ATTACHMENT A

REQUEST FOR PROPOSALS (RFP) 0-2582

CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE STATE ROUTE 55 IMPROVEMENT PROJECT BETWEEN INTERSTATE 405 AND INTERSTATE 5

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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 26, 2020**
Pre-Proposal Conference Date:	**November 3, 2020**
Question Submittal Date:	**November 12, 2020**
Proposal Submittal Date:	**December 1, 2020**
Interview Date:	**January 26, 2021**

SURFACE TRANSPORTATION BLOCK GRANT FUNDS/FEDERAL HIGHWAY ADMINISTRATION FUNDED PROJECT

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October 26, 2020

NOTICE OF REQUEST FOR PROPOSALS

(RFP): 0-2582: "CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE STATE ROUTE 55 IMPROVEMENT PROJECT BETWEEN INTERSTATE 405 AND INTERSTATE 5"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

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The Orange County Transportation Authority (Authority) invites proposals from qualified firms for Construction Management Support Services for the State Route 55 (SR-55) Improvement Project Between Interstate 405 (I-405) and Interstate 5.

To prevent potential conflicts of interest, the prime consultant and all subconsultants (at any tier) currently under contract with the Authority to provide program management consultant services for the Authority's highway programs and the design consultant preparing plans, specifications and estimates for the SR-55 Improvement Project Between I-405 and I-5 (Project), are precluded from participating in this solicitation. The selected consultant and subconsultants (at any tier) to provide construction management support services are precluded from participating in the construction contract for this Project. Conflicts of interest will be evaluated on a case by case basis.

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

Roadway Plans
Structure Plans
Transportation Management Plans
Draft Technical Specifications

The Authority has set a 18**%** Disadvantaged Business Enterprise (DBE) participation goal for this project.

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

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

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

Proposals must be received in the Authority's office at or before 2:00 p.m. on December 1, 2020.

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

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

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

Orange County Transportation Authority
Contracts Administration and Materials Management
P.O. Box 14184
Orange, California 92863-1584
Attention: Robert Webb, Principal Contract Administrator

Proposals and amendments to proposals received after the date and time specified above will be returned to the Offerors unopened.

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

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

To receive all further information regarding this RFP 0-2582, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Category:	Commodity:
Construction	Construction Management Services
	Inspection Services
Professional Consulting	Consultant Services - General
	Traffic Planning Consulting
Professional Services	Engineering - Civil
	Engineering - General
	Inspection - Testing & Analysis
	Land Surveying

A pre-proposal conference will be held via tele-conference on **November 3, 2020**, at **9:00 a.m.** Prospective Offerors may call-in using the following credentials:

- Call-in number: (714) 560-5666
- Conference ID: 139016

No on-site meeting will be held. A copy of the presentation slides and a pre-proposal registration sheet will be issued via addendum prior to the date of the pre-proposal conference. All prospective Offerors are encouraged to call-in to the pre-proposal conference.

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

The Authority has established **January 26, 2021**, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. Seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. Offerors must use the current wage schedules applicable at the time the work is in progress.

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

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

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

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SECTION I: INSTRUCTIONS TO OFFERORS

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A. PRE-PROPOSAL CONFERENCE

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B. EXAMINATION OF PROPOSAL DOCUMENTS

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

C. ADDENDA

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

D. AUTHORITY CONTACT

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

Robert Webb, Principal Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560. 5743, Fax: 714.560.5792
Email: rwebb@octa.net

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

E. CLARIFICATIONS

1. Examination of Documents

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

2. Submitting Requests

a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and must be received by the Authority no later than 5:00 p.m., on **November 12, 2020**.

b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.

c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:

(1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.

(2) Personal Delivery: Contracts Administration and Materials Management Department, 600 South Main Street, Lobby Receptionist, Orange, California 92868.

(3) Facsimile: (714) 560-5792.

(4) Email: rwebb@octa.net

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3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than **November 19, 2020**. Offerors may download responses from CAMM NET at *https://cammnet.octa.net*, or request responses be sent via U.S. Mail by emailing or faxing the request to Robert Webb, Principal Contract Administrator.

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

Category:	Commodity:
Construction	Construction Management Services
	Inspection Services
Professional Consulting	Consultant Services - General
	Traffic Planning Consulting
Professional Services	Engineering - Civil
	Engineering - General
	Inspection - Testing & Analysis
	Land Surveying

Inquiries received after 5:00 p.m. on November 12, 2020, will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be received in the Authority's office at or before 2:00 p.m. on **December 1, 2020**.

Proposals received after the above-specified date and time will be returned to Offerors unopened.

2. Address

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

Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
600 South Main Street, (Lobby Receptionist)
Orange, California 92868
Attention: Robert Webb, Principal Contract Administrator

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

Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
P.O. Box 14184
Orange, California 92863-1584
Attention: Robert Webb, Principal Contract Administrator

3. Identification of Proposals

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

4. Acceptance of Proposals

a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.

b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.

c. The Authority reserves the right to issue a new RFP for the project.

d. The Authority reserves the right to postpone proposal openings for its own convenience.

e. Each proposal will be received with the understanding that acceptance by the Authority of the proposal to provide the services described herein shall constitute a contract between the Offeror and Authority which shall bind the Offeror on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted proposal and specifications.

f. The Authority reserves the right to investigate the qualifications of any Offeror, and/or require additional evidence of qualifications to perform the work.

g. Submitted proposals are not to be copyrighted.

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G. PRE-CONTRACTUAL EXPENSES

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

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

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

H. JOINT OFFERS

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

I. TAXES

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

J. PROTEST PROCEDURES

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

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be with fully burdened labor rates and anticipated expenses for work specified in the scope of work, included in the RFP as Exhibit A.

L. CONFLICT OF INTEREST

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

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

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

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

M. PREVAILING WAGES

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

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

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

N. CODE OF CONDUCT

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

O. DISADVANTAGED BUSINESS ENTERPRISE

The Authority has established a 18 percent (**18%**) Disadvantaged Business Enterprise (DBE) participation goal for the services required in this solicitation.

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

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

P. PRIME AND LOWER TIER DEBARMENT

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

Q. CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM

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

R. PROHIBITION

The following prohibitions apply to this procurement:

The Offeror, including all subconsultants (at any tier) regardless of the level of service provided by said subconsultants, awarded this contract for construction management services is prohibited from submitting a bid for the construction of this Project.

The design Consultant, including all subconsultants (at any tier) regardless of the level of service provided by said subconsultants, awarded the contract to prepare the plans, specifications and estimates for the SR-55 Improvement Project Between I-405 and I-5 is prohibited from participating in this solicitation for construction management support services.

The Consultant, including all subconsultants (at any tier) awarded the Agreement for the Program Management Consultant Services for the Authority's Highway Programs are prohibited from participating in this solicitation for construction management support services.

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SECTION II: PROPOSAL CONTENT

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A. PROPOSAL FORMAT AND CONTENT

1. Format

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

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Robert Webb, Principal Contract Administrator and must, at a minimum, contain the following:

a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.

b. Identification of all proposed subcontractors including legal name of company, whether the firm is a Disadvantaged Business Enterprise (DBE), contact person's name and address, phone number and fax number, and email address; relationship between Offeror and subcontractors, if applicable.

c. Acknowledgement of receipt of all RFP addenda, if any.

d. A statement to the effect that the proposal shall remain valid for a period of not less than 180 days from the date of submittal.

e. Signature of a person authorized to bind Offeror to the terms of the proposal.

f. Signed statement attesting that all information submitted with the proposal is true and correct.

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3. Technical Proposal

a. Qualifications, Related Experience and References of Offeror

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

Offeror to:

(1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.

(2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.

(3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.

(4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.

(5) Identify all firms hired or retained to provide lobbying or advocating services on behalf of the Offeror by company name, address, contact person, telephone number and email address. This information is required to be provided by the Offeror immediately during the evaluation process, if a lobbyist or advocate is hired or retained.

(6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

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b. Proposed Staffing and Project Organization

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

Offeror to:

(1) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.

(2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.

(3) Indicate adequacy of labor resources utilizing a table projecting the resource-allocation to the project by individual task.

(4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.

(5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

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Offeror to:

(1) Describe the approach to completing the tasks specified in the Scope of Work, including oversight of utility agencies during the utility relocation work, control of the contractor's work within the temporary construction easement (TCE) limits, and anticipated elements in the Risk Register The approach to the work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.

(2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who would perform them.

(3) Furnish a project schedule for completing the tasks in terms of elapsed weeks.

(4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.

(5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.

(6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

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

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

e. Public Records Act Indemnification

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

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

Authority will review the request, determine if the disclosure of the records is required by law, and notify Proposer of such determination. If Authority determines that the disclosure of records is required by law, Authority will notify Proposer of such determination and provide Proposer the opportunity to seek a

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protective order or other appropriate legal relief to protect the records.

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

4. Cost and Price Proposal

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

5. Appendices

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

B. FORMS

1. Campaign Contribution Disclosure Form

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

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

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

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

2. Status of Past and Present Contracts Form

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

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

3. Certification of Restrictions on Lobbying

This form requires the Offeror to certify compliance with the lobbying requirements of 31 U.S.C. Section 1352 and the applicable regulations under 49 CFR part 19 and 20. (Required if the bid is equal or greater than $100,000). The offeror is required to submit the Certification of Restrictions on Lobbying Form" and "Disclosure of Lobbing Activities Form", in order for the offeror's proposal to be responsive and to be considered for evaluation.

4. Disclosure of Lobbying Activities

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

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5. Safety Specifications

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

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

Offerors must complete the following forms:

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

7. Certification of Contract Costs and Financial Management System "Exhibit 10-K"

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

8. Proposal Exceptions and/or Deviations Form

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

9. Public Records Act Indemnification Form

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

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SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

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

Technical experience in performing work of a closely similar nature; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.

2. Staffing and Project Organization **40%**

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

3. Work Plan **40%**

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

B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **January 26, 2021,** as the date to conduct interviews. All prospective Offerors are asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further discussion. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

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

C. AWARD

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

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

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

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

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D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

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EXHIBIT A: SCOPE OF WORK

CONSTRUCTION MANAGEMENT SUPPORT SERVICES

FOR THE

STATE ROUTE 55 (SR-55) IMPROVEMENT PROJECT

BETWEEN

Interstate 405 and Interstate 5

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SCOPE OF WORK

PROJECT DESCRIPTION

1.1 Introduction

The Orange County Transportation Authority (OCTA) and California Department of Transportation (Caltrans) require inspection and administrative support staff for construction of the State Route 55 (SR-55) between Interstate 405 (I-405) and Interstate 5 (I-5) (Project).

1.2 Statement of Intent

CONSULTANT shall provide qualified personnel to perform the function of construction inspection (including roadway and structures), CPM scheduler, claims support, Office Engineer, field materials testing, surveying, and electrical inspection. These services shall include inspection services, field/office contract administration, and other services as determined necessary by the OCTA Project Manager. Caltrans will lead the construction management and administration of the construction contract and will provide the Senior Resident Engineer (RE), Principal Assistant Resident Engineer, Structural Representative, additional inspection services as needed and other functional support services necessary to administer the construction contract. CONSULTANT inspection personnel shall be assigned full time or part time as needed and shall provide assistance to, and work under the direction of the Caltrans RE. CONSULTANT shall also provide a fully equipped field office for all staff assigned to the project including Caltrans, OCTA, and CONSULTANT'S own staff.

1.3 Project Description

1.3 -1 Background

Caltrans District 12, in cooperation with OCTA, proposes the construction of State Route 55 between Interstate 405 and Interstate 5. The proposed project is located in Orange County on SR-55 and traverses through the Cities of Irvine, Santa Ana and Tustin. The proposed project limits cover a distance of a 4.0 mile corridor. The Environmental Document, Project Report and Environmental Revalidation were approved on August 31, 2017, September 11, 2017, and April 8, 2020 respectively.

The final design phase for this project is scheduled to be complete in fall-2020 and contract documents will be developed for the construction-bidding phase in late-2020. OCTA is expecting funding for the project from federal funds and Measure M2 funds. As the implementing agency OCTA contracted with WKE, Inc. (WKE) to prepare the final design Plans, Specifications, and Estimates (PS&E) for this project. Caltrans provided oversight up to the completion of the PS&E phase. Caltrans will be the lead agency during the construction phase and will administer the contract for the construction phase.

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1.3 -2 Location and Limits

The Project is located in the cities of Irvine, Santa Ana and Tustin. The total length of this project is 4.0 miles.

1.3 -3 General Project Description

Project will add general purpose and high-occupancy vehicle lanes in each direction between I-405 and I-5 and will also add auxiliary lanes between interchanges. The project construction will be in accordance with the Caltrans approved PS&E documents for project EA# 12-0J3404.

1.4 Project Delivery

The design consultant, who prepared the PS&E, WKE will provide construction support services during construction.

Caltrans will advertise, award, and administer the construction contract. Caltrans will provide the Resident Engineer, Principal Assistant RE, Structures Representative and other support as outlined in Section 1.2 “Statement of Intent” above. CONSULTANT shall be responsible for coordinating with Caltrans, design team and other stakeholders as necessary.

OCTA is the lead agency for the right-of-way certification and utility relocation on the project. All utility and right of way issues during construction will be the responsibility of OCTA as defined in the cooperative agreement between Caltrans and OCTA.

1.5 Project Schedule and Cost

Shown below are the Project Ready-To-List (RTL), construction start, and construction completion dates, and estimated cost for construction:

Ready-To-List	May 2021
Construction Start	January 2022
Construction Completion	June 2025
Construction Cost:	$210,000,000

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GENERAL CONDITIONS AND REQUIREMENTS

2.1 Project General Conditions and Requirements

2.1-1 The number of project personnel and duration of the assignments will vary depending on the needs of the project. The final number of personnel and exact duration of assignment will be determined by OCTA and Caltrans. CONSULTANT personnel shall be available within two (2) weeks from written notification by OCTA and up to a maximum of 6 months after Caltrans acceptance of the construction project.

2.1-2 CONSULTANT shall assist in verifying compliance with the labor standards provisions of the project and the related wage determination decisions of the Secretary of Labor.

2.1-3 CONSULTANT shall assist Caltrans in verifying compliance with the safety and accident prevention provisions of the project. Caltrans shall retain jurisdictional control for traffic control but shall receive assistance from CONSULTANT forces in reviewing and monitoring.

2.1-4 CONSULTANT shall assist Caltrans in verifying compliance with the equal employment opportunity (EEOC) provisions of the project.

2.1-5 All services required hereunder shall be performed in accordance with latest Caltrans regulations, policies, procedures, manuals, and standards. Documents shall be made available upon request.

2.1-6 CONSULTANT shall furnish a Project Manager to coordinate the CONSULTANT's operations with Caltrans and OCTA. The Project Manager shall be responsible for all matters related to the CONSULTANT's personnel and operations.

2.1.7 CONSULTANT's Project Manager shall be accessible to Caltrans and OCTA at all times during Caltrans normal working hours.

2.1-8 CONSULTANT shall provide construction management support services to control quality and manage work. CONSULTANT shall perform the following administrative activities:

a. Prepare, circulate, and file correspondence and memos as appropriate.

b. At the end of each month, the CONSULTANT shall report the progress of the work. Progress shall be based on actual work accomplished such as estimated progress toward completion. The progress report shall include a staff labor report. Progress payments will be based upon actual time and expenses incurred.

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c. The CONSULTANT shall submit 1 copy of a monthly Progress Report to the OCTA and Caltrans Project Manager consisting of a written narrative and an updated progress and expenditure curve. This report shall be received no later than the last day of the month. The narrative portion of the monthly Progress Report shall describe overall progress of the work, discuss significant problems and present proposed corrective action and show the status of major changes.

2.1-9 To ensure an understanding of contract objectives, meetings between Caltrans, OCTA, and the CONSULTANT will be held as often as deemed necessary. All work objectives, the work schedules, the terms of the contract, and any other related issues will be discussed and any problems will be resolved.

2.1-10 OCTA will designate a Project Manager to administer the CONSULTANT Agreement and provide general direction to the CONSULTANT.

2.1-11 Resumes of personnel must be submitted to OCTA for review and approval prior to assignment to a project. Caltrans, OCTA and CONSULTANT will have the responsibility of determining the quality and quantity of work performed by the CONSULTANT's personnel. If, at any time, the level of performance is below expectations, OCTA shall have the right to request removal of any project personnel. OCTA may request another person to be assigned as needed.

2.1-12 If a CONSULTANT's employee is on a leave of absence, the Project Manager shall provide an equally qualified replacement employee until the assigned employee returns to work. The replacement employee shall meet all the requirements of a permanently assigned employee.

2.1-13 The typical workday includes all hours worked by the Caltrans' construction contractor, normally 40 hours per week. If ordered by the RE, overtime for the CONSULTANT's employees may be required. The construction contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for CONSULTANT's personnel. On days when the construction contractor, such as rainy or unsuitable weather days, does not perform work CONSULTANT services shall not be provided unless authorized by the RE. The RE will provide 8 hours advance notice if CONSULTANT services are not required.

2.1-14 All personnel shall be knowledgeable of, and comply with, all applicable local, Caltrans, and federal regulations; cooperate and consult with Caltrans and OCTA officials during the course of the contract; and perform other duties as may be required to assure that the construction is being performed in accordance with the project plans and specifications.

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2.1-15 CONSULTANT shall keep detailed records and document the work as directed by the Caltrans RE.

2.1-16 Caltrans will furnish a representative to perform the usual functions of a RE. Caltrans Department of Structures will provide the Structure Representative.

2.1-17 Caltrans or OCTA will provide CONSULTANT with the following:

a. Caltrans construction forms and other policies and procedures to be followed by CONSULTANT's personnel in the performance of the work.

b. A set of approved project plans for the project.

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STATEMENT OF SERVICES

3.0 Construction Inspection Services

3.1 General

CONSULTANT will be required to provide:

a. Inspection and administration personnel
b. A fully equipped field office
c. Miscellaneous equipment, vehicles, and tools.
d. Materials testing lab facility

The number of CONSULTANT personnel shall be dependent upon the actual work scope. The anticipated category and approximate annual quantity of personnel required is (based on a construction duration of 840 working days and 1,758 hours/year):

	Personnel	Total Hours
Project Manager	0.2	1,167
Senior Inspector (Roadway)	1.0	5,837
Inspector (Roadway)	3.0	17,511
Inspector (Structural)	2.5	14,592
Inspector (Electrical)	2.0	11,674
Office Engineer	1.0	5,837
CPM Scheduler	0.4	2,335
Claims Support	0.25	1,459
Field Materials Testing	1.6	9,339
Surveying	1.75	10,214
Total	13.70	79,965

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3.2 Construction Inspection and Administrative Support Services Requirements

Inspection work shall not be performed when conditions (such as weather, traffic, and other factors) prevent a safe, efficient operation or as directed by Caltrans or AUTHORITY.

Assignments to be performed by CONSULTANT personnel may include, but are not limited to, the following:

3.2-1 Perform and assist in performing the duties of construction inspection and engineering including: paving and subgrade inspection, structures inspection, electrical inspection, drainage, signing and striping inspection, quantity calculations, checking grade and alignment, construction traffic control, and ensuring compliance with project plans and specifications.

3.2-2 Analyze the project plans and specifications for possible errors and deficiencies and report such findings to the RE. Identify actual and potential problems associated with the construction project and recommend sound engineering solutions to the RE. If the RE determines that changes are necessary, CONSULTANT's personnel shall assist in implementing and processing of "Change Orders" in accordance with Caltrans' Standard Specifications.

3.2-3 Adhere to all safety and health code and regulations and enforce applicable contract provisions for the protection of the public and project personnel. Prepare Assistant RE daily diaries in accordance with the Caltrans construction manual.

3.2-4 Prepare calculations, records, reports, and correspondence related to project activities.

3.2-5 Consultant to assist in the preparation of As-Built plans.

3.2-6 Assist in preparing claims reports and be available for any claims settlements meetings.

3.2-7 Perform and assist in review of contractor's Critical Path Method (CPM) schedule and construction staging plans.

3.2-8 Assist in performing Storm Water Pollution Prevention (SWPP) duties.

3.2-9 Assist in performing oversight of advance utility relocation prior to start of construction.

3.2-10 Assist in control of contractor's work within temporary construction easements.

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3.2-11 Develop and maintaining a risk register of critical work that may affect construction schedule and cost.

3.3 Inspection Standards

Construction inspection and contract administration shall be in accordance with:

3.3-1 The Manual of Traffic Controls for Construction and Maintenance Work Zones.

3.3-2 The Caltrans Standard Specifications and Standard Plans.

3.3-3 The project plans and special provisions.

3.3-4 The Caltrans Construction Manual and other applicable Caltrans manuals.

3.3-5 Caltrans and OCTA shall decide all questions which may arise as to the quality or acceptability of deliverables furnished and work performed for this contract.

3.4 Construction Surveying Services

Surveying work shall not be performed when conditions (such as weather, traffic, and other factors) prevent a safe, efficient operation or as directed by Caltrans or AUTHORITY.

Tasks and assignments to be performed by CONSULTANT personnel will generally include, but are not limited to, the following:

3.4-1 Construction Contract Documents. CONSULTANT shall perform all surveying that is required to be performed the AUTHORITY as described in the Construction Contract between the AUTHORITY and the Contractor. Other surveying and engineering calculations shall be performed as needed to administer and manage the PROJECT.

3.4-2 Survey Calculations and Adjustments. Survey calculations and adjustments shall be performed with established and computed coordinates based on the California Coordinate System. Cross Section Data Collection shall be performed by conventional and terrain line interpolation survey methods. Survey Data Formatting will include formatting topography, cross-section, and other survey data into computerized formats compatible with the Caltrans' computerized survey and design systems. Preparing and maintaining survey documents will include compiling and survey field notes, maps, drawing, and other survey documents. Monitoring for settlement shall be performed if required. GPS equipment shall be made available if required by AUTHORITY.

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3.4-3 Existing Right of Way and Easements. CONSULTANT shall establish existing right of way and easements from Caltrans and other AUTHORITY's record information and existing monumentation. Right of Way related monumentation shall be renewed and restored in accordance with Section 10.4 of the Surveys Manual, and the Land Surveyor's Act. Corner records and records of surveys shall be prepared and filed in accordance with Chapter 10 of the Caltrans Surveys Manual, and the Land Surveyors' Act. Perpetuating Existing Monumentation – Includes restoring, renewing, referencing, and resetting existing boundary-related monumentation, staking areas where construction disturbs the existing right of way and preparing and filing required maps and records.

3.4-4 New Right of Way and Easements. CONSULTANT shall establish new right of way and easements from plans, right of way maps, utility drawings, Caltrans and other AUTHORITY's record information and existing monumentation. Right of Way Surveys - Includes research, locating and monumenting right of way and easement lines, staking right of way and easement fences and preparing and filing required maps and records. Final Monumentation - Includes the setting of centerline points of control upon completion of construction. Special Design-Data Surveys - Including drainage, utility, and those required for special field studies.

3.4-5 Control Survey. Horizontal and vertical controls, including project control surveys and aerial mapping control surveys. Also includes the restoring, renewing, referencing, relocating, and resetting existing control monumentation.

3.4-6 Topographic Surveys. By ground survey methods only.

3.4-7 As-built Drawing Survey Support. Provide electronic record information to support the development of project as-built drawings.

3.4-8 Survey Monument Markings. Monuments established by the CONSULTANT shall be marked by CONSULTANT with furnished disks, plugs, or tags acceptable to AUTHORITY and the municipality having jurisdiction over the improvements. In addition, the CONSULTANT shall identify CONSULTANT-established monuments by tagging or stamping the monuments with the license or registration number of the CONSULTANT's surveyor who is in "reasonable charge" of the work.

3.4-9 All surveys shall be performed in accordance with the current Caltrans Survey Manual, its revisions and the District 12 Standard Staking Procedures Manual. Work not covered by the Manual shall be performed in accordance with the directions of the AUTHORITY and accepted professional surveying standards.

3.4-10 Surveys performed by CONSULTANT shall conform to the requirements of the Land Surveyors' Act. In accordance with the Act, "responsible charge" for the work shall reside with a Licensed Land Surveyor or a pre-January 1, 1982, Registered Civil Engineer, in the state of California.

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3.4-11 Unless otherwise specified in the survey request, control surveys shall conform to second-order (modified) accuracy standards as specified in the Caltrans Surveys Manual.

3.4-12 Additional standards for specific surveying work might be included in a special survey request by the AUTHORITY. Such standards supplement the standards specified herein. If such additional standards conflict with the standards specified herein, the survey request standard shall govern over the standards herein.

3.5 Construction Management, Inspection and Survey Deliverables

CONSULTANT shall create and maintain the following documentation and provide the following deliverables:

3.5-1 Daily reports and extra-work diaries.

3.5-2 Monthly progress reports prepared by the CONSULTANT's project manager.

3.5-3 Construction contract progress payment and quantity documents delivered to the RE the morning of the day specified in the contract payment schedule.

3.5-4 Final payment quantity documents delivered to the RE by no later than 5 working days after acceptance by Caltrans of the completed construction project.

3.5-5 Field measurements, field, and laboratory test data and other documents as required by Caltrans procedures.

3.5-6 All reports, calculations, and other applicable documents prepared for the project.

3.5-7 Survey points, lines, and monuments shall be established, marked identified and referenced, as required by the survey request and the requirements herein.

3.5-8 Survey notes, drawings, calculations and other survey documents and information shall be completed as required herein.

3.5-9 All original survey documents resulting from this contract (including original field notes, adjustment calculations, final results, and appropriate intermediate documents) shall be delivered to AUTHORITY and shall become the property of AUTHORITY. A copy of all survey documents furnished to AUTHORITY shall be retained by CONSULTANT for future reference.

3.5-10 When a survey is performed with a total station survey system, the original field notes shall be a hard copy listing, in a readable format, of the data (observations) as originally collected and submitted by the survey party. The party chief shall sign the listing or if the chief is not licensed, the person in "responsible charge" of the survey shall sign.

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3.5-11 Survey deliverables to AUTHORITY shall follow the format specified below:

a) Horizontal Control - Alpha/numeric hard copy point listing with adjusted California Coordinate System northing and eastings and appropriate description.

b) Vertical Control - Alpha/numeric hard copy benchmark listing with adjusted elevations compatible with the design datum.

c) Topography - Alpha/numeric hard copy listing, hard copy drawing, and CADD digital drawing. The CADD drawing shall be provided on current media that will be compatible with Caltrans' computer systems. See Attachment A. Topographic symbology shall conform to the current Caltrans Drafting and Plan Manual.

d) Cross-Section Data - The data collection method used to collect cross-section data and the coding (feature description) of terrain data for cross-sections shall conform to the survey request requirements. Deliverables shall depend on the data collection method as follows:

e) Conventional Cross-Sections - For each cross-section: and alpha/numeric listing, a hard copy drawing, and a computerized formatted file, which is compatible with Caltrans' computer systems. Computerized formatted cross-sections shall be provided on magnetic tapes or disks compatible with Caltrans' computer systems.

f) Terrain Line Interpolation Cross-Section Data for each Terrain Line Interpolation survey: an alpha/numeric listing, a hard copy plan view drawing of the terrain lines, and a computerized input file. The computerized input file shall be provided on magnetic tape or disks compatible with Caltrans' computer systems and shall be in a format compatible with the Caltrans Terrain Line Interpolation computer program.

g) Data Collector Data - If specified in the Survey Request, the raw data from the data collector shall be provided in a format conforming to the Survey Request requirements.

3.5-12 All correspondence, records, and other PROJECT documents.

3.5-13 Field notes and redline as-builts related to advance utility relocations.

3.5-14 Risk register of critical work that may affect construction schedule and cost.

3.6 Field Office Requirements

CONSULTANT shall provide a fully equipped and operational field office. It is not anticipated right-of-way will be provided to provide temporary trailers as the field office.

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3.6-1 The field office shall house all construction personnel assigned to the project. The construction staff includes: Caltrans personnel, CONSULTANT inspection personnel, and one office for the construction survey crew.

3.6-2 The field office shall have one desk and chair for every person assigned to the project, a desktop computer for CONSULTANT personnel only, internet access (T1 line), phones, fax machine, copy machine, full sized plotter, and conference table and chairs, and other normal office furniture, equipment, and utilities. CONSULTANT shall dispose of office furniture and equipment at project completion.

3.6-3 The field office shall also provide a common area (kitchen), bathrooms, field laboratory storage area, miscellaneous equipment storage area, and a large conference area for project meetings.

3.7 Miscellaneous Equipment, Inspection Vehicles, and Tools

CONSULTANT shall provide all necessary instruments, tools, and safety equipment required for their personnel to perform their work accurately, efficiently, and safely.

3.7-1 CONSULTANT shall provide one inspection vehicle (truck) for each inspector. Vehicles without side windows shall not be used. Caltrans-furnished magnetic logos shall be affixed to each side of the vehicle at all times it is used for the work under this contract.

3.7-2 CONSULTANT shall provide other field materials such as testing equipment and safety equipment, as needed, for use by their staff on the project.

3.7-3 CONSULTANT shall provide each inspector with a cellular phone.

3.8 Survey Services Equipment and Supplies

3.8-1 Office Equipment and Supplies- CONSULTANT shall have adequate office equipment and supplies to complete the required surveying work. Such equipment and supplies shall include, but not be limited to:

1) Drafting equipment.

2) Computers and calculators.

3) Data processing systems, including software, for:

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• Reducing survey data collected with conventional and total station survey systems.

• Performing network adjustments for vertical and horizontal control surveys.

• Formatting survey data to be compatible with the Caltrans' computerized survey and data system.

3.8-2 Field Equipment and Supplies- CONSULTANT shall have adequate field equipment and supplies to complete the required surveying work. The equipment and supplies for each survey party shall include, but not be limited to, the following:

• Survey vehicles suitable for the work to be performed and terrain conditions of the project site. Vehicles shall be fully equipped with all necessary tools, instruments, and supplies required for the efficient operation of a survey party. Vehicles shall have an overhead flashing yellow light.

• Electronic calculator.

• Hand tools and supplies as appropriate for the requested survey work.

• Sufficient number of traffic cones 28 inches, minimum, in height.

• Traffic control devices (including signs, sign bases, flags, and hand held signs) as required to perform the requested survey work.

• Leveling instruments and equipment, including 1) self-leveling level; precision: standard deviation in one mile of double-run leveling 0.005 feet or less, and 2) suitable leveling rods for the work to be performed.

• Distance measuring instruments and equipment, including 1) electronic distance measurer; precision: standard deviation 3 millimeters plus 3 ppm, or less; range: at least one mile under average atmospheric conditions, 2) prisms, sufficient to perform the required work, 3) tapes; steel, cloth, 4) angle measuring instruments and equipment: Theodolite for non-control surveys; precision: direct circle reading to three seconds, or equivalent, horizontal and vertical, and 5) targets as required to perform the required work.

• When required for efficient survey operations, total station survey systems measurer, and electronic data collector shall be provided. The angle measuring instruments and distance measurer shall conform to requirements above.

• Radio communication shall be required if requested by AUTHORITY.

3.8-3 Survey Personnel Safety. In addition to the requirements specified elsewhere in this contract, the following also shall apply. CONSULTANT shall conform to the safety provisions of the Caltrans Construction and Survey Manuals. CONSULTANT's personnel shall wear white hard hats, orange vests and rubber soled shoes at all times while working in the field. CONSULTANT shall

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provide appropriate safety training for all CONSULTANT's personnel required to work on and near the PROJECT site. All safety equipment and personnel protective devices and gear shall be provided by the CONSULTANT.

3.9 Personnel Qualifications and Responsibilities

The preferred minimum qualifications for CONSULTANT personnel assigned to this project are as follows:

3.9-1 Project Manager

The preferred minimum qualifications for the position of Project Manager are:

a) Minimum of 10 years project management experience on similar highway construction/bridge construction projects, or other relative equivalent experience as determined by OCTA.
b) Thorough knowledge of Caltrans construction practices, and the ability to read and interpret plans and specifications.
c) Ability to make effective decisions concerning field problems and work in progress.
d) Licensed Civil Engineer in the State of California.
e) Ability to use typical computer programs such as Microsoft Word, Outlook, and Excel.

Under the direction of OCTA and Caltrans, the Project Manager will assume the following functional responsibilities:

a) Review, monitor, train, and provide general direction for CONSULTANT's personnel.
b) Assign personnel to projects on an as-needed basis.
c) Administer personnel leave subject to approval of the Caltrans' RE.
d) Prepare monthly reports for delivery to the OCTA Project Manager.
e) Maintain continuous communication with the Caltrans' Resident Engineer, OCTA Project Manager, CONSULTANT field personnel, and with public outreach personnel.
f) Coordinate/communicate with the OCTA Project manager, staffing needs, and ensure project support costs are within budget.
g) Advise the OCTA Project Manager of major project issues and contract status.
h) Provide expert advice when called upon.

3.9-2 Senior Roadway Inspector

Minimum qualification is at least 5 years working as a Resident Engineer on Caltrans Highway improvement projects of similar size and complexity.

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a) Act as the lead inspector and provide guidance to other CONSULTANT inspectors and staff in carrying out their day to day duties.
b) Provide consultation on complex contract interpretation issues as called upon by the RE. Act as an advisor to the RE.
c) Thorough knowledge of Caltrans construction practices.
d) Ability to make effective decisions concerning field problems and work in progress.
e) Licensed Civil Engineer in the State of California.
f) Maintain continuous communication with the Caltrans RE, lead staff, OCTA Project Manager, field staff, public outreach personnel, and with construction administration staff.
g) Provide expert advice when called upon.

3.9-3 Roadway Inspectors

Preferred minimum qualification for the position of roadway inspectors will be as follows:

a) Minimum of 3 years of relevant construction inspection and management experience on similar highway construction projects.
b) Knowledge of construction practices, physical characteristics and properties of highway construction inspection, and the approved methods and equipment used in performing physical inspections.
c) Ability to work independently and perform inspection duties in the construction field office.
d) Ability to effectively make minor decision concerning work in progress and solving field and office problems.
e) Ability to use typical computer programs such as Microsoft Word, Outlook, and Excel.
f) Ability and experience with review of Critical Path Method (CPM) baseline schedule including updates and revisions. Ability to run Claim Digger or other available software to detect changes to the CPM schedule for Claims analysis purposes.
g) Assist in the response to potential claims filed by the contractor and preparation of documentation for contract claims and claim reports.

Under the direction of the Caltrans RE the Roadway Inspector(s) will assume the following functional responsibilities:

a) Perform inspections to achieve compliance with contract plans and specifications on all phases of Highway construction, such as paving, structures, grading, drainage, utility relocation, electrical installation, sign installation, and landscaping items.
b) Perform quantity calculations for progress pay estimates and keep project records.

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c) Perform design for minor changes and make design estimates for contract change orders.
d) Perform analytical calculations for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions.
e) Perform analytical calculation for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions.
f) Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant (Resident) Engineer, field personnel, public outreach personnel, and with construction administration staff.

3.9-4 Structures Inspectors

Preferred minimum qualifications for the position of structures inspectors will be as follows:

a) Minimum of 3 years of relevant construction inspection and management experience on similar construction projects involving bridges, retaining walls, sound walls, barriers, drainage structures, sign structures, and other structures.
b) Knowledge of construction practices, physical characteristics and properties of structures construction inspection, and the approved methods and equipment used in performing physical inspection.
c) Ability to perform calculations such as grade, deflection, stress, alignment. Ability to perform calculations to check the various elements of structures (i.e. beams, columns, etc.) as used in contractor's temporary works.
d) Assist in reviewing false work plans, shoring plans, demolition plans, concrete mix designs and other submittals provided by the contractors as required by the contract documents.
e) Ability to work independently and perform inspection duties in the construction field office.
f) Ability to effectively make minor decisions concerning work in progress and solving field and office problems.
g) Ability to use typical computer programs such as Microsoft Word, Outlook, Access, and Excel.

Under the direction of the Caltrans Structures Representative, the Structures Inspectors will assume the following functional responsibilities:

a) In a field setting perform soil calculations, establish surveying control line and grade as required by established Office of Structures Construction (OSC) Practices & Procedures, ensure that the contractors materials are in compliance and as required by the contract documents, verify field dimensions. Must be present for concrete pours and assure that the concrete is cured properly. Oversee removal and placement of

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existing materials. Confer with contractors regarding compliance with plans, specifications, quality of work, construction activity, and CAL-OSHA regulations.

b) Assist in identifying the need for Contract Change Orders (CCOs), preparation of CCOs, contract estimates and other documents, such as responses to contractor's claims, and reports and letters involved in the construction of engineering projects.
c) Perform quantity calculations for progress pay estimates and keep project records.
d) Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant (Resident) Engineer, field personnel, public outreach personnel, and with construction administration staff.

3.9-5 Electrical Inspector

The preferred minimum qualifications for the position of Electrical Inspector(s) are as follows:

a) Minimum of 3 years of relevant electrical inspection and management experience on a similar highway construction project is required.
b) Knowledge of intelligent transportation system (ITS) elements such as ramp metering systems, CCTV systems, electrical systems, highway advisory radio (HAR) systems, communication Systems (wireless, hardwire & fiber-optics), changeable message signs, vehicle detection systems, traffic signal systems, transit signal priority, emergency vehicle priority, etc.
c) Knowledge of construction practices, physical characteristics and properties of roadway, structures, drainage and utility systems construction materials, and the approved methods and equipment used in making physical tests of construction materials.
d) Ability to work independently and perform duties in the construction field office.
e) Ability to effectively make minor decisions concerning work in progress and solving field and office problems.
f) Proficient in the use of computer application programs Word and Excel.

Under the direction of the Caltrans RE, the Electrical Inspector will assume the following functional responsibilities:

g) Perform quality assurance inspections to achieve compliance with contract plans and specifications on all electrical installation.
h) Perform quantity calculations and measurement for progress pay estimates and keep daily project records.
i) Perform calculations and measurement of electrical components.

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j) Perform design for minor changes and make design estimates for contract change orders.
k) Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant Resident Engineer, field personnel, public outreach personnel, and with construction administration staff.

3.9-6 Office Engineer

a. Minimum of 3 years of relevant construction inspection and/or office engineering experience.
b. Ability to work independently and perform typical construction field office duties.
c. Thorough knowledge of Caltrans construction practices, and the ability to read and interpret plans and specifications.
d. Thorough knowledge of the construction manual regarding estimates, extra work bidding, change orders, and other administrative duties.
e. Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, and Caltrans District Construction Administration.
f. Ability to use typical computer programs such as Microsoft Word, Excel, Outlook, Scheduling software, and Expedition or equivalent.

Under direction of the Caltrans RE, the office engineer will assume the following functional responsibilities:

a. Perform quality calculations for progress pay estimates and keep for project records.
b. Draft Change Orders and process for approval.
c. Maintain continuous communications with the Caltrans' RE, OCTA Project Manager, construction administration staff, and the District Construction office.

3.9-6 Scheduling Support Specialist

Construction scheduling support CONSULTANT shall be knowledgeable and experienced in the following:

a) Using Primavera Project Management Software (P6/P7), Primavera Project Planner (P3), SureTrack, Microsoft Project and Microsoft Office (Word, Excel, Powerpoint etc.) software.
b) Generating, reviewing, and analyzing Critical Path Method (CPM) schedules with respect to time, resource, and cost. The CONSULTANT shall possess the experience and skills to track Contractor's submittals and CALTRANS submittals reviews, and in conjunction with schedule analysis, determine credits to State-owned Float activity for time saved on the critical path for early review of submittals. The CONSULTANT

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shall also possess the experience and skills to determine other savings to the critical path due to actions by CALTRANS.

c) Monitoring and analyzing Contractor's performance of the work with respect to time, resource, and cost. Generating project correspondence, daily diaries, monthly contract item payments related to scheduling work, Weekly Statement of Working Days, reports, plots exhibits, other presentation materials and other items related to scheduling.
d) Generating, reviewing and analyzing reports with respect to time, resource and cost.
e) Generating, reviewing, and analyzing Time Impact Analyses.
f) Providing specialized expertise for the support of review and analysis of potential claims.
g) Negotiating issues related to construction scheduling.
h) Conducting constructability reviews.
i) Making presentations as needed. Providing training in areas related to scheduling.
j) General construction process and terminology.
k) Working knowledge of CALTRANS plans, specifications, and manuals (Standard Plans, Standard Specifications, Construction Manual etc.)
l) Construction scheduling support CONSULTANT shall possess excellent oral and written communications skills.
m) Minimum of 4 years' experience performing construction scheduling for highway, or major public works projects, performing related duties as described above.

3.9-7 Claims Support

The construction claims support CONSULTANT shall be knowledgeable and experienced in the following:

a) Using Primavera Project Management Software (P6/P7), Primavera Project Planner (P3), Suretrack, Microsoft Project, and Microsoft Office (Word, Excel, PowerPoint etc.) software.
b) Generating and analyzing Critical Path Method (CPM) schedules with respect to time, resource, and cost. The CONSULTANT shall possess the experience and skills to conduct detailed schedule analysis.
c) Have at least 5 years' experience with Claims analysis, responding to potential claims, preparing claims reports and presenting to the Dispute Review Boards or District Claims Board.
d) Analyzing Time Impact Analyses.

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3.9-8 Surveying

Survey Field/Office Party Chief

a. Minimum preferred qualifications for the position of Survey Field/Office Party Chief are as follows:

1) Party Chief shall fulfill at least one of the three following licensing requirements:

a. A licensed Land Surveyor in the State of California.
b. A pre-January 1, 1982, Registered Civil Engineer in the State of California
c. An experienced surveyor who serves as chief under the direction or supervision of a person who is a licensed Land Surveyor or pre-January 1, 1982 Registered Civil Engineer in the state of California. This direction or supervision shall be provided in a manner and with a span of control and immediacy that enables the supervisor to be in "responsible charge" of the work as defined in Chapter 15 of the Business and Professions Code (the Land Surveyors Act) and Title 16, Chapter 5, of the California Administrative Code (regulations adopted by the Board of Registration for Professional Engineers and Land Surveyors).

i. b) Five years survey experience on a similar construction projects, or other relevant experience.
ii. c) Thorough knowledge of construction survey practices and the ability to read and interpret plans and specifications.

b) Ability to make effective decisions concerning field problems and work in progress.
c) Familiarity with typical coordinate geometry computer programs.

d) Under the direction of the Caltrans RE, the Party Chief will assume the following functional responsibilities and shall possess experience in all of these areas:

1. Perform survey services for all stages of construction as described in the Survey Services sections above.
2. Administer day to day activities of the survey party.
3. Perform analytical survey calculations for items such as grading, horizontal and vertical control, right of way and minor in-field design.
4. Maintain continuous communication with the RE, field personnel and construction administration staff when on site.

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5. Shall be designated safety officer for the survey party field operations, and shall be trained in the principles of traffic control.

Survey Assistants

Preferred minimum qualifications for survey assistants are as follows:

a) One- year survey experience on a similar construction projects.
b) Fundamental knowledge of construction survey practices and the ability to read and interpret plans and specifications.
c) Ability to assist field and office party chiefs in all required surveying work.
d) One survey party member must have the ability to assume temporary leadership of the survey party in the absence of the party chief.
e) Trained in the appropriate safety areas for the job decisions each individual is required to make.
f) Under the direction of the Caltrans RE and the Party Chief, the survey assistants will assume the following responsibilities and shall possess experience in all of these areas:
    1. Assist field and office party chiefs in all required surveying work.
    2. Perform basic calculations to support surveying and staking work.
    3. Maintain continuous communication with the field or office party chief

3.10 Inspection and Safety

In addition to the requirements specified elsewhere in this contract, the following also shall apply.

3.10-1 CONSULTANT shall conform to the safety provisions of the Caltrans Construction and Survey Manuals.

3.10-2 CONSULTANT's personnel shall wear white hard hats, safety orange vests and rubber-soled shoes at all times while working in the field.

3.10-3 CONSULTANT shall provide appropriate safety training for all CONSULTANT's personnel required to work on and near highways.

3.10-4 All safety equipment shall be provided by the CONSULTANT.

3.11 Field Material Testing

SOILS AND MATERIALS TESTING SERVICES

3.11-1 Materials sampling and testing shall be in accordance with the Project plans, technical specifications, standard specifications, and other applicable standards and procedures.

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3.11-2 The contractor for the Project shall be responsible to provide Quality Assurance/Quality Control Soils and Materials Testing Services. CONSULTANT shall provide a certified laboratory to perform soils and materials testing services on an as needed basis in order to validate construction contractor test results.

3.11-3 The laboratory, whether temporary or permanent, is to be in the general vicinity of the project area and no more than 30 miles from the field office for the project.

3.11-4 Testing shall be performed in accordance with the California Test Methods and shall meet the latest requirement of ASTM.

3.11-5 Testing machines must be calibrated annually or more frequently by impartial means using devices of accuracy traceable to the National Bureau of Standards.

3.11-6 The laboratory shall participate in the AASHTO Materials Reference Laboratory (AMRL) or Cement or Concrete Reference Laboratory (CCRL) inspection programs as appropriate. Copies of applications, correspondence, reports, and corrective actions shall be provided to OCTA if requested.

3.11-7 The laboratory shall have a quality control plan and a quality assurance plan in effect during the entire time work is being performed under the contract. The plan shall include quality control, quality assurance, and equipment calibration programs for the laboratory.

3.11-8 The laboratory shall maintain an inventory of the testing equipment (listing the manufacturer, model serial number, calibration, and tolerances).

3.11-9 The laboratory shall maintain a laboratory procedure manual describing the methods used for recording, processing, and reporting data, the sources of references material, standards, and test methods.

3.11-10 CONSULTANT and the laboratory shall be responsible for all soils and materials testing performed for the project include source testing if required.

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EXHIBIT B: PROPOSED AGREEMENT

PROPOSED AGREEMENT NO. C-0-2582

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

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

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONSULTANT for construction management support services for the State Route 55 improvement project between Interstate 405 and Interstate 5; and

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

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

WHEREAS, CONSULTANT wishes to perform these services; and

WHEREAS, the AUTHORITY's Board of Directors authorized this Agreement on _____;

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

ARTICLE 1. COMPLETE AGREEMENT

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

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

ARTICLE 2. AUTHORITY DESIGNEE

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

ARTICLE 3. SCOPE OF WORK

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

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

Names	Functions

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

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

ARTICLE 4. TERM OF AGREEMENT

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

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

ARTICLE 5. ALLOWABLE COSTS AND PAYMENT

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

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

C. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to the CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.

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D. The specified rate to be paid for field vehicle expense for CONSULTANT's field personnel shall be $1,100/month/vehicle, and shall include all vehicle expenses such as fuel, insurance, operation and maintenance, and safety equipment. This rate shall be for a fully equipped vehicle, with radio and flashing yellow light (if needed), as specified in Exhibit B of this Agreement. The specified rates to be paid for other field equipment, if needed, shall be paid at cost, as listed in Exhibit B of this Agreement.

E. The method of payment for this Agreement will be on a specified rates basis which includes, in addition to equipment rental costs (not including vehicles as provided above), labor costs, employee benefits, prevailing wages, equipment-rental costs, travel, overhead and other direct costs incurred by the CONSULTANT in performance of the work. These rates are not adjustable for the performance period set forth in this Agreement. The overhead rate established for this Agreement is extended through the term of this specific Agreement. The CONSULTANT will not be reimbursed for actual costs that exceed the contract's maximum obligation which includes estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in Exhibit B, unless additional reimbursement is provided for, by contract amendment. In no event, will the CONSULTANT be reimbursed for overhead costs that exceed AUTHORITY approved overhead rate set forth in Exhibit B. In the event the AUTHORITY determines that changed work from that specified in Exhibit A, Scope of Work, is required; the actual costs reimbursed by AUTHORITY may be adjusted by Agreement amendment to accommodate the changed work. The maximum total cost of this Agreement shall not be exceeded unless authorized by Agreement amendment.

F. For each full hour of labor satisfactorily performed by CONSULTANT's personnel under this Agreement, AUTHORITY shall pay CONSULTANT at the hourly labor rates specified in Exhibit B, entitled "Schedule of Fees," which is attached to and by this reference, incorporated in and made a part of this Agreement. These rates shall remain fixed for the term of this Agreement. Furthermore, AUTHORITY shall reimburse CONSULTANT, at cost with supporting documentation provided, for the actual costs of the estimated expenses shown in Exhibit B, which are directly incurred by its personnel in

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the performance of work under this Agreement. The AUTHORITY will not reimburse CONSULTANT for local meals except for those authorized for traveling personnel in the attached Exhibit B.

G. For classifications added to the Exhibit B, “Classification Labor Rates” Schedule through Amendments, raw billing ranges must be based on current year's actual salaries, and the corresponding fully burdened ranges must be provided by CONSULTANT.

H. CONSULTANT agrees that billing for personnel under the Exhibit B, “Classification Labor Rates” Schedule is to be used on a temporary basis, limited to a maximum period of six (6) continuous months for each personnel working under the “Classification Labor Rates” Schedule. Personnel working or proposed to work on a continuous basis for a period of six (6) continuous months or more are not considered temporary and must be added as named personnel with a specific hourly billing rate as last billed under their classification.

I. CONSULTANT agrees that all personnel billing under the labor schedules in Exhibit B, are subject to the annual escalation rate allowable under this Agreement. This is the maximum escalation rate that AUTHORITY will reimburse CONSULTANT for named personnel and classifications.

J. CONSULTANT agrees that personnel proposed to work and bill under any of the labor schedules in Exhibit B must be approved in writing by the AUTHORITY Project Manager prior to start of work.

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

L. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in Exhibit B, without prior approval from AUTHORITY’s Program Manager.

M. As partial security against CONSULTANT’s failure to satisfactorily fulfill all its obligations under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice submitted for payment by CONSULTANT, and shall make prompt and regular incremental acceptances of portions/milestones, as determined by AUTHORITY, of the Agreement work, and pay retainage to CONSULTANT based on these acceptances. The CONSULTANT, or subconsultant, shall return all

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monies withheld in retention from a subconsultant within thirty (30) calendar days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions/milestones of the Agreement work by the AUTHORITY. CONSULTANT shall invoice AUTHORITY for the release of the retention in accordance with this Article.

N. Final acceptance shall occur only when AUTHORITY makes the final release of the retention described in Paragraph N.

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

P. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment for work satisfactorily completed and accepted. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section. Federal law, CFR Title 49, Part 26.29, requires that any delay or postponement of payment over thirty (30) days may take place only for good cause and with the AUTHORITY's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or

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noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT and subconsultants.

Q. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the specified labor rates and actual other direct costs expended by CONSULTANT. Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice submitted by CONSULTANT.

R. The CONSULTANT will be paid, less any retention amount withheld, as promptly as fiscal procedures will permit upon receipt by the AUTHORITY's Accounts Payable office of itemized invoices in duplicate. Invoices shall be submitted no later than 30 days after the performance of the work for which the CONSULTANT is billing. Invoices shall detail the work performed on each task as applicable. Invoices shall comply with the approved Price Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due the AUTHORITY including any equipment purchased under the provisions of Article 46 Consultant Purchased Equipment of this Agreement. The final invoice should be submitted to the AUTHORITY within 60-calendar days after completion of the CONSULTANT's work.

S. CONSULTANT shall also furnish such other information as may be requested by AUTHORITY to substantiate the validity of an invoice, including a current payroll register and/or an offer of employment for personnel performing work under the classifications which are subject to pay ranges listed in Exhibit B, "Classifications Labor Rates" Schedule, in order to receive reimbursement for hours worked. Reimbursement for labor hours incurred by personnel designated by a classification, shall be made after AUTHORITY's review of the actual personnel's pay register, and verification that the actual pay falls within the specified range for that classification. If an actual pay rate exceeds the maximum of the range, CONSULTANT will be reimbursed at the maximum of the range. At its sole discretion, AUTHORITY may decline to make full payment for any work until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required.

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AUTHORITY's payment in full for any work completed shall not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task.

T. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in duplicate to AUTHORITY's Accounts Payable office or may be emailed to VendorInvoices@octa.net. Each invoice shall be accompanied by the monthly progress report specified in paragraph N of this Article. Invoices shall be submitted no later than 30-calendar days after the performance of work for which CONSULTANT is billing. AUTHORITY shall remit payment, less retention amount, within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include the following information:

1. Agreement No. C-0-2582;
2. Specific work for which payment is being requested;
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, and pay registers for staff using classifications);
5. Itemized expenses including supporting documentation incurred during the billing period;
6. Total monthly invoice (including project to-date cumulative invoice amount); and retention amount withheld by AUTHORITY for the time period covered by the invoice;
7. Monthly Progress Report;
8. Weekly certified payroll for personnel subject to prevailing wage requirements;
9. 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.

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

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

ARTICLE 6. PROMPT PAYMENT CLAUSE

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

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

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

D. Failure to comply with this provision without prior approval from AUTHORITY will constitute noncompliance, which may result in the application of appropriate administrative sanctions,

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including, but not limited to, a penalty of two percent (2%) of the invoice amount due per month, for every month that full payment is not made.

ARTICLE 7. MAXIMUM OBLIGATION

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

ARTICLE 8. NOTICES

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

TO CONSULTANT:		TO AUTHORITY:	
		Orange County Transportation Authority	
		550 SOUTH MAIN STREET	
		P.O. BOX 14184	
,		ORANGE, CA 92863-1584	
ATTENTION:		ATTENTION:	Bob Webb
Title:		Title: Principal Contract Administrator	
Tel: E-Mail:		Tel: (714) 560 - 5743 E-Mail: rwebb@octa.net	
		ATTENTION: Ross Lew	
		Title: Program Manager	
		Tel: (714) 560 - 5775 E-Mail: rlew@octa.net	

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ARTICLE 9. INDEPENDENT CONTRACTOR

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

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

ARTICLE 10. INSURANCE

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

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

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

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

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

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

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

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

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

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

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

D. The Certificate of Insurance shall reference Agreement Number C-0-2582; and, the Contract Administrator's name: Bob Webb, Principal Contract Administrator.

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

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

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

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

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ARTICLE 11. ORDER OF PRECEDENCE

To the extent there are any conflicts or inconsistency arising between any provisions or documents incorporated in this Agreement, the order of precedence for conflict resolution in descending order shall be as follows: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 0-2582; (3) CONSULTANT's technical proposal dated _____, CONSULTANT's cost proposal dated _____ and final cost proposal dated _____, and (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 12. CHANGES

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

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

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

ARTICLE 13. DISPUTES

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

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otherwise furnish a copy thereof to CONSULTANT. The decision of the Director, CAMM, shall be the final and conclusive administrative decision.

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

ARTICLE 14. TERMINATION

C. AUTHORITY reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to CONSULTANT of intent to terminate, with effective date of termination and the reasons for termination stated in the notice, in accordance with the provisions of the FAR referenced above and Article 8 “Notices”, herein. Upon receipt of said notification, CONSULTANT agrees to comply with all applicable provisions of the FAR pertaining to termination for convenience.

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

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

D. AUTHORITY may terminate this Agreement with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, AUTHORITY may proceed with the work in any manner deemed proper by AUTHORITY. If AUTHORITY terminates this Agreement with CONSULTANT, AUTHORITY shall pay CONSULTANT the sum due to CONSULTANT under this Agreement prior to termination, unless the cost

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of completion to AUTHORITY exceeds the funds remaining in the Agreement, in which case the overage shall be deducted from any sum due CONSULTANT under this Agreement and the balance, if any, shall be paid to CONSULTANT upon demand. Said termination shall be construed in accordance with the provisions of the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 49, of the Federal Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination for convenience.

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

ARTICLE 15. INDEMNIFICATION

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

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ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS

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

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

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

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

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

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

G. AUTHORITY hereby consents to CONSULTANT's subcontracting of portions of the Scope of Work to the parties identified below for the functions described below. CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not AUTHORITY, is solely

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responsible for payment to the subcontractor for the amounts owing and that the subcontractor shall have no claim, and shall take no action, against AUTHORITY, its officers, directors, employees or sureties for nonpayment by CONSULTANT.

Subcontractor Name/Address	Subcontractor Amounts

ARTICLE 17. AUDIT AND INSPECTION OF RECORDS

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

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

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

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

ARTICLE 18. AUDIT REVIEW PROCEDURES

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 19. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

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

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

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

ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS

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

ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY

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

ARTICLE 22. PROHIBITED INTERESTS

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

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

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ARTICLE 23. OWNERSHIP OF REPORTS AND DOCUMENTS

A. The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of AUTHORITY, and CONSULTANT shall have no property right therein whatsoever. Copies may be made for CONSULTANT's records but shall not be furnished to others without written authorization from AUTHORITY. Immediately upon termination, AUTHORITY shall be entitled to, and CONSULTANT shall deliver to AUTHORITY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this Agreement which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this Agreement must be approved in writing by AUTHORITY.

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

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

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professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of AUTHORITY.

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

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

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

ARTICLE 24. PATENT AND COPYRIGHT INFRINGEMENT

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

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material not provided by CONSULTANT when such use in combination infringes upon an existing U.S. letters patent or copyright.

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

ARTICLE 25. DESIGN WITHIN FUNDING LIMITATIONS

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

B. CONSULTANT will promptly advise AUTHORITY if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, AUTHORITY will review CONSULTANT's revised estimate of construction cost. AUTHORITY may, if it determines that the estimated construction contract price is so low that award of a construction contract not in excess of such estimate is improbable,

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authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth by AUTHORITY, or AUTHORITY may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, AUTHORITY shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance within the funding limitation.

ARTICLE 26. REQUIREMENTS FOR REGISTRATION OF DESIGNERS

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

ARTICLE 27. FINISHED AND PRELIMINARY DATA

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

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

C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by AUTHORITY of the machine-readable information and data provided by CONSULTANT under this Agreement. Further, CONSULTANT is not liable for claims, liabilities, or losses

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arising out of, or connected with any use by AUTHORITY of the project documentation on other projects, or for the completion of this project by others, except only as such use as may be authorized in writing by CONSULTANT.

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

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

ARTICLE 28. STATE PREVAILING WAGE RATES

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

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

C. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices employed by CONSULTANT or subconsultant at any tier for any work hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent deduction or rebate on any account (except such payroll deductions as are permitted or required by federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates

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and rates of payments, contributions or costs for any fringe benefits contained in the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial Relations of the State of California, (as set forth in the Labor Code, commencing at Section 1770 et. seq.), or as established by the Secretary of Labor (as set forth in the Davis-Bacon Act, 40 U.S.C. 267a, et. seq.), regardless of any contractual relationship which may be alleged to exist between CONSULTANT or subconsultant and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on file at AUTHORITY's offices and will be made available to CONSULTANT upon request. CONSULTANT shall post a copy thereof at each job site at which work hereunder is performed.

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

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

ARTICLE 29. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

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

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

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B. Nondiscrimination: During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 8100-8504 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

D. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the

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discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

E. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AUTHORITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to AUTHORITY as appropriate, and shall set forth what efforts it has made to obtain the information.

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

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

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

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

H. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (A) through (G) in every lower-tier subcontract, which exceeds $100,000, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto, and that all such sub recipients shall certify and disclose accordingly. CONSULTANT shall take such action with respect to any subcontract or procurement as AUTHORITY may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as

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a result of such direction, the CONSULTANT may request AUTHORITY to enter into such litigation to protect the interests of AUTHORITY, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

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

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

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the CONSULTANT from future proposing as non-responsible.

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

B. In conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," AUTHORITY has established a fourteen (14%) percent Disadvantaged Business Enterprise (DBE) participation goal for the services required in this Agreement.

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

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

E. If there is a DBE goal and/or DBE commitment on the Agreement, CONSULTANT must complete and submit within the specified timelines, DBE documentation electronically through an AUTHORITY-approved electronic reporting system.

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

ARTICLE 31. PRIVACY ACT

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

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

ARTICLE 32. CONFLICT OF INTEREST

CONTRACTOR agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONSULTANT is unable, or potentially unable to render impartial assistance or advice to AUTHORITY; CONSULTANT's objectivity

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

ARTICLE 33. CODE OF CONDUCT

A. CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to Third-Party contracts which is hereby referenced and by this reference is incorporated herein.

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

ARTICLE 34. PROHIBITION ON PROVIDING ADVOCACY SERVICES

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

ARTICLE 35. INCORPORATION OF FEDERAL TERMS

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

ARTICLE 36. FEDERAL CHANGES

CONSULTANT shall at all times comply with all applicable USDOT regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between the AUTHORITY and USDOT, as they may be amended or promulgated from time

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to time during this Agreement. CONSULTANT's failure to comply shall constitute a material breach of Agreement.

ARTICLE 37. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

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

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

B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA, under the authority of 49 U.S.C. §5307 et seq., the Government reserves the right to impose the

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penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. against the CONSULTANT, to the extent the Federal Government deems appropriate.

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

ARTICLE 39. RECYCLED PRODUCTS

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

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

ARTICLE 40. ENERGY CONSERVATION REQUIREMENTS

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

ARTICLE 41. CLEAN AIR

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

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

ARTICLE 42. CLEAN WATER REQUIREMENTS

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

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

ARTICLE 43. CONTINGENT FEE

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

ARTICLE 44. DEBARMENT AND SUSPENSION CERTIFICATION

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

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

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

3. Does not have a proposed debarment pending; and

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

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

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

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

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

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

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

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

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

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ARTICLE 46. FUNDING REQUIREMENTS

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

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

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

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

ARTICLE 47. EQUIPMENT PURCHASE

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

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

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

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

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

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

ARTICLE 48. HEALTH AND SAFETY REQUIREMENTS

A. CONSULTANT shall comply with all the requirements set forth in Exhibit G, Level 1 Safety Specifications. As used therein, “Contractor” shall mean “Consultant” and Subcontractor” shall mean “Sub-consultant.”

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

ARTICLE 49. CONFIDENTIALITY OF DATA

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

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

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

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

ARTICLE 50. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

ARTICLE 51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE 52. EVALUATION OF CONSULTANT

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

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ARTICLE 53. PROHIBITION

CONSULTANTS, including all subconsultants (at any tier), regardless of the level of service provided by said subconsultants, that is awarded this contract for Construction Management Services is prohibited from participating in the construction contract.

ARTICLE 54. FORCE MAJEURE

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

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-0-2582 to be executed as of the date of the last signature below.

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____

Date: _____

By: _____
Darrell E. Johnson
Chief Executive Officer

Date: _____

APPROVED AS TO FORM:

By: _____
James M. Donich
General Counsel

Date: _____

APPROVED:

By: _____
James G. Beil, P.E.
Executive Director, Capital Programs

Date: _____

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

I. DBE Participation

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

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

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

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

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

II. DBE Policy and Applicability

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

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

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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 AUTHORIT's U.S. DOT-assisted contracts and subcontracts. AUTHORITY is firmly committed to the DBE Program objectives, which are designed to:

A. Ensure non-discrimination in the award and administration of AUTHORITY's U.S. DOT-assisted contracts;

B. Create a level playing field by which DBE's can fairly compete for AUTHORITY's U.S. DOT-assisted contracts;

C. Ensure that AUTHORITY's DBE Program and Overall Goals are narrowly tailored in accordance with applicable law;

D. Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBE's in the AUTHORITY's DBE Program;

E. Help remove barriers which impede the participation of DBE's in AUTHORITY's U.S. DOT-assisted contracts;

F. Promote the use of DBE's in all types of U.S. DOT-assisted contracts and procurement activities conducted by AUTHORITY;

G. Provide training and other assistance through our resource partners to address capital, bonding, and insurance needs;

H. Assist in the development of DBE firms that can compete successfully in the marketplace outside of the DBE Program; and

I. Establish and provide opportunities for DBEs by providing flexibility in the implementation of AUTHORITY's DBE Program.

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

III. AUTHORITY's DBE Policy Implementation Directives

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

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

A. Definitions

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

1. ***"Disadvantaged Business Enterprise (DBE)"*** means a small business concern: (a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

2. ***"Small Business Concern"*** means a small business as defined pursuant to Section 3 of the Small Business Act and Small Business Administration (SBA) regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

3. ***"Socially and Economically Disadvantaged Individuals"*** means any individual who is a citizens (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

   a) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

   b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

      i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa";
      ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race";

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iii. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaskan Natives, or Native Hawaiians";

iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong";

v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;"

vi. Women; and

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

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

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

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

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

7. ***"Fraud"*** includes a firm that does not meet the eligibility criteria of being a certified DBE and attempts to participate in a U.S. DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations, or under circumstances indicating a serious lack of business integrity or honesty. AUTHORITY may take enforcement action under 49 CFR, Part 31, Program Fraud and Civil

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

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

B. "Social Disadvantage"

1. The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.

2. The individual must demonstrate that he/she has personally suffered social disadvantage.

3. The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.

4. The individual's social disadvantage must be chronic, longstanding and substantial; not fleeting or insignificant.

5. The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.

6. A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

C. "Economic Disadvantage"

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

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

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With respect to the individual:

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

With respect to the individual and the business concern:

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

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

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

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

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

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

The Form 103 must include the following information:

1. General Agreement Information – Including Agreement Number and Title, CONSULTANT Name and the following:

    a) Original Agreement Amount
    b) Running Total of Change Order Amount
    c) Current Agreement Amount
    d) Amount Paid to CONSULTANT during Month
    e) Amount Paid to CONSULTANT from Inception to Date
    f) DBE Contract Goal
    g) Total Dollar Amount of DBE Commitment

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h) DBE Commitment as Percentage of Current Agreement Amount

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

   a) DBE Firm Name, Address, Phone Number, DBE Capacity Type, Certification Type and Certification Number.

   b) DBE Firm Contract Value Information:
   Original Contract Amount, running total of change order amount, Current Contract Amount, Amount Paid to CONSULTANT or Subconsultant(s) During Month and Amount Paid to CONSULTANT or Subconsultant(s) to date.

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

3. CONSULTANT Assurance of Full Compliance with Prompt Payment Provisions

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

4. CONSULTANT Payment Verification Summary

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

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

   CONSULTANT to submit a Verification of Payment Summary with the Monthly Form 103 submission for each <u>DBE firm</u> in which CONSULTANT has reflected a value paid

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

B. "Monthly DBE Trucking Verification" Form

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

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

C. DBE Subcontract Agreements

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

D. Semi-Annual Subconsultant Paid Report Summary

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

CONSULTANT will adhere to the following submittal schedule:

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

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

Upon completion of the project, CONSULTANT must complete and submit a "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), Subconsultants," certified correct by CONSULTANT or the CONSULTANT’S authorized representative, to

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

F. Disadvantaged Business Enterprises (DBE) Certification Status Change

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

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

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

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

a) Posting CONSULTANT payment data to a website, database, or other place accessible to Subconsultants to assist them in determining when they should expect to receive payment.

b) Requiring CONSULTANT to use an automated reporting system, inclusive of, but not limited to, real time entry of payments made and received by CONSULTANT and their lower-tiers.

V. DBE Eligibility and Commercially Useful Function Standards

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

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

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

2. A DBE may participate as a prime CONSULTANT, Subconsultant, joint venture partner, vendor of material or supplies, or as a trucking company.

3. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own work forces. The DBE joint venture partner must share in the capital contribution, control, management, risks, and profits of the joint venture commensurate with its ownership interest.

4. The use of joint-checks for DBE firms must be approved by AUTHORITY prior to execution, and a joint-check agreement must accompany the request to AUTHORITY.

5. A DBE must perform a commercially useful function in accordance with 49 CFR Part 26.55 (i.e. must be responsible for the execution of a distinct element of the work, and must carry out its responsibility by actually performing, managing, and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.

VI. DBE Crediting Provisions

A. When a DBE is proposed to participate in the Agreement, at any tier, only the value of the work proposed to be performed by the DBE with its own work force may be counted towards DBE participation. If CONSULTANT is a DBE joint venture participant, only the DBE proportionate interest in the joint venture must be counted.

1. If a DBE intends to subcontract part of the work of its subcontract to a lower-tier Subconsultant, the value of the subcontracted work may be counted toward DBE participation only if the Subconsultant is a certified DBE and performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the CONSULTANT'S DBE attainment.

2. CONSULTANT is to calculate and credit participation by eligible DBE vendors of equipment, materials, and supplies toward DBE attainment as follows:

   a) Sixty percent (60%) of expenditures for equipment, materials, and supplies

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required under the Agreement obtained from a regular dealer; or

b) One hundred percent (100%) of expenditures for equipment, materials, and supplies required under the Agreement obtained from a DBE manufacturer.

3. The following types of fees or commissions paid to DBE Subconsultants, Brokers, and Packagers may be credited toward CONSULTANT'S DBE attainment, provided that the fee or commission is reasonable and not excessive, as compared with fees or commissions customarily allowed for similar work including:

   a) Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Agreement;
   b) Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves), when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
   c) Fees and commissions charged for providing any insurance specifically required in the performance of the Agreement.

4. CONSULTANT may count the participation of DBE trucking companies toward DBE attainment, as follows:

   a) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
   b) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
   c) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
   d) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
   e) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by the DBE-owned trucks or leased trucks with DBE drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
   f) The DBE may lease trucks without drivers from a non-DBE truck leasing

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

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

5. If the CONSULTANT listed a non-certified, 1st tier Subconsultant to perform work on this Agreement, and the non-certified Subconsultant subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subconsultant or Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward DBE participation on the Agreement. If a DBE CONSULTANT performs the installation of purchased materials and supplies, they are eligible for full credit of the cost of the materials.

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

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

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

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

A. The listed DBE subconsultant fails or refuses to execute a written contract;

B. The listed DBE subconsultant fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE Subconsultant to perform its work on the subcontract results from the bad faith or discriminatory action of CONSULTANT;

C. The listed DBE subconsultant fails or refuses to meet CONSULTANT'S reasonable, nondiscriminatory bond requirements;

D. The listed DBE subconsultant becomes bankrupt, insolvent, or exhibits credit unworthiness;

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E. The listed DBE subconsultant is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 108, 215 and 1,200 or applicable state law;

F. CONSULTANT has determined that the listed DBE subconsultant is not a responsible CONSULTANT;

G. The listed DBE subconsultant voluntarily withdraws from the project and provides to you written notice of its withdrawal;

H. The listed DBE is ineligible to receive DBE credit for the type of work required;

I. A DBE owner dies or becomes disabled with the result that the listed DBE CONSULTANT is unable to complete its work on the contract;

J. Other documented good cause that you determine compels the termination of the DBE. Provided, that good cause does not exist if CONSULTANT seeks to terminate a DBE it relied upon to obtain the Agreement so that CONSULTANT can self-perform the work for which the DBE CONSULTANT was engaged or so that CONSULTANT can substitute another DBE or non-DBE CONSULTANT after Agreement award.

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

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

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

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

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Should CONSULTANT elect to submit a good faith effort documentation in lieu of proposing additional DBE participation, AUTHORITY will review the documentation and provide a written determination to CONSULTANT stating whether or not good faith efforts have been adequately demonstrated.

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

VIII. Additional DBE SubCONSULTANTs

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

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

IX. DBE "Frauds" and "Fronts"

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

X. Dispute Resolution

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

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

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CONSULTANT and subconsultant agree to notify AUTHORITY within five (5) business days of any prompt payment and/or DBE Program disputes which cannot be settled by discussions between the parties involved.

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

I. INFORMAL MEETINGS:

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

II. Mediation

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

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

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

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

XI. <u>Administrative Remedies and Enforcement</u>

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

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

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

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

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

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

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

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

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EXHIBIT C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Information Sheet

ORANGE COUNTY TRANSPORTATION AUTHORITY

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than $250 to any board member or his or her alternate. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than $250 from you during this period.

B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.

C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than $250 to any board member or his or her alternate during the 12-month period preceding the filing of the application or the initiation of the proceeding.

D. If you or your agent have in the aggregate contributed more than $250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the application or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Campaign Contribution Disclosure Form should be completed and filed with your proposal, or with the first written document you file or submit after the proceeding commences.

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1. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.

2. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are "agents."

3. To determine whether a campaign contribution of more than $250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.

4. A list of the members and alternates of the Board of Directors is attached.

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

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ORANGE COUNTY TRANSPORTATION AUTHORITY
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: _____ RFP Title: _____

Was a campaign contribution made to any OCTA Board Member within the preceding 12 months, regardless of dollar amount of the contribution by either the proposing firm, proposed subconsultants and/or agent/lobbyist? Yes ____ No_____

If no, please sign and date below.

If yes, please provide the following information:

Prime Contractor Firm Name: _____

Contributor or Contributor Firm's Name: _____

Contributor or Contributor Firm's Address: _____

_____

Is Contributor:

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

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

_____

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

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Date: _____ _____
Signature of Contributor

_____ _____
Print Firm Name Print Name of Contributor

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**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Steve Jones, Chairman

Andrew Do, Vice Chairman

Lisa A. Bartlett, Director

Doug Chaffee, Director

Laurie Davies, Director

Barbara Delgleize, Director

Michael Hennessey, Director

Gene Hernandez, Director

Joseph Muller, Director

Mark A. Murphy, Director

Richard Murphy, Director

Miguel Pulido, Director

Tim Shaw, Director

Harry S. Sidhu, Director

Michelle Steel, Director

Donald P. Wagner, Director

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EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS

STATUS OF PAST AND PRESENT CONTRACTS FORM

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

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

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

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

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

_____ _____
Name Signature

_____ _____
Title Date

Revised. 03/16/2018

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EXHIBIT E: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REQUIREMENTS AND FORMS

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM REQUIREMENTS

1.0 DBE Goal

To assist proposers in ascertaining DBE availability based on the specific items of work associated with this procurement, the Authority has determined that DBEs are ready, willing and able to compete for subcontracting opportunities on this project. The DBE Goal for this contract is 18%.

2.0 DBE Policy and Applicability

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

2.1 Ensure non-discrimination in the award and administration of Authority's U.S. DOT-assisted contracts.

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

2.3 Ensure that the DBE Program and Overall Goal are narrowly tailored in accordance with applicable law.

2.4 Ensure that only firms that meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs in the Authority's DBE program.

2.5 Help remove barriers which impede the participation of DBEs in the Authority's U.S. DOT-assisted contracts.

2.6 Promote the use of DBEs in all types of U.S. DOT-assisted agreements and procurement activities conducted by the Authority.

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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").

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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;

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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

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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

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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

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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
Consultant Proposal DBE Commitment Form (10-O1)	Required at time of proposal
Written Confirmation (for each DBE firm listed on the Consultant Proposal DBE Commitment Form (10-O1)	Required at time of proposal
DBE Information – Good Faith Efforts	Required no later than 4:00 p.m. on the 2nd business day after the proposal due date
Bidders List	Required no later than 4:00 p.m. on the 2nd business day after the proposal due date

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4.1 "Consultant Proposal DBE Commitment Form - Caltrans Form 10-O1" (Exhibit E-1) required at time of Proposal. The Proposer is to provide the following information for each DBE that will participate in the contract:

4.1.1 The complete name and address of each DBE who will participate in the contract;

4.1.2 Valid DBE Certification ID to confirm eligibility status through the CUCP, in conformance with 49 CFR Part 26;

4.1.3 A description of the work that each DBE will perform or provide;

4.1.4 The dollar amount of the work to be performed or provided by the DBE;

4.1.5 The dollar amount of the work eligible to be credited for each DBE towards the DBE goal (should not include lower-tier participation and should account for the type of work to be performed);

4.1.6 The proposer shall also submit, for each DBE to perform under this Agreement, a written confirmation signed and dated from each DBE listed, acknowledging that the DBE is participating in the contract for the specified dollar value and scope of work listed on the DBE Participation Commitment Form. A signed quote or proposal from the DBE firm can be used in lieu of the written confirmation; however, the dollar amount and scope(s) in the quote/proposal, and the

amount and scope reflected on the DBE Participation Commitment Form must match identically.

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

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

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

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

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

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

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4.3 "Bidders List" (Exhibit E-3)

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

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

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Reset Form

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____

3. Project Description: _____

4. Project Location: _____

5. Consultant's Name: _____ 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %

Local Agency to Complete this Section

17. Local Agency Contract Number: _____

18. Federal-Aid Project Number: _____

19. Proposed Contract Execution Date: _____

20. Consultant's Ranking after Evaluation: _____

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

_____ _____

_____ _____

_____

11. TOTAL CLAIMED DBE PARTICIPATION %

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

12. Preparer's Signature _____ 13. Date _____

14. Preparer's Name _____ 15. Phone _____

16. Preparer's Title _____

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

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

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

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

LOCAL AGENCY SECTION

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

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DBE INFORMATION - GOOD FAITH EFFORTS

RFP No: _____ Proposal Due Date _____

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

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

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

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

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

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

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

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

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

C. Rejected DBE Proposal Documentation; the names, addresses, phone numbers, and amount of rejected DBE firms, the reasons for the proposer's rejection of the DBE firms, the firms selected and accepted for that work (attach all copies of quotes from the firms involved inclusive of a detailed cost breakdown if opted to self-perform work) and the price (rates) difference for each DBE if the selected firms is not a DBE, include an explanation of quote(s) rejected.

D. Publication Efforts Made to Advertise the Projects to Solicit DBE Participation; names and dates of each publication in which a request for DBE participation for this project was placed by the proposer (attach copies of advertisements or proof of publications). Publications should be placed at a minimum 14 calendar days before the Authority's proposal due date. If RFP due date is extended, proposer is to re-advertise new proposal due date.

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

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

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

G. Assistance with Lines of Credit, Insurance, and/or other Services; efforts made to assist interested DBEs in obtainting 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.

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Bidders List

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

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

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

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

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

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EXHIBIT F: RESTRICTIONS ON LOBBYING

CERTIFICATION
LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

A. DEFINITIONS

1. Authority, as used in this clause, means the Orange County Transportation Authority, acting on behalf of the Orange County Transit District.

2. Covered Federal action, as used in this clause, means any of the following Federal actions:

   a. The awarding of any Federal contract.

   b. The making of any Federal grant.

   c. The making of any Federal loan.

   d. The entering into of any cooperative agreement.

   e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

3. Indian tribe and tribal organization, as used in this clause, have the meaning provided in Section 450b of the Indian self-determination and Education Assistance Act (25 U.S.C. 450) and include Alaskan Natives.

4. Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

5. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or other were recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

6. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:

   a. An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.

   b. A member of the uniformed services, as defined in the subsection

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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 of 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

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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

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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

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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

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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.

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f. Cost Allowability:

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

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CERTIFICATION OF RESTRICTIONS ON LOBBYING

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

_____ that:
(Firm name)

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer of employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence making lobbying contracts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.

3. If bidder/offeror does not have any reportable activities to disclose, they shall check the box entitled “No Reportable Activities” on the attached Standard Form-LLL “Disclosure of Lobbying Activities” and complete Section 16 of the form. The certifying official shall sign and date the form, print his/her name, title and telephone number.

4. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

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

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

Executed this _____day of _____,20___

By _____
(Signature of authorized official)

_____
(Title of authorized official)

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☐ **NO REPORTABLE ACTIVITIES** *(Bidder/Offeror required to complete Section 16 below.)*

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 003480045

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

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material changes

For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ 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):

$_____ ☐ actual ☐ planned

12. Forum of Payment (check all that apply):
☐ a. cash
☐ b. in-kind; specify nature: _____
value: _____

13. Type of Payment (check all that apply):
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other specify: _____

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: ☐ Yes ☐ 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

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Approved by
OMB
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INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.

7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

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Approved by
OMB
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DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity:_____ **Page** _____ **of** _____

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EXHIBIT G: SAFETY SPECIFICATIONS

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR AGREEMENT NO. C-0-2582

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

A. The Contractor, its subcontractors, suppliers, and employees have the obligation to comply with all Authority health, safety and environmental compliance department (HSEC) requirements of this safety specification, project site requirements, bus yard safety rules, as well as all federal, state, and local regulations pertaining to scope of work, contracts or agreements with the Authority. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.

B. Observance of repeated unsafe acts or conditions, serious violation of safety standards, non-conformance of Authority health, safety and environmental compliance department (HSEC) requirements, or disregard for the intent of these safety specifications to protect people and property, by Contractor or its subcontractors may be cause for termination of scope or agreements with the Authority, at the sole discretion of the Authority.

C. The health, safety, and environmental requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be planned and performed, and safe conditions shall be maintained during this work scope.

D. The Authority Project Manager shall be responsible to ensure a safety orientation is conducted of known potential hazards and emergency procedures for all Contractor personnel, subcontractors, suppliers, vendors, and new employees assigned to the project prior to commencement of the project.

E. The Contractor shall ensure that all Contractor vehicles, including those of its subcontractors, suppliers, vendors and employees are parked in designated parking areas, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots.

F. California Code of Regulations (CCR) Title 8 Standards are minimum requirements; each Contractor is encouraged to exceed minimum requirements. When the Contractor's safety requirements exceed statutory standards, the more stringent requirements shall be applied for the safeguard of public and employees.

1.2 REGULATORY

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

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LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR AGREEMENT NO. C-0-2582

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

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

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

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

E. Storm Water Pollution Prevention Plan
The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the contract. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements. The program or plan if required by scope shall be provided to the Authority's Project Manager, upon request, within 72 hours.

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

A. The Authority shall be promptly notified of any of the following types of incidents including but not limited to:

1. Damage incidents of property (incidents involving third party, contractor or Authority property damage);

2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration), a minor injury, and near miss incidents;
3. Incidents impacting the environment, i.e. spills or releases on Authority projects or property.

4. Outside Agency Inspections; agencies such as Cal/OSHA, DTSC, SCAQMD, State Water Resources Control Board, FTA, CPUC, EPA, USACE and similar agencies.

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LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR AGREEMENT NO. C-0-2582

B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the public that arise from the performance of Authority contract work. An immediate verbal notice followed by an initial written incident investigation report shall be submitted to the Authority's Project Manager within 24 hours of the incident.

C. A final written incident investigative report shall be submitted within seven (7) calendar days and include the following information. The Current Status of anyone injured, photos of the incident area, detailed description of what happened, Photos of the existing conditions and area of the injury/incident, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of task planning documentation, copy of the Physician's first report of injury, copy of Cal/OSHA 300 log of work related injuries and illnesses, the Cal/OSHA 301 Injury Illness Incident Report, and corrective actions initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report provided to OCTA.

D. A Serious Injury, Serious Incident, OSHA Recordable Injury/Illness, or a Significant Near Miss shall require a formal incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within seven (7) calendar days of the incident. This review shall require a company senior executive, company program or project manager from the Contractors' organization to participate and present the incident review as determined by the OCTA Project Manager. The serious incident presentation shall include action taken for the welfare of the injured, a status report of the injured, causation factors that lead to the incident, a root cause analysis (using 5 whys and fishbone methods), and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.

1. Serious Injury: includes an injury or illness to one or more employees, occurring in a place of employment or in connection with any employment, which requires inpatient hospitalization for a period in excess of twenty-four hours for other than medical observation, or in which an employee suffers the loss of any member of the body, or suffers any serious degree of physical disfigurement. A serious injury also includes a lost workday or reassignment or restricted injury case as determined by the Physician's first report of injury or Cal/OSHA definitions.

2. Serious Incident: includes but not limited to property damage of $500.00 or more, an incident requiring emergency services (local fire, paramedics and ambulance response), news media or OCTA media relations response, and/or incidents involving other agencies (Cal/OSHA, EPA, AQMD, DTSC, Metrolink, FTA, FRA etc.) notification or representation.

3. OSHA Recordable Injury / Illness: includes and injury / illness resulting in medical treatment beyond First Aid, an injury / illness which requires restricted duty, or an injury / illness resulting in days away from work.

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LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS FOR AGREEMENT NO. C-0-2582

4. Significant Near Miss Incident; includes incidents where no property was damaged and no personal injury sustained, but where, given a slight shift in time or position, damage and/or injury easily could have occurred.

1.4 DESIGNATED HEALTH AND SAFETY REPRESENTATIVE

A. Upon contract award, the contractor within 10 business days shall designate a health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.

B. This person shall be a competent or qualified individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards (Cal/OSHA) and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.

1.5 PERSONAL PROTECTIVE EQUIPMENT

A. The Contractor, its subcontractors, suppliers, and employees are required to comply with applicable personal protective equipment (PPE) requirements while performing work at any Authority project or property. Generally minimum PPE requirements include eye protection; hearing protection, head protection, class 2 or 3 safety reflective vests, and appropriate footwear.

B. The Contractor, its subcontractors, suppliers, and employees are required to provide their own PPE, including eye, head, foot, and hand protection, safety vests, or other PPE required to perform their work safely on Authority projects or property. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

1.6 REFERENCES

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

END OF SECTION

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

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

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

Consultant's Full Legal Name: _____

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

Indirect Cost Rate:

Combined Rate _____ % **OR**

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

Facilities Capital Cost of Money_____% (if applicable)

Fiscal period *_____

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

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

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

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

Financial Management System:

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

Our financial management system has the following attributes:

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

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accounts;

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

Cost Reimbursements on Contracts:

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

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

All A&E Contract Information:

- Total participation amount $_____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is_____.
- Years of consultant's experience with 48 CFR Part 31 is_____.
- Audit history of the consultant's current and prior years (if applicable)
  - ☐ Cognizant ICR Audit
  - ☐ Local Gov't ICR Audit
  - ☐ Caltrans ICR Audit
  - ☐ CPA ICR Audit
  - ☐ Federal Gov't ICR Audit

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

Name**:_____ Title**: _____

Signature: _____ Date of Certification (mm/dd/yyyy): _____

Email**: _____ Phone Number**: _____

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

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

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

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EXHIBIT I: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

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

Offeror:_____

RFP No.:_____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

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

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

Complete Description of Deviation or Exception:

_____
_____
_____
_____
_____
_____
_____
_____

Rationale for Requesting Deviation or Exception:

_____
_____
_____
_____
_____
_____

Area Below Reserved for Authority Use Only:

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

PUBLIC RECORDS ACT INDEMNIFICATION – PROPOSAL DOCUMENTS

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

Option #1: Public Records Act Indemnification Agreement

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

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

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

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

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

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____

<u>Option #2: Non-Applicability</u>

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

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

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____

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