
21 2, California Administrative Code, Section 8103.

22 B. Nondiscrimination: During the performance of this Agreement, CONSULTANT and its
23 subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or
24 applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical
25 disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40),
26 marital status, and denial of family care leave. CONSULTANT and subconsultants shall insure that the

EXHIBIT C

1 evaluation and treatment of their employees and applicants for employment are free from such
2 discrimination and harassment. CONSULTANT and subconsultants shall comply with the provisions of
3 the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations
4 promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable
5 regulations of the Fair Employment and Housing Commission implementing Government Code Section
6 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are
7 incorporated into this Agreement by reference and made a part hereof as if set forth in full.
8 CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to
9 labor organizations with which they have a collective bargaining or other Agreement.

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

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

25 E. Information and Reports: CONSULTANT shall provide all information and reports required
26 by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records,

EXHIBIT C

1 accounts, other sources of information, and its facilities as may be determined by AUTHORITY to be
2 pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information
3 required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this
4 information, CONSULTANT shall so certify to AUTHORITY as appropriate, and shall set forth what efforts
5 it has made to obtain the information.

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

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

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

12 G. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections
13 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in all programs,
14 activities, and services of public entities, as well as imposes specific requirements on public and private
15 providers of transportation.

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

26 /

**ARTICLE 27. RACE-CONSCIOUS DBE CONTRACT PROVISIONS FOR DOT-ASSISTED
CONSULTANT CONTRACTS**

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

ARTICLE 28. PRIVACY ACT

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

ARTICLE 29. CONFLICT OF INTEREST

A. CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, CONSULTANT is unable, or potentially unable, to render impartial assistance or advice to AUTHORITY; CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to AUTHORITY in writing Conflict of Interest issues as soon as they are known to CONSULTANT. All

1 disclosures must be submitted in writing to AUTHORITY pursuant to the notice provision herein. This
2 disclosure requirement is for the entire term of this Agreement.

3 B. CONSULTANT shall disclose any financial, business, or other relationship with
4 AUTHORITY that may have an impact upon the outcome of this Agreement, or any ensuing AUTHORITY
5 construction project. CONSULTANT shall also list current clients who may have a financial interest in the
6 outcome of this Agreement, or any ensuing Authority construction project, which will follow.

7 C. Consultant hereby certifies that it does not now have, nor shall it acquire any financial or
8 business interest that would conflict with the performance of services under this Agreement.

9 **ARTICLE 30. CODE OF CONDUCT**

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

13 **ARTICLE 31. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

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

18 **ARTICLE 32. INCORPORATION OF FEDERAL TERMS**

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

26 /

ARTICLE 33. FEDERAL CHANGES

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

ARTICLE 34. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

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

B. CONSULTANT agrees to include these requirements in all of its subcontracts entered into as a result of this Agreement.

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

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

1 Government deems appropriate.

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

8 C. CONSULTANT agrees to include this requirement in all of its subcontracts entered into
9 as a result of this Agreement.

10 **ARTICLE 36. ENERGY CONSERVATION REQUIREMENTS**

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

14 **ARTICLE 37. CLEAN AIR**

15 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
16 to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each violation
17 to AUTHORITY, who will in turn, report each violation as required to assure notification to USDOT and
18 the appropriate Environmental Protection Agency (EPA) Regional Office. CONSULTANT agrees to
19 include this requirement in all of its subcontracts entered into as a result of this Agreement.

20 **ARTICLE 38. CLEAN WATER REQUIREMENTS**

21 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
22 to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONSULTANT shall
23 report each violation to AUTHORITY and understands and agrees that the AUTHORITY who will in turn,
24 report each violation as required to assure notification to USDOT and appropriate EPA Regional Office.
25 CONSULTANT agrees to include this requirement in all of its subcontracts entered into as a result of this
26 Agreement.

ARTICLE 39. CONTINGENT FEE

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

ARTICLE 40. DEBARMENT AND SUSPENSION CERTIFICATION

A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with CFR Title 2, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed in writing to the AUTHORITY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

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

/

ARTICLE 41. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

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

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal 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; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.

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

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

/

ARTICLE 42. FUNDING REQUIREMENTS

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

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

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

ARTICLE 43. DISADVANTAGED BUSINESS ENTERPRISE GOAL

A. CONSULTANT hereby agrees to attain DBE participation in the amount of ____ (___%) percent of the total Agreement amount. CONSULTANT shall enter into agreements for the services identified in Attachment entitled "Consultant Contract DBE Commitment Caltrans Exhibit 10-O2."

B. CONSULTANT is required to comply with this goal for the duration of this Agreement. CONSULTANT's failure to comply with the DBE participation provisions may result in:

1. Withholding of payment until such compliance is achieved or a waiver of the provisions is provided by AUTHORITY;

2. The Agreement may be canceled, terminated or suspended in whole or in part.

C. Any substitution of subcontractors must be approved in writing by AUTHORITY's Contract Administrator in advance of assigning work to a substitute subcontractor.

D. To ensure that all obligations under this Agreement are met, AUTHORITY will conduct periodic reviews of CONSULTANT's small DBE efforts during Agreement performance. CONSULTANT shall bring to the attention of AUTHORITY's Contract Administrator any situation in which regularly

1 scheduled payments are not made to DBE contractors, subcontractors or suppliers.

2 E. At the conclusion of the Agreement, CONSULTANT will be required to report its utilization,
3 scope of work and dollar amount of the subcontracts. The report shall include identification of the
4 subcontractors and whether the subcontractors are eligible DBE.

5 F. CONSULTANT, subconsultants and suppliers shall permit access to their books,
6 records, and accounts by the Contract Administrator, or a designated representative, for the purpose
7 of investigation to ascertain compliance with these specified requirements. Such records shall be
8 maintained in a fashion which is readily accessible to AUTHORITY, as described in Article 17 Audit
9 and Inspection of Records, for a minimum of four (4) years from the date of final payment by
10 AUTHORITY.

11 **ARTICLE 44. HEALTH AND SAFETY REQUIREMENTS**

12 A. CONSULTANT shall comply with all the requirements set forth in Exhibit __, Level 2
13 Safety Specifications. As used therein, "Contractor" shall mean "Consultant" and Subcontractor" shall
14 mean "Sub-consultant."

15 B. Any subcontract entered into as a result of this Agreement shall contain all of the
16 provisions of this Article.

17 **ARTICLE 45. CONFIDENTIALITY OF DATA**

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

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

25 C. Except as provided herein, CONSULTANT shall not comment publicly to the press or any
26 other media regarding the Agreement.

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

4 E. Any subcontract entered into as a result of this Agreement shall contain all of the
5 provisions of this Article.

6 **ARTICLE 46. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

13 **ARTICLE 47. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

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

19 **ARTICLE 48. EVALUATION OF CONSULTANT**

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

23 **ARTICLE 49. FORCE MAJEURE**

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

EXHIBIT C

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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C- 9-1571 to be executed as of the date of the last signature below.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____

By: _____

Darrell E. Johnson
Chief Executive Officer

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____

James M. Donich
General Counsel

Date: _____

APPROVED:

By: _____

Lance Larson
Executive Director, External Affairs

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 Packers 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 D: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Information Sheet

ORANGE COUNTY TRANSPORTATION AUTHORITY

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

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

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

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

ORANGE COUNTY TRANSPORTATION AUTHORITY
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: _____ RFP Title: _____

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

If no, please sign and date below.

If yes, please provide the following information:

Prime Contractor Firm Name: _____

Contributor or Contributor Firm's Name: _____

Contributor or Contributor Firm's Address: _____

Is Contributor:

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

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

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

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Date: _____

Signature of Contributor

Print Firm Name

Print Name of Contributor

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Tim Shaw, Chairman
Steve Jones, Vice Chairman
Lisa A. Bartlett, Director
Doug Chaffee, Director
Laurie Davies, Director
Barbara Delgleize, Director
Andrew Do, Director
Michael Hennessey, Director
Gene Hernandez, Director
Jose F. Moreno, Director
Joseph Muller, Director
Mark A. Murphy, Director
Richard Murphy, Director
Miguel Pulido, Director
Michelle Steel, Director
Donald P. Wagner, Director
Greg Winterbottom, Director

EXHIBIT E: STATUS OF PAST AND PRESENT CONTRACTS

STATUS OF PAST AND PRESENT CONTRACTS FORM

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

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

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

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

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

Name

Signature

Title

Date

**EXHIBIT F: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM AND
FORMS**

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM REQUIREMENTS

1.0 **DBE Goal**

To assist proposers in ascertaining DBE availability based on the specific items of work associated with this procurement, the Authority has determined that DBEs are ready, willing and able to compete for subcontracting opportunities on this project. The DBE Goal for this contract is **12%**.

2.0 **DBE Policy and Applicability**

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

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

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

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

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

Race-Neutral/Race-Conscious DBE Program Measures

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

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

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

3.0 **Definitions**

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

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

- 3.3.2.4 "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - 3.3.2.5 "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - 3.3.2.6 Women; and
 - 3.3.2.7 Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- 3.3.3 Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.
- 3.4 **"Owned and Controlled"** means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals;" and (b) whose management and daily business operations are controlled by one or more such individuals.
- 3.5 **"Manufacturer"** means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
- 3.6 **"Regular Dealer"** means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.
- 3.7 **"Fraud"** includes a firm that does not meet the eligibility criteria of being a certified DBE, and that attempts to participate in a U.S. DOT-assisted

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

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

3.8.1 Social Disadvantage

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

3.8.2 Economic Disadvantage

3.8.2.1 The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.

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

With respect to the individual:

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

With respect to the individual and the business concern:

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

4.0 DBE Proposal Submission Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

4.3 “Bidders List” (Exhibit F-3)

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

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



DBE PARTICIPATION COMMITMENT FORM

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

NOTE: 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 %: _____
5. Proposer's Total Price: _____
(If applicable)

Required DBE Commitment Information

6. DBE Firm (Name and Address)	7. DBE Certification Number	8. Description of Scope of Services/Work	9. Dollar Value (\$) or Percent (%) of Participation	10. Dollar Value (\$) or Percent (%) of Eligible DBE Participation/ Commitment

Note: As a condition of responsiveness, the proposer is required to submit with the Proposal a written confirmation signed and dated from each DBE listed in Column 6 acknowledging that the DBE is participating in the contract for the specified dollar value (\$) or percent (%) and scope of work.

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

11. Total Dollar Value (\$) or Percent (%) of Eligible DBE Participation:

12. Eligible DBE Participation Represented as a Percentage (%) of Proposer's Total Price:
_____ %

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

13. Preparer's Name (Print) _____

14. Preparer's Signature _____

15. Preparer's Title _____

16. Date _____

17. Telephone No. _____
()

18. Email Address _____

INSTRUCTIONS - DBE Participation Commitment Form

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

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

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 relevant to the scope they are being listed to perform.



DBE INFORMATION - GOOD FAITH EFFORTS

RFP No: _____ Proposal Due Date _____

The Orange County Transportation Authority (Authority) established a Disadvantaged Business Enterprise (DBE) goal of 12% for this contract. The information provided herein shows that a good faith effort was made by _____(Proposer).

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

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

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

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

Description of Work Item	Proposer Normally Performs (Y/N)	Unbundled from Larger Scope (Y/N) If Yes, List Scope	Amount (\$)	Percentage of Contract

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

DBE Firm	Contact Name/Title	Method of Solicitation	Date of Initial Solicitation	Date of Follow-Up Solicitation	Response/ Interested in Proposing

(Note: Solicitations should occur at a minimum no later than 14 calendar days prior to the Authority's proposal due date and follow up to the solicitations should allow DBE firms reasonable time to respond). DBE firms solicited must be advised if the original proposal due date has been extended.

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

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

- E. Agencies, Organizations, or Groups Contacted to Provide Assistance in Contracting, Recruiting, and Using DBEs; the names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (Attach copies of requests to agencies, responses received and efforts made by the proposer in response).

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

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

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

NOTE: USE ADDITIONAL SHEETS AS NECESSARY TO DEMONSTRATE RESPONSIVENESS.



Bidders List

**RFP 9-1571
EXHIBIT F-3**

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

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

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

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



Bidders List

RFP 9-1571
EXHIBIT F-3

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

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

EXHIBIT G: REQUEST FOR DBE SUBCONTRACTOR SUBSTITUTION



ORANGE COUNTY TRANSPORTATION AUTHORITY

REQUEST FOR DBE SUBCONTRACTOR/SUPPLIER SUBSTITUTION

Substitution of subcontractors shall be in accordance with the Contract Specifications. If a listed or approved DBE Subcontractor is unable to perform the work in accordance with the Contract Specifications, the Prime Contractor shall replace the Subcontractor with another DBE Subcontractor, or make good faith efforts to do so in accordance with the Contract Specifications. Such request for substitution is subject to approval by the Authority.

Project No.:		Project Name:	
Prime Contractor:			
Business Address:			
Please Provide the Following Information for the Listed or Approved DBE Subcontractor:			
Subcontractor Name:		DBE Certification No:	
Address:			
Contact Person:		Phone:	
Email Address:			
Description of work:			
Original Contract Value:		Current Contract Value:	
Reason for Substitution:			
Prime Contractor to select either Option A or B to meet substitution requirements:			
p A. Please provide the following information if Contractor elects to substitute a DBE subcontractor with another DBE subcontractor.			
Subcontractor Name:		DBE Certification No:	

Address:	
Contact Person:	Phone:
Description of work:	
Bid Item Number(s):	Proposed Subcontractor Bid Amount:

☐ **B.** Please provide Good Faith Efforts undertaken to replace the originally proposed DBE subcontractor with another DBE subcontractor by attaching supporting documentation.

I certify under penalty of perjury that the above information is complete and correct.

Contract Representative Signature	Title
Business Phone Number	Date

CONCURRENCE BY ORIGINALLY PROPOSED DBE FIRM:

Signature

Title

Print Name

Date

AUTHORITY APPROVAL:

Date Request Received: _____

Date Letter Sent to Original DBE Subcontractor: _____

Authority's Approval of Request for Substitution? ☐ Yes ☐ No

If no, please state reason:

Reviewed by: _____ Date: _____

EXHIBIT H: 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 relay without liability on the representation made by their subcontractors in the certification and disclosure forms.

f. Cost Allowability:

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

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

Executed this _____ day of _____, 20____

By _____
(Signature of authorized official)

(Title of authorized official)

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.
--

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction

EXHIBIT I: SAFETY SPECIFICATIONS

LEVEL 2 STANDARD 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 Authority health, safety and environmental compliance department (HSEC), requirements of this safety specification, project site requirements, and bus yard safety rules as well as all federal, state, and local regulations pertaining to scope of work or agreements with the Authority. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.
- B. Observance of repeated unsafe acts or conditions, serious violation of safety standards, non-conformance of Authority health, safety and environmental compliance department (HSEC) requirements, or disregard for the intent of these safety specifications to protect people and property, by Contractor or its subcontractors may be reason for termination of scope or agreements with the Authority, at the sole discretion of the Authority.

C. INJURY AND ILLNESS PREVENTION PROGRAM

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

D. SUBSTANCE ABUSE PREVENTION PROGRAM

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

E. HAZARD COMMUNICATION PROGRAM

- 1. Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of SDS for all applicable products used, if any. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- 2. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.

F. DESIGNATED HEALTH, SAFETY, ENVIRONMENTAL (HSE) REPRESENTATIVE

1. Upon contract award, the contractor within 10 business days shall designate an on-site health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.
2. This person shall be a Competent or Qualified Individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards, and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.
3. The Contractor's on-site qualified HSE Representative for all Authority projects is subject to acceptance by the Authority Project Manager, and the HSEC Department. All contact information of the HSE Representative (name, phone, and fax and pager/cell phone number) shall be provided to the Authority Project Manager, upon request, within 72 hours.
4. The Contractor's HSE Representative shall possess at a minimum OSHA 30-Hour training certificate and have five years of demonstrated construction/scope experience enforcing HSE compliance on construction, industrial or similar project scopes. The contractor's HSE Representative shall be on site during Contractor's operational hours or arrange in advance proper HSE coverage by a competent person with the Authority Project Manager. The designated HSE Representative shall participate in HSE related submittals. The Authority reserves the right to allow for an exception and to modify these minimum qualification requirements for unforeseen circumstances, at the sole discretion of the Authority Project Manager and HSEC Department Manager.
5. Competent Individual means an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees and/or property, and who has authorization to take prompt corrective measures to eliminate them.
6. Qualified Individual means an individual who by possession of a recognized degree, certificate, certification or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems relating to the subject matter, the work, or the project.

G. SCOPE PLANNING

Prior to any scope work activity or task, the Contractor shall evaluate the hazards of the scope of work and the work environment to ensure proper control measures are identified for employee public and property protections measures to prevent incidents. This evaluation shall be implemented by developing a written site- specific Job Hazard Analysis (JHA) or similar tool

designed for planning the work to prevent incidents. The plan shall be provided to the Authority's Project Manager, upon request, within 72 hours.

H. ORIENTATION

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

I. TRAFFIC & PARKING

The Contractor shall ensure that all Contractor vehicles, including those of their subcontractors, suppliers, vendors and employees are parked in designated parking areas, personal vehicles shall be parked in the employee parking lot, work vehicles required in the maintenance area of a bus base shall be identified by company name and/or logo, covered by the company insurance, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots. Vehicles without appropriate company name and logo are considered personal vehicles and not allowed in the maintenance area of the bus base.

J. GENERAL PROVISIONS

1. The Contractor shall provide all necessary tools, equipment, and related safety protective devices to execute the scope of work in compliance with Authority's HSEC requirements, CCR Title 8 Standards, and recognized safe work practices.
2. The Contractor shall immediately notify the Authority's Project Manager whenever local, state or federal regulatory agency personnel are identified as being onsite.
3. The Authority 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 pre-planned and performed, and safe conditions shall be maintained during the course of this work scope.
4. The Contractor shall specifically acknowledge that it has primary responsibility to prevent and correct all health, safety and environmental

hazards for which it and its employees, or its subcontractors (and their employees) are responsible. The Contractor shall further acknowledge their expertise in recognition and prevention of hazards in the operations for which they are responsible, that the Authority may not have such expertise, and is relying upon the Contractor for such expertise. The Authority retains the right to notify the Contractor of potential hazards and request the Contractor to evaluate and, as necessary, to eliminate those hazards.

5. The Contractor shall instruct all its employees, and all associated subcontractors under contract with the Contractor who work on Authority property in the recognition, identification, and avoidance of unsafe acts and/or conditions applicable to its work.
6. California Code of Regulations (CCR) Title 8 Standards are minimum requirements, and each Contractor is encouraged to exceed minimum requirements. When the Contractor safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of the public and workers.

1.2 ENVIRONMENTAL REQUIREMENTS

- A. The Contractor shall comply with Federal, State, county, municipal, and other local laws and regulations pertaining to the environment, including noise, aesthetics, air quality, water quality, contaminated soils, hazardous waste, storm water, and resources of archaeological significance. Expense of compliance with these laws and regulations is considered included in the agreement. Contractor shall provide water used for dust control, or for pre-wetting areas to be paved, as required; no payment will be made by OCTA for this water.
- B. The Contractor shall prevent pollution of storm drains, rivers, streams, irrigation ditches, and reservoirs with sediment or other harmful materials. Fuels, oils, bitumen, calcium chloride, cement, or other contaminants that would contribute to water pollution shall not be dumped into or placed where they will leach into storm drains, rivers, streams, irrigation ditches, or reservoirs. If operating equipment in streambeds or in and around open waters, protect the quality of ground water, wetlands, and surface waters.
- C. The Contractor shall protect adjacent properties and water resources from erosion and sediment damage throughout the duration of the contract. Contractor shall comply with applicable NPDES permits and Storm Water Pollution Prevention Plan (SWPPP) requirements.
- D. Contractor shall comply with all applicable EPA, Cal EPA, Cal Recycle, DTSC, SCAQMD, local, state, county and city standards, rules and regulations for hazardous and special waste handling, recycling and/ disposal. At a minimum, Contractor shall ensure compliance where applicable with SCAQMD Rule 1166, CCR Title 8, Section 5192, 29 CFR Subpart 1910.120, 49 CFR Part 172, Subpart H, 40 CFR Subpart 265.16 and CCR Title 22 Section 6625.16. Contractor shall provide OCTA a schedule of all hazardous waste and special or industrial waste disposal dates in advance of transport date. Only authorized

OCTA personnel shall sign manifests for OCTA generated wastes. Contractor shall ensure that only current registered transporters are used for disposal of hazardous waste and industrial wastes. The Contractor shall obtain approval from OCTA for the disposal site locations in advance of scheduled transport date.

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

- A. The Authority shall be promptly notified of any of the following types of incidents including but not limited to:
 - 1. Damage incidents of property (incidents involving third party, contractor or Authority property damage);
 - 2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration), a minor injury, and near miss incidents;
 - 3. Incidents impacting the environment, i.e. spills or releases on Authority 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 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 task planning documentation, copy of the Physician's first report of injury and corrective actions initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report provided to OCTA

1.4 PERSONAL PROTECTIVE EQUIPMENT

Contractors, and all associated subcontractors, vendors and suppliers are required to provide their own personal protective equipment (PPE), including eye, head, foot, and hand protection, respirators, reflective safety vests, and all other PPE required to perform their work safely on Authority projects.

1.5 LANGUAGE REQUIREMENTS

The Contractor for safety reasons shall ensure employees that do not read, or understand English, shall have a bilingual supervisor or foreman when on the Authority property or projects.

1.6 WARNING SIGNS AND DEVICES

The Contractor shall provide signs, signals, and/or warning devices to be visible when and where a hazard exists. Signs, signals, and/or warning devices shall be removed when the hazard no longer exists.

1.7 REFERENCES

- A. CCR Title 8 Standards (Cal/OSHA)
- B. FCR Including 1910 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH Standards
- D. OCTA Yard Safety Rules

END OF SECTION

EXHIBIT J: CERTIFICATION OF CONSULTANT COMMISSION AND 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 K: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

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

Offeror:_____

RFP No.:_____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

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

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

Complete Description of Deviation or Exception:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:
