

**EXHIBIT G: LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL
SPECIFICATIONS**

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

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

G. INJURY AND ILLNESS PREVENTION PLAN

The Contractor shall submit to the Authority, a copy of their company Injury and Illness Prevention Plan (IIPP) in accordance 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.

H. Contractor shall provide a copy of the Policy or Program of Company's Substance Abuse Prevention Policy that complies with the most recent Drug Free Workplace Act.

1.2 HEAT ILLNESS PREVENTION PROGRAM

A. Contractor shall provide a copy of their company Heat Illness Prevention Program in accordance with CCR Title 8, Section 3395, Heat Illness Prevention.

1.3 HAZARD COMMUNICATION

A. Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of MSDS for all applicable products used, if any.

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

C. 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.

1.4 INCIDENT NOTIFICATION AND INVESTIGATION

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

1. Damage to Authority property (or incidents involving third party property damage);
2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration);
3. Incidents impacting the environment, i.e. spills or releases on Authority property.

B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the general public that arise from the performance of Authority contract work. An immediate verbal notice followed by a written incident investigation report shall be submitted to Authority's Project Manager within 24 hours of the incident.

C. A final written incident investigative report shall be submitted within seven (7) calendar days, and include the following information. The current status of anyone injured, photos of the incident area, detailed description of what happened, the contributing factors that lead to the incident occurrence, a copy

of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of the task planning documentation, and the corrective action initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report acceptable to OCTA.

1.5 PERSONAL PROTECTIVE EQUIPMENT

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

1.6 REFERENCES

- A. CCR Title 8 Standards (Cal/OSHA)
- B. FCR Including 14050 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH Standards
- D. OCTA Yard Safety Rules

END OF SECTION

FORM A: OFFEROR'S QUESTIONS FORM

Offeror Name:

Offeror's Questions Form

Question No.	Page	Section	Section Description	Offeror's Question	Authority Response
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					

FORM B: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Information Sheet

ORANGE COUNTY TRANSPORTATION AUTHORITY

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

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

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

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

ORANGE COUNTY TRANSPORTATION AUTHORITY
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: _____ RFP Title: _____

Was a campaign contribution made to any OCTA Board Member within the preceding 12 months, regardless of dollar amount of the contribution by either the proposing firm, proposed Subcontractors 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 _____
- Subcontractor 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 Subcontractors, and/or agent/lobbyist made campaign contributions, the name of the contributor, the dates of contribution(s) in the preceding 12 months and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Date: _____

Signature of Contributor

Print Firm Name

Print Name of Contributor

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES

Board of Directors

~~Steve Jones, Chairman~~

Andrew Do, ~~Vice~~ Chairman

Mark A. Murphy, Vice Chairman~~Director~~

Lisa A. Bartlett, Director

Doug Chaffee, Director

~~Laurie Davies, Director~~

Barbara Delgleize, Director

Brian Goodell, Director

Patrick Harper, Director

Michael Hennessey, Director

Gene Hernandez, Director

Steve Jones, Director

Joseph Muller, Director

Vicente Sarmiento, Director

~~Richard Murphy, Director~~

~~Miguel Pulido, Director~~

Tim Shaw, Director

Harry S. Sidhu, Director

~~Michelle Steel, Director~~

Donald P. Wagner, Director

FORM C: STATUS OF PAST AND PRESENT CONTRACTS

STATUS OF PAST AND PRESENT CONTRACTS

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

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

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

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

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

Name

Date

Title

FORM D: 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 3%.

2.0 DBE Policy and Applicability

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

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

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

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

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

Race-Neutral/Race-Conscious DBE Program Measures

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

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

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

3.0 Definitions

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

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

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

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

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

3.8.1 Social Disadvantage

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

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

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

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

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

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

3.8.2 Economic Disadvantage

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

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

With respect to the individual:

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

With respect to the individual and the business concern:

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

4.0 DBE Proposal Submission Requirements

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

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

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

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

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

4.1 “DBE Participation Commitment Form” (Form D-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” (Form D-2)

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

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

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

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

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

4.3 “Bidders List” (Form D-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.

FORM E: CERTIFICATION OF RESTRICTIONS ON LOBBYING FORM

CERTIFICATION
LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS

A. DEFINITIONS

1. **Authority, as used in this clause, means the Orange County Transportation Authority, acting on behalf of the Orange County Transit District.**
2. **Covered Federal action, as used in this clause, means any of the following Federal actions:**
 - a. The awarding of any Federal contract.
 - b. The making of any Federal grant.
 - c. The making of any Federal loan.
 - d. The entering into of any cooperative agreement.
 - e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
3. **Indian tribe and tribal organization, as used in this clause, have the meaning provided in Section 450b of the Indian self-determination and Education Assistance Act (25 U.S.C. 450) and include Alaskan Natives.**
4. **Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.**
5. **Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or other were recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.**
6. **Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:**
 - a. An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.

- b. A member of the uniformed services, as defined in the subsection 101(3), Title 37, United States Code.
 - c. A special Government employee, as defined in Section 202, Title 18, United States Code.
 - d. An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix section 3.
7. **Person, as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization or any other Indian organization with respect to expenditures specifically permitted by other Federal law.**
8. **Reasonable compensation, as used in this clause, means with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.**
9. **Reasonable payment, as used in this clause means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.**
10. **Recipient, as used in this clause, includes the CONSULTANT and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.**
11. **Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.**
12. **State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State regional or interstate entity having governmental duties and powers.**

B. PROHIBITIONS

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

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

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

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

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

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

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

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

b. Professional and technical services

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

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

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

officers or employees of a person requesting or receiving a covered Federal action include contractors and trade associations.

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

c. Disclosure

- (1) The consultant who requests or receives from an agency a Federal contract shall file with that agency a disclosure form OMB standard form LLL, Disclosure of Lobbying Activities, (Attachment to the bid package) if such person has made or had agreed to made any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B.1. of this clause, if paid for with appropriated funds.
- (2) The consultant shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph II.A. of this clause. An event that materially affects the accuracy of the information reported includes:

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

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

A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (3) The consultant shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.
- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime consultant. The prime consultant shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding consultant.

d. Agreement

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

e. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (2) Consultants may relay without liability on the representation made by their subcontractors in the certification and disclosure forms.

f. Cost Allowability:

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

**CERTIFICATION OF
RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on behalf (name of offeror) of
_____ that:
(Firm name)

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer 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 making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
3. 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, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Bidder understands and agrees that the provisions of 31 U.S.C. 3801, et seq. apply to this certification and disclosure, if any.

Executed this _____ day of _____, 20____

By _____
(Signature of authorized official)

(Title of authorized official)

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

DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by
OMB
003480045

<p>1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action: <input type="checkbox"/> a. bid/offer application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material changes</p> <p>For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description: CFDA number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known: \$ _____</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI)</p>	<p>b. Individuals Performing Services (including address if different from No 10a) (last name, first name, MI):</p>	
<p><i>(attach Continuation Sheet(s) SF - LLL - A if necessary)</i></p>		
<p>11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other specify: _____</p>	
<p>12. Forum of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify nature: _____ value: _____</p>		
<p>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:</p>		
<p><i>(attach Continuation Sheet(s) SF-LLL-A if necessary)</i></p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>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.</p>	<p>Signature: _____ Print name: _____ Title: _____ Telephone No: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

**INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING
ACTIVITIES**

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.
7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

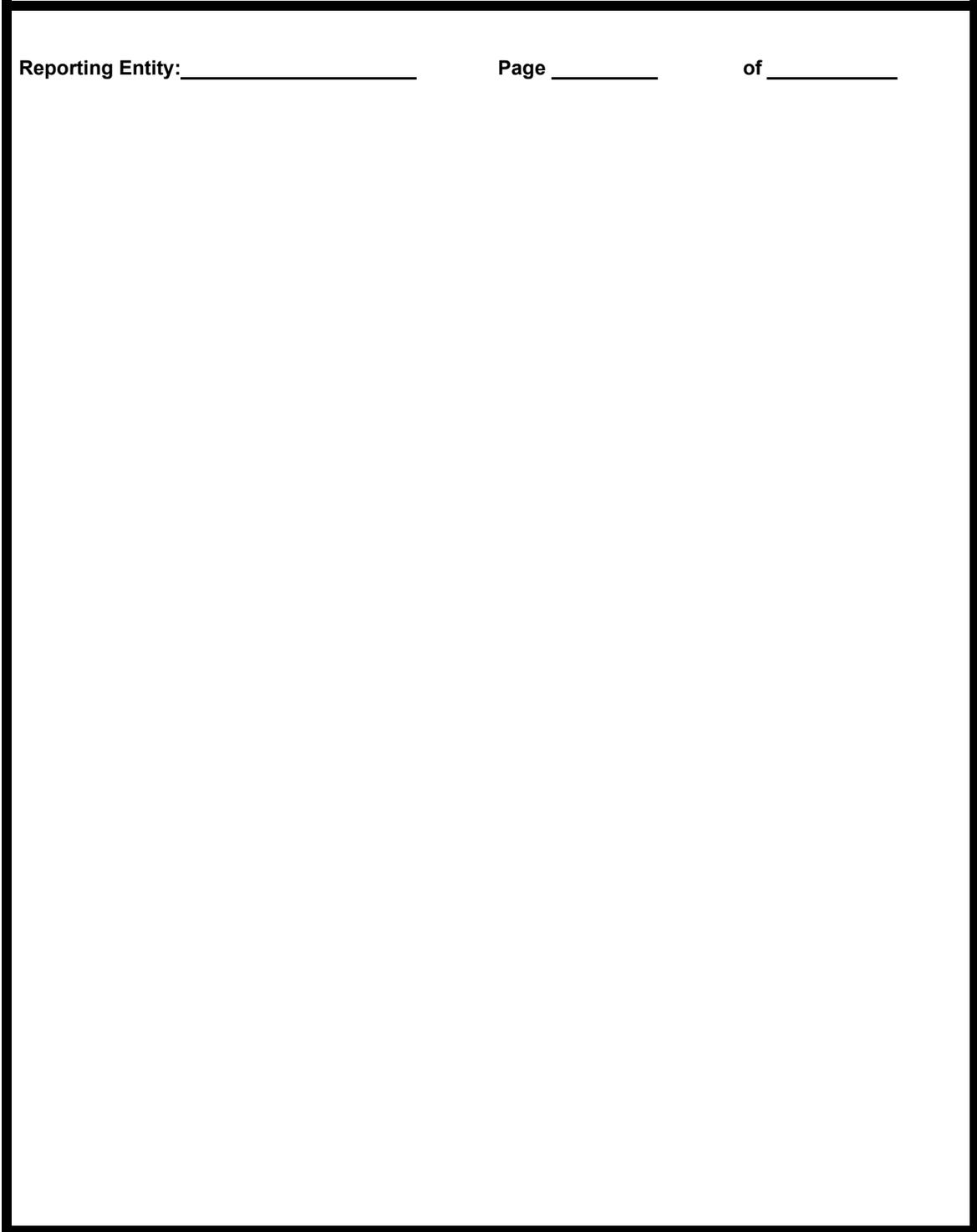
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

Approved by
OMB
003480045

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____



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FORM F: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS FORM

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' technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit B) and Proposed Agreement (Exhibit E). 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:

_____ _____

FORM G: SURETY COMMITMENT LETTER

SURETY COMMITMENT LETTER

TO: Orange County Transportation Authority

We have reviewed the Proposal of _____
(Offeror)

(Address)

for the [RFP Title] for which Proposals will be received on: _____ (Proposal Due Date) and wish to advise that should this Proposal of the Offeror be accepted and the Contract awarded to, such Offeror, this company agrees to become the Surety and provide the Payment and Performance Bonds required by the Contract for both the Implementation and Operations and Maintenance Phases. Such Bonds will be in the amounts identified in the Price Proposal, and referenced in Agreement, Article 13, Bonds, with terms of the Bonds as also provided in that article.

We are duly authorized to do business in the State of California

Surety Company/Address:

(Authorized Signature)

ATTEST:

[Attach Power of Attorney]

(Corporate Seal, if any. If no seal, write "No Seal" across this place and sign.)

FORM H: INTELLECTUAL PROPERTY ESCROW AGREEMENT

FORM OF INTELLECTUAL PROPERTY ESCROW AGREEMENT

Account Number _____

This Intellectual Property Escrow Agreement (“Escrow Agreement”) is effective _____, 201_ among _____, a _____ corporation (“Escrow Agent”), _____, a _____ corporation (“Depositor”), and the Orange County Transportation Authority and, public entity of the State of California (“OCTA”) together referred to as (“Authority”), who collectively may be referred to in this Escrow Agreement as the parties (“Parties”).

A. Depositor and Authority have entered or will enter into an agreement for Back Office System and Customer Services Center Operations Services for the 405 Express Lanes in Orange County, California (the “AGREEMENT”). Unless the context otherwise requires, capitalized terms used in this Escrow Agreement have the meanings given in the AGREEMENT.

B. Under the AGREEMENT, Depositor has granted Authority licenses to use certain intellectual property, software and supporting materials, and Depositor will from time to time modify, add to, refine, substitute, revise, enhance, update, revise, upgrade and/or correct such software and supporting materials and will submit these updated software development documents on an ongoing basis as soon as reasonably practicable, but in no event more than 30 Calendar Days from the date of such updates. An initial deposit shall be made by Depositor within 60 Calendar Days of the AGREEMENT’s Effective Date if requested by Authority. Additional deposits shall be made within 10 Calendar Days of Go-Live and BOS Acceptance. Depositor shall make deposits of the complete set of IP Materials current at the time of deposit at least semi-annually if no deposits provided above have occurred within the relevant preceding six-month period.

C. Depositor has agreed in the AGREEMENT to deposit into escrow with Escrow Agent the Intellectual Property and IP Materials including, without limitation, related documentation of Software required to be delivered as part of the AGREEMENT, including Software Source Code in ASCII format, on industry standard media and source code listings in human readable form of the Software as well as paper and electronic copies of the functional specifications and design specifications, code and documentation for tests used by Depositor to verify Software behavior, and user and technical documentation (all of which, together with modifications, additions, enhancements, updates, revisions, upgrades and corrections thereto and thereof, and all other supplementary deposits under Section 1.1 below, being collectively referred to in this Escrow Agreement as the “Software Source Code”).

D. Depositor and/or its Software suppliers desire to avoid disclosure and release of the Software Source Code except under certain limited circumstances.

E. The availability of the IP Materials (including without limitation Software Source Code) to Authority is critical to Authority’ business and, therefore, Authority need access to the IP Materials certain limited circumstances.

F. Depositor and Authority desire to establish an escrow with Escrow Agent to provide for the retention, administration and controlled access of the IP Materials.

G. Escrow Agent has consented to act as Escrow Agent and to receive and hold the current version and any future versions of the IP Materials.

H. The parties desire this Escrow Agreement to be supplementary to the AGREEMENT pursuant to 11 United States Bankruptcy Code, Section 365(n)(1)(B).

NOW, THEREFORE, Depositor and Authority hereby engage Escrow Agent to serve as Escrow Agent for the Intellectual Property and IP Materials, Escrow Agent hereby accepts such engagement, and

the Parties hereby agree to the establishment and administration of an escrow for the IP Materials, on the following terms and conditions.

SOURCE CODE ESCROW AGREEMENT

SECTION 1. DEPOSITS

1.1. Obligation to Make Deposits.

(a) Immediately upon execution of this Escrow Agreement, Depositor shall deposit IP Materials that consist of Pre-Existing Contractor Intellectual Property and Third Party Intellectual Property to be used in connection with the Toll Services with Escrow Agent.

(b) Depositor will submit updated Software development documents on an ongoing basis as soon as reasonably practicable, but in no event more than 30 Calendar Days from the date of such updates. Notwithstanding the foregoing, additional deposits shall be made within 10 Calendar Days of Go-Live and BOS Acceptance. Depositor shall make deposits of the complete set of IP Materials current at the time of deposit at least semi-annually if no deposits provided above have occurred within the relevant preceding six-month period.

(c) If during any calendar month after the date a Notice of BOS Acceptance is issued by Authority, Depositor completes and installs in or for the BOS Work any modification, addition, Enhancement, Update, revision, Upgrade or correction of or to any of the escrowed Software Source Code, it shall deposit with Escrow Agent, as soon as reasonably practicable and in no event more than 30 Calendar Days from the date of such updates, each such modification, addition, Enhancement, Update, revision, Upgrade and correction, and a modified Attachment A identifying the same. Similarly, if Depositor identifies any additional Intellectual Property or IP Materials to be deposited pursuant to Article 26 of the AGREEMENT, it shall deposit same with Escrow Agent, along with a modified Attachment A identifying the same as soon as reasonably practicable, but in no event more than 30 Calendar Days from the date of such identification.

(d) Each deposit under subsection (d) above shall be added to the existing deposit. Each deposit under subsections (b) or (c) above shall be listed on a modified Attachment A and Depositor shall sign each modified Attachment A. Attachment A and each modified Attachment A shall be held and maintained separately within the escrow account. Escrow Agent shall create an independent record which documents the activity for Attachment A and each modified Attachment A. The processing of all deposits under this Section 1.1 shall be in accordance with Sections 1.2 through 1.6 below.

(e) Notwithstanding any other provision of this Escrow Agreement, Depositor shall have no obligation to deposit with the Escrow Agent any Software Source Code for Off-the-Shelf Software, subject however, to the provisions of Article 26 of the AGREEMENT.

1.2. Identification of Tangible Media. Prior to each delivery of the IP Materials to Escrow Agent, Depositor shall conspicuously label for identification each document, magnetic tape, disk, or other tangible media upon which the Intellectual Property are written or stored. Additionally, with each delivery Depositor shall complete Attachment A to this Escrow Agreement or a modified Attachment A by listing each such tangible media by the item label description, the type of media and the quantity, and the identity of the owner of the Intellectual Property (whether Depositor or a Software Supplier). Depositor shall sign each Attachment A or modified Attachment A and deliver it to Escrow Agent with the IP Materials. Such signature shall constitute Depositor's representation and warranty that Attachment A is true, accurate and complete. Unless and until Depositor makes the initial deposit with Escrow Agent, Escrow Agent shall have no obligation with respect to this Escrow Agreement, except the obligation to notify the parties regarding the status of the account as required in Section 2.2 below.

1.3. Deposit Inspection. Within three Business Days after Escrow Agent receives IP Materials and Attachment A or a modified Attachment A, Escrow Agent shall conduct a deposit inspection by visually matching the labeling of the tangible media containing the Source Code to the item descriptions and quantity listed on Attachment A or modified Attachment A. In addition to the deposit inspection, Authority may elect to cause a verification of the IP Materials at any time in accordance with Section 1.6 below.

1.4. Acceptance of Deposit. Immediately upon completion of each deposit inspection, if Escrow Agent determines that the labeling of the tangible media matches the item descriptions and quantity on Attachment A or the modified Attachment A, Escrow Agent shall date and sign Attachment A or the modified Attachment A and mail a copy thereof to Depositor and Authority. Immediately upon completion of each deposit inspection, if Escrow Agent determines that the labeling does not match the item descriptions or quantity on Attachment A or the modified Attachment A, Escrow Agent shall (a) note the discrepancies in writing on Attachment A or the modified Attachment A; (b) date and sign Attachment A or the modified Attachment A with the exceptions noted; and (c) mail a copy of Attachment A or the modified Attachment A to Depositor and Authority. Escrow Agent's acceptance of the deposit occurs upon the signing of Attachment A or the modified Attachment A by Escrow Agent. Delivery of the signed Attachment A or the modified Attachment A to Authority is Authority's notice that the Software Source Code have been received and accepted by Escrow Agent.

1.5. Depositor's Representations. Depositor represents and warrants to Authority as follows:

(a) Depositor lawfully possesses all of the IP Materials and the Intellectual Property contained therein as deposited with Escrow Agent;

(b) With respect to all of the IP Materials and the Intellectual Property contained therein, Depositor has the right and authority to grant to Escrow Agent and Authority the rights as provided in this Escrow Agreement;

(c) The IP Materials and the Intellectual Property contained therein are not subject to any lien or other encumbrance;

(d) The IP Materials and the Intellectual Property contained therein consist of the proprietary technology and other materials identified either in the AGREEMENT or Attachment A, as applicable; and

(e). The IP Materials are readable and useable in their current form or, if any portion of the IP Materials and the Intellectual Property contained therein is encrypted, the decryption tools and decryption keys have also been deposited.

1.6. Verification. Authority may, at Authority's expense, cause a verification of any IP Materials. Authority shall notify Depositor and Escrow Agent of Authority's request for verification. Depositor shall have the right to be present at the verification. A verification determines, in different levels of detail, the accuracy, completeness, sufficiency and quality of the IP Materials. If a verification is elected after the IP Materials have been delivered to Escrow Agent, then only Escrow Agent, or at Escrow Agent's or Authority's election an independent person or company selected and supervised by Escrow Agent or Authority, may perform the verification. If Authority elects to have an independent person or company perform the verifications, its election and selection shall prevail over any such election by Escrow Agent. The verification shall be conducted in accordance with the verification procedures specified in the completed form of Attachment A accompanying Depositor's deposit of the relevant IP Materials with Escrow Agent. Such verification shall determine the relevance, completeness, currency, accuracy and functionality of the IP Materials and the Intellectual Property contained therein and, specifically as to Software Source Code, whether the deposit is complete. If Escrow Agent or a person or company it selects performs the verification, Escrow Agent shall deliver to Authority a written report detailing the verification not later than 30 days after Authority delivers Notice requesting such verification. Any verification shall take place either at Escrow Agent's location or an agreed upon location during Escrow Agent's regular business hours. If Authority elect to have an independent person or company perform the verification, then such entity shall adhere to the

confidentiality requirements of the AGREEMENT. If Escrow Agent or the independent person performing the verification determine that the verification procedures specified in the completed Attachment A are insufficient to enable verification of the relevant IP Materials and the Intellectual Property contained therein, then upon the request of Escrow Holder or Authority, Depositor shall cooperate in good faith to supplement and/or modify the verification procedures as necessary and appropriate to facilitate such verification.

1.7. Removal of IP Materials. The IP Materials and the Intellectual Property contained therein may be removed and/or exchanged only on written instructions signed by both the Depositor and Authority, or as otherwise provided in this Escrow Agreement.

1.8. Inspection. Authority and Depositor shall be entitled, during normal business hours, to inspect, under the supervision of an officer of Escrow Agent and at Escrow Agent's facilities, the physical and technical status and condition of the IP Materials and the Intellectual Property contained therein. The party undertaking the inspection shall provide Notice of the pending inspection to the other party, five Business Days prior to the scheduled date of the inspection. The party receiving the notice shall have the right to be present at the inspection, but such presence is not a condition precedent to the inspecting party's right to proceed with inspection.

SECTION 2. CONFIDENTIALITY AND RECORD KEEPING

2.1. Confidentiality. Escrow Agent shall maintain the IP Materials and the Intellectual Property contained therein in a secure, environmentally safe, fireproofed vault or locked facility which is accessible only to authorized representatives of Escrow Agent. Escrow Agent shall have the obligation to reasonably protect the confidentiality of the Intellectual Property. Except as provided in this Escrow Agreement, Escrow Agent shall not disclose, transfer, make available or use the Intellectual Property or any IP Materials. Escrow Agent shall not disclose the content of this Escrow Agreement to any third party. If Escrow Agent receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the IP Materials and the Intellectual Property contained therein, Escrow Agent shall immediately notify the other Parties unless prohibited by law. It shall be the responsibility of Depositor and/or Authority to challenge any such order; provided, however, that Escrow Agent does not waive its rights to present its position with respect to any such order. Escrow Agent shall not be required to disobey any order from a court or other judicial tribunal. (See Section 7.5 below for notices of requested orders.)

2.2. Status Reports. Escrow Agent shall issue to Depositor and Authority a report profiling the account history at least semi-annually. Escrow Agent may provide copies of the account history pertaining to this Escrow Agreement upon the request of any other Party.

2.3. Audit Rights. During the term of this Escrow Agreement, Depositor and Authority may each inspect the written records of Escrow Agent pertaining to this Escrow Agreement. Any inspection shall be held during normal business hours and following reasonable prior Notice.

SECTION 3. TITLE TO IP MATERIALS

3.1 Title to IP Materials. Title to the IP Materials which embody Intellectual Property is vested in Authority pursuant to Article 25 of the AGREEMENT, but is subject to the provisions of this Escrow Agreement on access to and release of such IP Materials.

3.2 Disclaimer. Escrow Agent hereby disclaims and relinquishes any title to or ownership of Software Source Code deposited with Escrow Agent under this Escrow Agreement.

SECTION 4. RELEASE OF DEPOSIT

4.1. Release Conditions. As used in this Escrow Agreement, "Release Condition" shall mean any of the following:

- (a) The AGREEMENT is terminated for any reason including expiration of the Term;
- (b) A voluntary or involuntary bankruptcy or insolvency of CONTRACTOR occurs;
- (c) CONTRACTOR is dissolved or liquidated;
- (d) CONTRACTOR or any third party, (a) fails or ceases to provide services as necessary to permit continued use of any such Intellectual Property or (b) otherwise ceases to engage in the ordinary course of the business of manufacturing, supplying, maintaining and servicing the IP Materials pursuant to a license or any sublicense thereof.

4.2. Filing For Release. If Authority believes in good faith that a Release Condition has occurred, Authority may provide to Escrow Agent Notice of the occurrence of the Release Condition and a request for the release of the IP Materials and incorporated Intellectual Property. If the Release Condition pertains only to an owner of Third Party Intellectual Property, Authority' Notice shall so indicate. Immediately upon receipt of such Notice, Escrow Agent shall provide a copy of the Notice to Depositor by commercial express mail.

4.3. Contrary Instructions. From the date Escrow Agent mails the Notice requesting release of the IP Materials and incorporated Intellectual Property, Depositor shall have ten days to deliver to Escrow Agent contrary instructions ("Contrary Instructions"). Contrary Instructions shall mean the written representations and warranties, without qualification, exception or condition, by an authorized officer or authorized delegate of Depositor that (a) the person signing for Depositor is an authorized officer or authorized delegate of Depositor and (b) a Release Condition has not occurred or has been cured. Immediately upon receipt of Contrary Instructions within such ten day period, Escrow Agent shall send a copy to Authority by commercial express mail. Additionally, Escrow Agent shall provide Notice to Depositor and Authority that there is a dispute to be resolved pursuant to Section 7.3 of this Escrow Agreement. Subject to Section 5.2 of this Escrow Agreement, Escrow Agent shall continue to store the IP Materials and Intellectual Property without release pending (i) instructions from Depositor and Authority; (ii) dispute resolution pursuant to Section 7.3; or (iii) order of a court. Contrary Instructions received after such ten day period shall be automatically null and void, shall have no force or effect, and shall be disregarded by Escrow Agent.

4.4. Release of Deposit.

(a) If Escrow Agent does not receive Contrary Instructions from the Depositor within such ten day period, Escrow Agent is authorized to, and shall, immediately release the IP Materials and incorporated Intellectual Property to Authority. If the Release Condition pertains only to an owner of Third Party Intellectual Property, then Escrow Agent shall only release the IP Materials that (a) are identified on Attachment A as owned by such owner of Third Party Intellectual Property or (b) lacks identification of ownership on Attachment A. Any copying expense will be chargeable to Depositor. This Escrow Agreement shall terminate upon the release of all the IP Materials and incorporated Intellectual Property held by Escrow Agent.

(b) Escrow Agent shall promptly release all or any part of the IP Materials and incorporated Intellectual Property at any time and from time to time upon receipt of Notice signed by both Depositor and Authority.

(c) Escrow Agent shall also release the IP Materials and incorporated Intellectual Property to Authority at any time as directed or ordered by an arbitration award, by a final judgment of a court of competent jurisdiction, or by other final dispute resolution pursuant to Section 7.3; provided that

Authority provide to Escrow Agent a written opinion of counsel for Authority to the effect that such award, judgment or resolution is final and not appealable. In such event, Escrow Agent shall proceed with release in accordance with the award, judgment or resolution and may rely on such legal opinion.

4.5. Right to Use Following Release. Upon release of the IP Materials in accordance with this Section 4, Authority shall have the right and license to use the released Intellectual Property as provided in the AGREEMENT. Authority shall be obligated to maintain the confidentiality of the released Intellectual Property as provided in the AGREEMENT.

SECTION 5. TERM AND TERMINATION

5.1. Term of Escrow Agreement. The term of this Escrow Agreement shall continue in effect unless and until this Escrow Agreement is terminated in accordance with the terms of this Section 5. This Escrow Agreement shall be terminated in the event (a) Depositor and Authority jointly instruct Escrow Agent in writing that the Escrow Agreement is terminated; or (b) Escrow Agent provides Notice to Depositor and Authority that the Escrow Agreement is terminated for nonpayment in accordance with Section 5.2 or by resignation in accordance with Section 5.3. If the IP Materials and incorporated Intellectual Property are subject to another escrow agreement with Escrow Agent, Escrow Agent reserves the right, after the initial one year term, to adjust the anniversary date of this Escrow Agreement to match the then prevailing anniversary date of such other escrow arrangements.

5.2. Termination for Nonpayment. In the event fees owed to Escrow Agent are not paid when due, Escrow Agent shall provide Notice of delinquency to all Parties. Any Party shall have the right to make the payment to Escrow Agent to cure the default. If the past due payment is not received in full by Escrow Agent within one month of the date of such Notice, then Escrow Agent shall have the right to terminate this Escrow Agreement at any time thereafter by sending Notice of termination to all Parties. Escrow Agent shall have no obligation to take any action under this Escrow Agreement so long as any undisputed payment due to Escrow Agent remains unpaid and delinquent, except action to hold and safeguard the IP Materials and transfer or dispose of the IP Materials following termination as provided in this Section 5.

5.3. Termination by Resignation. Escrow Agent may terminate this Escrow Agreement, for any reason, by providing Depositor and Authority with 90-days' Notice of its intent to terminate this Escrow Agreement. Within the 90-day period, the Depositor and Authority shall use diligent efforts to enter into a substantially similar agreement with another entity willing and able to perform the functions of Escrow Agent under this Escrow Agreement and shall provide Escrow Agent with Notice including instructions authorizing Escrow Agent to forward the IP Materials and incorporated Intellectual Property to another escrow company and/or agent or other designated recipient. Escrow Agent shall transfer and dispose of the IP Materials in accordance with any such Notice. If Escrow Agent does not receive said Notice within 90 days of the date of Escrow Agent's termination Notice, then Escrow Agent shall have no obligation to take any action under this Escrow Agreement, except action to hold and safeguard the Intellectual Property and transfer or dispose of IP Materials following termination as provided in this Section 5.

5.4. Disposition of IP Materials Upon Termination. Upon termination of this Escrow Agreement, Escrow Agent shall destroy, return, or otherwise deliver the IP Materials in accordance with Depositor's and Authority' Notice. If there is no such Notice, Escrow Agent may, commence legal action interpleading Depositor and Authority, deposit the IP Materials with the court in such action and otherwise handle and dispose of the IP Materials in accordance with court order. In no event shall Escrow Agent have the right to destroy the IP Materials or return them to Depositor absent written instructions to such effect or final order of a court of competent jurisdiction.

5.5. Survival of Terms Following Termination. Upon termination of this Escrow Agreement, the following provisions of this Escrow Agreement shall survive:

- (a) Depositor's representations and warranties (Section 1.5);

- (b) The obligations of safekeeping and confidentiality with respect to the IP Materials and incorporated Intellectual Property set forth in Section 2.1;
- (c) The rights granted in the sections entitled Right to Transfer Upon Release (Section 3.3) and Right to Use Following Release (Section 4.5), if a release of the IP Materials has occurred prior to termination;
- (d) The obligation to pay Escrow Agent any fees and expenses due;
- (e) The obligations of Escrow Agent under Section 5.4;
- (f) The provisions of Section 7;
- (g) Any provisions in this Escrow Agreement which specifically state they survive the termination of this Escrow Agreement; and
- (h) All other provisions which by their inherent character or express terms should survive termination of this Escrow Agreement, the expiration of the AGREEMENT.

SECTION 6. IP ESCROW AGENT'S FEES

6.1. Fee Payment and Schedule Escrow Agent is entitled to be paid its standard fees and expenses applicable to the services provided, which shall be the responsibility of Depositor. Escrow Agent shall notify Authority at least 60 days prior to any increase in fees. For any service not listed on Escrow Agent's standard fee schedule, Escrow Agent shall provide a quote prior to rendering the service, if requested.

6.2. Payment Terms. Fees are due 30 days after receipt of an invoice from Escrow Agent detailing the services performed and setting forth fees therefor consistent with the then applicable fee schedule. Escrow Agent may deliver invoices not more frequently than monthly. Except for action to hold and safeguard the Intellectual Property and transfer or dispose of the IP Materials following termination as provided in this Section 6, Escrow Agent shall not be required to perform any service whenever any undisputed outstanding balance owed to Escrow Agent is not paid when due.

SECTION 7. LIABILITY AND DISPUTES

7.1. Right to Rely on Instructions. Escrow Agent may act in reliance upon any instruction, instrument, or signature reasonably believed by Escrow Agent to be genuine. Except with respect to a Contrary Instruction that is not timely delivered or lacks the representation set forth in Section 4.3(a), Escrow Agent may assume that any employee of a party to this Escrow Agreement who gives any Notice, request, or instruction has the authority to do so. Escrow Agent shall not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any Notice, request or instruction. Escrow Agent shall not be responsible for failure to act as a result of causes beyond the reasonable control of Escrow Agent.

7.2. Indemnification. Depositor and Authority each agree to indemnify, defend and hold harmless Escrow Agent from any and all Claims and Losses in connection with this escrow arrangement except to the extent such Liabilities were caused by the negligence or willful misconduct of Escrow Agent or its breach of this Escrow Agreement.

7.3. Dispute Resolution. Any dispute, controversy, claim or difference arising out of, or in connection with, or resulting from this Escrow Agreement, its application or interpretation, a breach thereof, or a Contrary Instruction issued hereunder, which cannot be settled amicably by the Parties, shall be subject to resolution in accordance with the dispute resolution provisions of the AGREEMENT. Escrow Agent agrees to be bound by any such final resolution. Notwithstanding the foregoing, any suit in interpleader brought

by Escrow Agent under Section 5.4 shall not be by arbitration and may be brought by Escrow Agent in any court having jurisdiction.

7.4. Controlling Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of California, without regard to conflict of law principles. The venue of any court, judicial or referee proceeding under this AGREEMENT shall be in Orange County, California, unless changed by the judicial officer.

7.5. Notice of Requested Order. If any Party intends to obtain an order from the arbitrator or any court of competent jurisdiction which may direct Escrow Agent to take, or refrain from taking, any action, that Party shall:

- (a) Give Escrow Agent at least two Business Days' prior Notice of the hearing; and
- (b) Ensure that Escrow Agent not be required to deliver the original (as opposed to a copy) of the IP Materials if Escrow Agent may need to retain the original in its possession to fulfill any of its other duties under this Escrow Agreement.

SECTION 8. GENERAL PROVISIONS

8.1. Escrow Agent Representation. Escrow Agent represents and warrants to Authority and Depositor that (a) to the best knowledge of Escrow Agent neither it nor any of its personnel has been the subject of any investigation or been convicted or indicted for commission of any crime involving misconduct, corruption, bribery or fraud in connection with any public contract in the State of California, or any other jurisdiction, except as has been specifically disclosed in writing to Authority and Depositor, and (b) should any such conviction or indictment be obtained or any such investigation commenced prior to the expiration of the term hereof, regardless of the date of the occurrence giving rise to the subject matter of such conviction, indictment or investigation, Escrow Agent will immediately disclose it in writing to Authority and Depositor.

8.2. Entire Escrow Agreement. This Escrow Agreement (including all Exhibits to this Escrow Agreement) contain the entire understanding of the parties with respect to the subject matter of this Escrow Agreement and supersede all prior agreements, understandings, statements, representations and negotiations between the parties with respect to their subject matter. Escrow Agent is not a party to the AGREEMENT between Depositor and Authority and has no knowledge of any of the terms or provisions of the AGREEMENT. Escrow Agent's only obligations to Depositor or Authority are as set forth in this Escrow Agreement. No amendment or modification of this Escrow Agreement shall be valid or binding unless signed by all the parties, except that Attachment A need not be signed by Authority and Attachment B need not be signed.

8.3. Notices. All notices, invoices, payments, deposits and other documents and communications under this Escrow Agreement shall be sent as provided in Article 11 of the AGREEMENT and given to the parties at the addresses specified in the attached Attachment B. It shall be the responsibility of the parties to notify each other as provided in this Section in the event of a change of address. The parties shall have the right to rely on the last known address of the other parties.

8.4. Severability. In the event any provision of this Escrow Agreement is found to be invalid, voidable or unenforceable, the parties agree that unless it materially affects the entire intent and purpose of this Escrow Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Escrow Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.

8.5. Successors. This Escrow Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties. However, Escrow Agent shall have no right to assign this Escrow

Agreement or delegate its duties hereunder without the prior written consent of Depositor and Authority; and Escrow Agent shall have no obligation in performing this Escrow Agreement to recognize any successor or assign of Depositor or Authority unless Escrow Agent receives unambiguous and authoritative written evidence of the change of Parties.

8.6. Regulations. Depositor and Authority are responsible for and warrant compliance with all applicable laws, rules and regulations, including but not limited to customs laws, import, export, and re-export laws and government regulations of any country from or to which the Intellectual Property may be delivered in accordance with the provisions of this Escrow Agreement.

8.7. Liability. No member, officer, or employee of Authority, Depositor or Escrow Agent shall be liable personally hereunder or by reason hereof.

8.8. Counterparts. This Escrow Agreement may be executed in any number of counterparts and by the different parties on different counterparts, each of which, when executed, shall be deemed an original, but all of which, taken together, shall constitute one and the same Escrow Agreement.

[signatures on next page]

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Source Code Escrow Agreement as of the date first written above.

OCTA

**ORANGE COUNTY TRANSPORTATION
AUTHORITY**

By: _____
Name:
Title:

APPROVED AS TO FORM:

By: _____

DEPOSITOR:

By: _____
Name:
Title:

IP ESCROW AGENT:

By: _____
Name:
Title:

ATTACHMENT A

DESCRIPTION OF ESCROWED MATERIAL

Depositor Company Name: _____

Account Number _____

Product name _____ Version _____
(Product Name will appear as the Exhibit 1 Name on Account History report)

Owner of Product _____
(Name, address, tel. no., e-mail address)

SOURCE CODE DESCRIPTION:

Quantity	Media Type & Size	Label Description of Each Separate Item
_____	Disk 3.5" or _____	
_____	DAT tape _____ mm	
_____	CD-ROM	
_____	Data cartridge tape _____	
_____	TK 70 or _____ tape	
_____	Magnetic tape _____	
_____	Documentation	
_____	Other _____	

PRODUCT DESCRIPTION:

Environment _____

SOURCE CODE INFORMATION:

Is the media or are any of the files encrypted? Yes / No If yes, please include any passwords and the decryption tools.

Encryption tool name _____ Version _____

Hardware required _____

Software required _____

SOURCE CODE VERIFICATION PROCEDURES:

[Insert in space below or provide as separate attachment]

Other required information _____

I certify for **Depositor** that the above described **Escrow Agent** has inspected and accepted IP Materials have been transmitted to _____ the above materials (any exceptions are noted above):

Signature: _____ Signature: _____

Print Name: _____ Print Name: _____

Date: _____ Date Accepted: _____

Attachment A#: _____

Send materials to: IP Escrow Agent, _____ () _____

ATTACHMENT B

DESIGNATED CONTACT

Account Number _____
Notices, deposit material returns and
communications to Depositor should be
addressed to:

Invoices to Depositor pursuant to Section 4.4(a)
should be addressed to:

Company Name: _____

Address: _____

Designated Contact: _____

Telephone: (____) _____

Facsimile: (____) _____

E-mail: _____ Email: _____

Verification Contact: _____

Notices and communications to the Authority
should be addressed to each agency as follows:

Company Name: Orange County Transportation
Authority

Address _____

Designated Contact: _____

Telephone: (____) _____

Facsimile: (____) _____

E-mail: _____

Requests from Depositor and/or Orange County Transportation Authority to change the designated contact should be given in writing by the designated contact or an authorized employee of Depositor and/or Orange County Transportation Authority.

Contracts, IP Materials and Intellectual Property, notices, invoice inquiries and fee remittances to IP Escrow Agent should be addressed to:

_____ Date: _____

Telephone: (____) _____

Facsimile: (____) _____

E-mail: _____

FORM I: PERFORMANCE BOND

**FORM OF IMPLEMENTATION PHASE
PERFORMANCE BOND**

Agreement No. _____

Bond No. _____

KNOW ALL WHO SHALL SEE THESE PRESENTS:

THAT WHEREAS, The Orange County Transportation Authority (“AUTHORITY”), a public entity of the State of California, has awarded _____, a corporation organized under the laws of _____ (“Principal”) an agreement to design, implement, operate and maintain a Back Office System and Customer Service Center for the 405 Express Lanes (the “Agreement”);

AND WHEREAS, the AGREEMENT was awarded by AUTHORITY on _____ to provide the Work in accordance with the terms of the AGREEMENT, as therein specified;

AND WHEREAS, it is one of the conditions to execution of the AGREEMENT by AUTHORITY that these presents shall be executed;

NOW THEREFORE, We the undersigned Principal and _____ (the “Surety” or “Co-Sureties”), an admitted surety insurer in the State of California, are firmly bound and held unto AUTHORITY, in the amount of _____ Dollars (\$ _____) (“Bonded Sum”) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to AUTHORITY, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

1. The AGREEMENT is incorporated by reference in this Bond.
2. Unless the context otherwise requires, capitalized terms used but not separately defined in this Bond have the meaning given to them in the AGREEMENT.
3. If Principal or its heirs, successors, executors, administrators or assigns shall in all things stand to and abide by and well and truly keep, perform and complete all covenants, conditions, agreements, obligations and Work under the AGREEMENT, including any and all amendments, supplements, and alterations made to the AGREEMENT as therein provided, on Principal's part to be kept and performed at the time and in the manner therein specified, and shall indemnify, defend and save harmless AUTHORITY and all other Indemnified Parties, as therein stipulated, then this obligation shall become null and void; otherwise it shall remain in full force and effect. In case suit is brought upon this Bond, the Surety (or Co-Sureties) will pay reasonable attorney's fee to be fixed by the court.
4. The obligations covered by this Bond specifically include the performance of each and every obligation of Principal under the AGREEMENT with respect to the Work required to complete the Implementation Phase, including its liability for Liquidated Damages and warranties as specified in the AGREEMENT, but not to exceed the Bonded Sum. Completion of the Implementation Phase, as used herein, means achievement of Go-Live of Implementation Phase.

5. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the AGREEMENT, or in the Work to be performed with respect to completion of the Implementation Phase, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the AGREEMENT, or any rescission or attempted rescission of the AGREEMENT or this Bond, or any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of AUTHORITY seeking to recover from this Bond, or any fraud practiced by any other person other than AUTHORITY seeking to recover from this Bond, shall in any way affect its obligations on this Bond, and it does hereby waive notice of such changes, extension of time, alterations, additions, omissions or other modifications.

6. The Surety (or Co-Sureties) agree(s) that payments made to contractors and suppliers to satisfy claims on the payment bond do not reduce the Surety's legal obligations under this Bond. Payments made to contractors or suppliers under any agreement where the Surety has arranged for completion of the Work to satisfy this Bond will not be considered payment bond claims.

7. Whenever Principal shall be, and is declared by AUTHORITY to be, in default under the AGREEMENT, provided that AUTHORITY is not then in material default thereunder, the Surety (or Co-Sureties) shall promptly, at AUTHORITY' election:

(a) remedy such default, or

(b) complete the Work covered by this Bond in accordance with the terms and conditions of the AGREEMENT, or

(c) select a contractor or contractors to complete all Work covered by this Bond in accordance with the terms and conditions of the AGREEMENT then in effect, using a contractor or contractors approved by AUTHORITY (provided, however, that the Surety may not select Principal or any affiliate of Principal to complete the Work for and on behalf of the Surety without AUTHORITY' express written consent, in its sole discretion), arrange for a contract meeting the requirements of the AGREEMENT between such contractor or contractors and AUTHORITY, and make available as Work progresses (even though there should be a default or a succession of defaults under such contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the unpaid balance of the AGREEMENT Price; but not exceeding, including other costs and damages for which Surety (or Co-Sureties) is (are) liable hereunder, the Bonded Sum.

(d) Shall pay Authority for the Work in an amount not exceeding the Bonded Sum.

8. If Surety does not proceed as provided in Paragraph 7 of this Bond with reasonable promptness, Surety shall be deemed to be in default on this Bond fifteen (15) days after receipt of an additional Notice from the AUTHORITY to Surety demanding that Surety perform its obligations under this Bond, and AUTHORITY shall be entitled to enforce any remedy available to AUTHORITY.

9. The guarantees contained in this Bond shall survive completion of the Implementation Phase with respect to those obligations of Principal which survive Final Acceptance of Implementation Phase.

10. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that AUTHORITY will have no obligation to deal with multiple sureties hereunder. All correspondence from AUTHORITY to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of Notice (by personal delivery or by certified mail, return receipt requested) to AUTHORITY designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be _____.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this at _____
_____ on this _____ day of _____, A.D., 20__.

PRINCIPAL:

By: _____

Name:

Title:

Surety (full legal name):

Address:

By: _____

[Note: If more than one surety, then add appropriate number of lines to signature block.]

[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority to sign must be furnished and a Power of Attorney attached.]

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(AFFIX NOTARIAL SEAL)

NOTARY PUBLIC

FORM J: PAYMENT BOND

**FORM OF IMPLEMENTATION PHASE
PAYMENT BOND**

Agreement No. _____

Bond No. _____

KNOW ALL WHO SHALL SEE THESE PRESENTS:

THAT WHEREAS, The Orange County Transportation Authority (“AUTHORITY”), a public entity of the State of California, has awarded to _____, a corporation organized under the laws of _____ (“Principal”) an agreement to design, implement, operate and maintain a Back Office System and Customer Service Center for the 405 Express Lanes (the “AGREEMENT”);

AND WHEREAS, AGREEMENT was awarded by AUTHORITY on _____ to provide the Work, as specified and in accordance with the terms of the AGREEMENT;

AND WHEREAS, it is one of the conditions to execution of the AGREEMENT by AUTHORITY that these presents shall be executed;

NOW THEREFORE, We the undersigned Principal and _____ (the “Surety” or “Co-Sureties”), an admitted surety insurer in the State of California, are firmly bound and held unto AUTHORITY, in the sum of _____ Dollars (\$ _____) (“Bonded Sum”) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to AUTHORITY, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

1. The AGREEMENT is incorporated by reference in this Bond. Unless the context otherwise requires, capitalized terms used but not separately defined in this Bond have the meaning given to them in the AGREEMENT.
2. If Principal, its Subcontractors, hires, successors, executors, administrators or assigns shall fail to pay:
 - (a) any of the persons named in Civil Code section 40500 involved in performance of the Work for the Implementation Phase as provided for under the AGREEMENT;
 - (b) any amounts due under the Unemployment Insurance Code with respect to the Work for the Implementation Phase;
 - (c) any amounts required to be deducted, withheld and paid over to 1302 Franchise Tax Board from the wages of employees of the Principal and its Subcontractor pursuant to Revenue and Taxation Code Section 18662 et seq. with respect to such labor; or
 - (d) anyone required to be paid by law

then Surety shall pay for the same in an amount not to exceed the Bonded Sum; otherwise this obligation shall be null and void; otherwise it shall remain in full force and effect. In

case suit is brought upon this Bond, the Surety (or Co-Sureties) will pay reasonable attorney's fee to be fixed by the court.

3. This Bond shall inure to the benefit of any of the persons named in Civil Code Section 40500 or anyone required to be paid by law under the AGREEMENT so as to give a right of action to such persons or their assigns in any suit brought upon this Bond.

4. This Bond covers all of Principal's payment obligations under the AGREEMENT for the Work for the Implementation Phase, as set forth in the AGREEMENT

5. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the AGREEMENT, or in the Work to be performed with respect to the Implementation Phase, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the AGREEMENT, or any rescission or attempted rescission of the AGREEMENT or this Bond, or any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of AUTHORITY seeking to recover from this Bond, or any fraud practiced by any other person other than AUTHORITY seeking to recover from this Bond, shall in any way affect its obligations on this Bond, and it hereby waives notice of such changes, extension of time, alterations, additions, omissions or other modifications.

6. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that AUTHORITY will have no obligation to deal with multiple sureties hereunder. All correspondence from AUTHORITY to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of Notice (by personal delivery or by certified mail, return receipt requested) to AUTHORITY designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be _____.

7. This bond shall inure to the benefit of the persons named in Civil Code section 40500 so as to give a right of action to such persons and their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this at _____
_____ on this _____ day of _____, A.D., 20__.

PRINCIPAL:

_____.

By: _____
Name:
Title:

Surety (full legal name):

Address:

By: _____

[Note: If more than one surety, then add appropriate number of lines to signature block.]

[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished and a Power of Attorney attached.]

FORM K: OPERATIONS AND MAINTENANCE BOND

FORM OF OPERATIONS AND MAINTENANCE PERFORMANCE BOND

Agreement No. _____

Bond No. _____

KNOW ALL WHO SHALL SEE THESE PRESENTS:

THAT WHEREAS, The Orange County Transportation Authority (“AUTHORITY”), a public entity of the State of California, has awarded _____, a corporation organized under the laws of _____ (“Principal”) an agreement to design, implement, operate and maintain a Back Office System and Customer Service Center for the 405 Express Lanes (the “AGREEMENT”);

AND WHEREAS, the AGREEMENT was awarded by AUTHORITY on _____ to provide the Work in accordance with the terms of the AGREEMENT, as therein specified;

AND WHEREAS, it is one of the conditions to execution of the AGREEMENT by AUTHORITY that these presents shall be executed;

NOW THEREFORE, We the undersigned Principal and _____ (the “Surety” or “Co-Sureties”), an admitted surety insurer in the State of California, are firmly bound and held unto AUTHORITY, in the amount of _____ Dollars (\$_____) (“Bonded Sum”) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to AUTHORITY, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

1. The AGREEMENT is incorporated by reference in this Bond.
2. Unless the context otherwise requires, capitalized terms used but not separately defined in this Bond have the meaning given to them in the AGREEMENT.
3. If Principal or its heirs, successors, executors, administrators or assigns shall in all things stand to and abide by and well and truly keep, perform and complete all covenants, conditions, agreements, obligations and Work under the AGREEMENT, including any and all amendments, supplements, and alterations made to the AGREEMENT as therein provided, on Principal’s part to be kept and performed at the time and in the manner therein specified, and shall indemnify, defend and save harmless AUTHORITY and all other Indemnified Parties, as therein stipulated, then this obligation shall become null and void; otherwise it shall remain in full force and effect. In case suit is brought upon this Bond, the Surety (or Co-Sureties) will pay reasonable attorney’s fee to be fixed by the court.
4. The obligations covered by this Bond specifically include the performance of each and every obligation of Principal under the AGREEMENT with respect to the Work required to complete the Implementation Phase, including its liability for Liquidated Damages and warranties as specified in the AGREEMENT, but not to exceed the Bonded Sum.

5. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the AGREEMENT, or in the Work to be performed with respect to completion of the Implementation Phase, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the AGREEMENT, or any rescission or attempted rescission of the AGREEMENT or this Bond, or any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of AUTHORITY seeking to recover from this Bond, or any fraud practiced by any other person other than AUTHORITY seeking to recover from this Bond, shall in any way affect its obligations on this Bond, and it does hereby waive notice of such changes, extension of time, alterations, additions, omissions or other modifications.

6. The Surety (or Co-Sureties) agree(s) that payments made to contractors and suppliers to satisfy claims on the payment bond do not reduce the Surety's legal obligations under this Bond. Payments made to contractors or suppliers under any agreement where the Surety has arranged for completion of the Work to satisfy this Bond will not be considered payment bond claims.

7. Whenever Principal shall be, and is declared by AUTHORITY to be, in default under the AGREEMENT, provided that AUTHORITY is not then in material default thereunder, the Surety (or Co-Sureties) shall promptly:

(a) remedy such default, or

(b) complete the Work covered by this Bond in accordance with the terms and conditions of the AGREEMENT, or

(c) select a contractor or contractors to complete all work covered by this Bond in accordance with the terms and conditions of the AGREEMENT then in effect, using a contractor or contractors approved by AUTHORITY (provided, however, that the Surety may not select Principal or any affiliate of Principal to complete the Work for and on behalf of the Surety without AUTHORITY' express written consent, in its sole discretion), arrange for a contract meeting the requirements of the AGREEMENT between such contractor or contractors and AUTHORITY, and make available as Work progresses (even though there should be a default or a succession of defaults under such contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the unpaid balance of the AGREEMENT Price; but not exceeding, including other costs and damages for which Surety (or Co-Sureties) is (are) liable hereunder, the Bonded Sum.

8. If Surety does not proceed as provided in Paragraph 7 of this Bond with reasonable promptness, Surety shall be deemed to be in default on this Bond fifteen (15) days after receipt of an additional Notice from the AUTHORITY to Surety demanding that Surety perform its obligations under this Bond, and AUTHORITY shall be entitled to enforce any remedy available to AUTHORITY.

9. The guarantees contained in this Bond shall survive completion of the Implementation Phase with respect to those obligations of Principal which survive Final Acceptance of Implementation Phase.

10. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that AUTHORITY will have no obligation to deal with multiple sureties hereunder. All

correspondence from AUTHORITY to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of Notice (by personal delivery or by certified mail, return receipt requested) to AUTHORITY designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be _____.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this at _____
_____ on this _____ day of _____, A.D., 20__.

PRINCIPAL:

By: _____
Name:
Title:

Surety (full legal name):

Address:

By: _____

[Note: If more than one surety, then add appropriate number of lines to signature block.]

[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority to sign must be furnished and a Power of Attorney attached.]

FORM L: IRAN CONTRACTING CERTIFICATION

IRAN CONTRACTING ACT CERTIFICATION
(California Public Contract Code Sections 2200, *et seq.*)

The Iran Contracting Act of 2010 (PCC Sections 2200-2208), prohibits bidders who are engaged in investment activities in the energy sector of Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods or services of one million dollars (\$1,000,000) or more. At the time of submitting a bid, each bidder must certify that the bidder is not identified on the Department of General Services list of ineligible persons pursuant to PCC Section 2203(b). Each bidder is also required to certify that the bidder is not engaged in investment activities in violation of the Iran Contracting Act of 2010.

A bidder who is engaged in investment activities in the energy sector of Iran is defined as:

1. A person providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. A person that is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to PCC Section 2203(b).

A bidder is not required to certify that it is engaged in investment activities in the energy sector of Iran if the bidder is exempt from the certification under PCC Section 2203(c) or (d). If the bidder is exempt from the certification requirement, the bidder will be required to provide documentation demonstrating the exemption.

To comply with the Iran Contracting Act of 2010, the bidder shall complete **one** of the options below. Please note: under PCC Section 2205, false certification of this form may result in civil penalties of \$250,000 or twice the amount of the contract for which false certification was made, termination of the contract, and/or ineligibility to bid on contracts for a period of three years.

Option #1: Certification

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below, and any subcontractor who will perform work or labor or render services to the vendor identified below, is not on the current Department of General Services list identifying persons engaged in investment activities in the energy sector of Iran, and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current Department of General Services list identifying persons engaged in investment activities in the energy sector of Iran.

Vendor/Financial Institution: _____

Signature: _____

Name and Title: _____

Date: _____

Option #2: Exemption

Pursuant to PCC Section 2203(c) and (d), a public entity may permit a bidder or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit proposals for, or enter into or renew a contract with a public entity for goods or services of one million dollars (\$1,000,000) or more. If the bidder, financial institution, or any subcontractor who will perform work or labor or render services to the bidder has obtained an exemption from the certification requirement, please complete and sign below and attach the documentation demonstrating the exemption approval.

Vendor/Financial Institution: _____

Signature: _____

Name and Title: _____

Date: _____

Option #3: Non-Applicability

Pursuant to PCC Section 2203(b), a bidder or financial institution engaged in investment activities in Iran may not be eligible for, or to bid on, submit proposals for, or enter into or renew a contract with a public entity for goods or services of one million dollars (\$1,000,000) or more. If the contract is not for goods or services of one million dollars (\$1,000,000) or more, please sign below indicating that the contract is not for goods or services of one million dollars (\$1,000,000) or more and thus bidder is not required to certify and does not meet the exemption.

Vendor/Financial Institution: _____

Signature: _____

Name and Title: _____

Date:

(This form is required from the Prime only.)

**FORM M: 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 Offeror 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 Offeror’s proposal that the Offeror has marked as "confidential", "trade secret", "proprietary", "not subject to disclosure", or similar designation (the "PRA Documents"), the Authority will notify the Offeror of the request. The Offeror 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, Offeror 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.

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

In no case shall Authority be liable for any inadvertent disclosure of any Offeror proposal documents, or any disclosure made by Authority upon a good faith belief that disclosure is required by law, or in the event Offeror 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 Offeror waives any claims it may have had related to such disclosure.

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

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____

Option #2: Non-Applicability

This Offeror 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: _____

FORM N: OFFEROR RECENT CLIENT LIST

FORM O: REFERENCE FORMS

Reference Forms O-1

Form O-1 Part 1
BOS Implementation and Maintenance

Offeror shall use this attachment to clearly demonstrate how Offeror or Subcontractor (as applicable) meets the ~~minimum~~ qualification requirements for Proposals with regard to Offeror or Subcontractor (as applicable) project experience. Each reference provided may be contacted by the Authority. Copy this form as needed to comply with the requirements outlined in the RFP for the Implementation and Maintenance Phase minimum qualifications. **References must be from a third party agency or company for whom Offeror or Subcontractor (as applicable) has performed similar services.**

Offeror Name: _____

Subcontractor Name (if applicable): _____

Please check off which qualifications requirement this reference is intended to address (you may check more than one box to cover multiple requirements as long as the explanation below is sufficiently detailed).

Implementation

Maintenance

Reference Company/Agency Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Project Manager Reference:		
E-mail:		
Alternate Reference*:		
Phone Number:	Fax Number:	
E-mail:		
Alternate Reference Role on Reference Project:		
*Must be completed in addition to the Project Manager reference		

Offeror's or Subcontractor's (as applicable) role on project and years of participation (mm/dd/yy to mm/dd/yy):

Project location, scope, cost, start / end dates:

Description of project functions and operations including size:

Relevant hardware, software and systems used:

Comparison to the Authority requirements:

Installed System or Maintenance documented performance, as applicable:

Form O-1 Part 2
Operations

Offeror shall use this attachment to clearly demonstrate how Offeror or Subcontractor (as applicable) meets the ~~minimum~~ qualification requirements for proposals with regard to Offeror or Subcontractor (as applicable) project experience in Operations. Each reference provided may be contacted by the Authority. Copy this form as needed to comply with the requirements outlined in the RFP for minimum qualifications. **References must be from a third party agency or company for whom Offeror or Subcontractor (as applicable) has performed services.**

Offeror's Name: _____

Subcontractor Name (if applicable): _____

Reference Company/Agency Name:	
Address:	
City:	State: Zip Code:
Phone Number:	Fax Number:
Project Manager Reference:	
E-mail:	
Alternate Reference*:	
Phone Number:	Fax Number:
E-mail:	
Alternate Reference Role on Reference Project:	
*Must be completed in addition to the Project Manager reference	
Offeror's <u>or Subcontractor's (as applicable)</u> role on project and years of participation (mm/dd/yy to mm/dd/yy):	

Project location, scope, cost, start / end dates:
Description of project functions and operations performed, including size:
Relevant hardware, software and systems used:
Comparison to Authority' requirements:
Operations documented performance:

Reference Forms O-2

Form O-2
Key Team Personnel

Offeror shall use this form to clearly show how Offeror meets the requirements set forth in the RFP for Key Team Personnel members. References must be provided from an outside agency or company and shall not be an internal Offeror reference. Each reference provided may be contacted to determine the respondent's ability to meet the Proposal requirements. Copy this form as needed to comply with the requirements of the RFP and the number of references cited. ***References must be from a third party agency or company for whom Key Team Personnel has performed similar services.***

Offeror Name _____
Key Team Personnel Member _____

Proposed Position _____

Reference Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Project Manager:		
E-mail:		
Number of total years' experience of Key Team Personnel member in similar role to one proposed for the Authority:		
Reference Project:		
Key Team Personnel member role on reference project, including dates of participation and job description:		
Description of reference project location, scope, cost, start / end dates, etc.:		
Operational functionality and size of operations (accounts, transactions; notices...)		
Key Team Personnel member's major contributions and highlights:		
Key Team Personnel involved and role who are also proposed on the Authority project:		

FORM P: LIST OF SUBCONTRACTORS

List of Subcontractors

Offeror Name:

Please duplicate this page as necessary to provide the requested information.

	SUBCONTRACTOR	SUBCONTRACTOR	SUBCONTRACTOR
Legal Name of Company			
Company Contact Name			
Company Address			
City, State, Zip Code			
Company Telephone No.			
Company Fax Number			
Company E-mail address			
Legal Name of Principal(s)			
Address of Principal(s)			
City, State, Zip Code			
Telephone No. of Principal(s)			
Fax Number of Principal(s)			
E-mail address of Principal(s)			
Corporate Number (if applicable)			
License Number (if applicable)			
Status of License (if applicable)			
Work to be Performed			
Committed Dollar Amount of Total Work			
Committed Percentage of Total Work			

By: _____
President or Vice President

Signature: (1) _____

Attest: _____
Secretary (or Assistant Secretary)

Signature: (2) _____

(Affix Corporate Seal)

FORM Q: CONFORMANCE MATRIX

Exhibit B

Scope of Services

CONTENTS

1. INTRODUCTION	1
1.1. PROJECT TIMING	1
1.2. I-405 EXPRESS LANES	2
1.3. SUPPORT OF NEW TOLL FACILITIES	3
1.4. NEW I-405 CSC FACILITY	3
1.5. BACK OFFICE SYSTEMS AND CSC OPERATIONS STATEMENT OF WORK	4
1.5.1. Contractor Implementation Phase Responsibilities.....	5
1.5.2. Contractor Operations and Maintenance Phase Services	6
1.6. PHASE II SERVICES	8
1.7. FUTURE FUNCTIONALITY	8
1.8. SERVICES NOT INCLUDED.....	8
1.9. PASS THROUGH COSTS.....	8
1.10. DIRECT PAYMENT ITEMS	8

FIGURES

FIGURE 1-1. I-405 EXPRESS LANES TOLLING LAYOUT	2
------------------------------------------------------	---

1. INTRODUCTION

The Orange County Transportation Authority (“OCTA” or “Authority”) currently operates the Orange County portion of the Express Lanes on SR 91. The I-405 Express Lanes Back Office System (BOS) and Customer Service Center (CSC) Operations Project (Project) is for the implementation, operations and Maintenance of a new BOS and CSC Operations to support the I-405 Express Lanes, which are scheduled to open to traffic in 2023. This Scope of Work includes the Project’s technical requirements to be performed by the toll systems integrator and customer service operations provider (Contractor).

Kapsch TrafficCom USA (“Kapsch”) is separately contracted but serves as the Electronic Toll and Traffic Management (ETTM) System Contractor for the I-405 Express Lanes. The ETTM System will provide fully formed Transponder and Image-Based Trips to the BOS. Substantial testing and both technical and operational coordination will be required throughout the Term of the Agreement.

A new I-405 CSC and WIC Facility, provided by the Authority, near the I-405 corridor will serve as the main Facility for the Contractor’s direct customer service staff and CSC Operations and will house other OCTA contractors as well. A separate walk-in-center (WIC) supporting both the 91 and I-405 Facilities is located at the existing OCTA Store WIC, which is adjacent to the OCTA offices in the City of Orange and will be staffed by OCTA employees using desktop computers and peripherals provided by OCTA. However, the Contractor will support the initial setup, security, Interface and ongoing Maintenance of the I-405 BOS application on these desktop computers as required.

The Authority will not provide data center space for the I-405 BOS and the Contractor is required to provide a hosted or cloud-based implementation in accordance with the Requirements.

All definitions and acronyms for this Scope of Work and Requirements are included as Exhibit A.

The Requirements are numbered to track Contractual obligations and any changes which may occur during the Project. Many of the Requirements contain underlying lists of specific items and required database fields. The intent of these “including but not limited to” lists is to indicate the intent and scope of the Requirement. During design the naming and number of items and fields will vary; however, all items and fields shall be addressed by the BOS unless the Contractor is formally relieved of the Requirement by the Authority.

1.1. Project Timing

Related tolling projects and timing include:

- OCTA has selected OC 405 Partners to design and build the I-405 Improvement Project, which includes the I-405 Express Lanes. The Project is expected to be open to traffic in 2023.
- OCTA has selected Kapsch to provide the I-405 ETTM System. Kapsch and OC 405 Partners will coordinate the installation and testing of the ETTM prior to the beginning of revenue collection.
- Approximately 120 days prior to the anticipated Go-Live and I-405 revenue operations commencement, the Contractor will receive Notice to Proceed for Ramp-up/Customer Services, and the Contractor must reach several milestones thirty (30) Calendar Days thereafter as detailed in the Requirements, including the provision of portions of the BOS and

the Self-Service Website for account creation, ordering of transponders and customer communications.

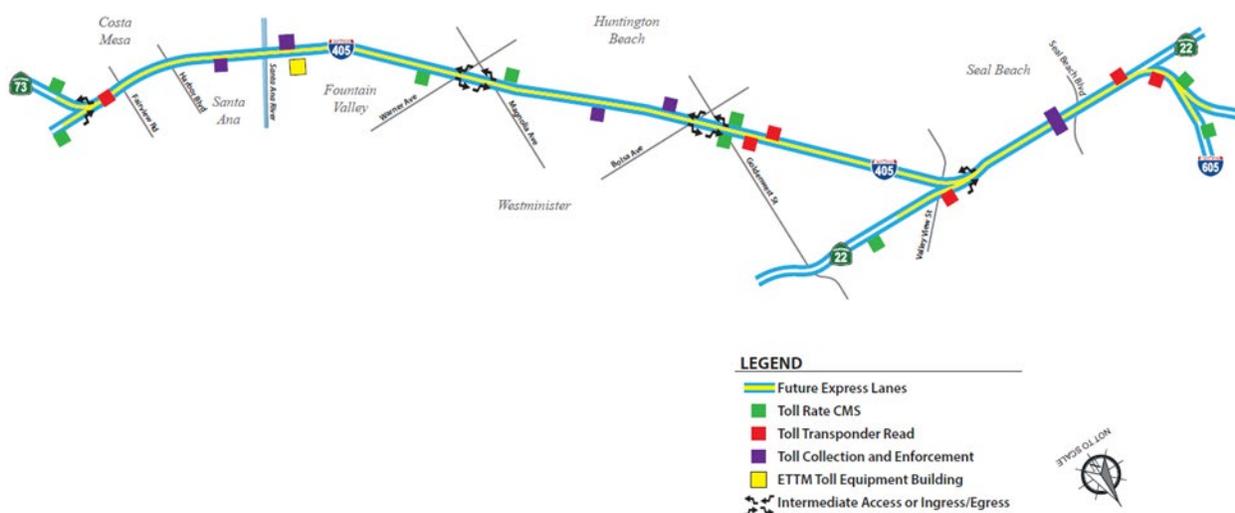
- At the Authority’s direction, transponders will be mailed approximately one (1) month prior to anticipated Go-Live and I-405 revenue operations commencement and the Contractor shall be responsible for processing Interoperable transactions and handling other CTOC agency inquiries from that point forward.
- Providing Notice to Proceed for Ramp-up/Customer Services also allows the Contractor guidance on the anticipated Go-Live date for the purposes of mobilizing for CSC Operations and mobilizing within the new CSC Facility.

1.2. I-405 Express Lanes

OCTA in cooperation with the California Department of Transportation (Caltrans) is widening the San Diego Freeway (I-405) between State Route 73 (SR-73) and Interstate 605 (I-605). The project will improve 16 miles of I-405 between the SR-73 freeway in Costa Mesa and I-605 near the Los Angeles County line. The project includes adding one regular lane in each direction between Euclid Street and I-605 and making improvements to freeway entrances, exits and bridges. In addition, the project will add the I-405 Express Lanes, incorporating the existing carpool lanes and a new lane in each direction between SR-73 and I-605. The I-405 Express Lanes will give solo drivers the choice to speed up their commute for a toll and give options for carpoolers to use the lanes for free. When the express lanes open, two-person carpools will pay a toll only during peak hours and carpools of three or more will be free at all times.

Figure 1-1: I-405 Express Lanes Conceptual Tolling Layout identifies the entry/exit, Toll Zone and Toll Read Site locations for the I-405 Express Lanes.

Figure 1-1. I-405 Express Lanes Tolling Layout



1.3. Support of New Toll Facilities

The BOS and CSC Operations shall be designed to support the future, potential addition of new OCTA Toll Facilities, such that the BOS does not require structural or fundamental changes at that time.

1.4. New I-405 CSC Facility

A new I-405 CSC and WIC Facility, provided by the Authority, near the I-405 corridor will serve as the primary Facility for the Contractor's direct customer service staff and CSC Operations and will house other OCTA contractors as well. Immediately after NTP, the Contractor will be responsible for working closely with the Authority in the design of the Facility. With regards to the new Facility, the following will be the responsibility of OCTA:

1. Acquisition of the building;
2. Building design (primary);
3. Building construction permitting;
4. Facility buildout;
5. Cubicles;
6. Furniture, desks and chairs;
7. File cabinets;
8. Walk-in Center furniture;
9. Training room furniture;
10. Storage cabinets and shelves;
11. Space at I-405 CSC Facility for storage of retained and/or sensitive paper-documents;
12. CSC personnel lockers (if required);
13. Communications closets;
14. Conference rooms and tables;
15. Large presentation screens within conference rooms;
16. Breakroom furniture and appliances;
17. All power and network cabling;
18. All uninterruptable power and generators (including any on-going system/software ~~M~~maintenance agreements);
19. Responsibilities as described in Volume II, Section 1.1.1.8 Network, Communications, Telephony, Security and Surveillance;
20. CCTV surveillance ~~E~~equipment (including any on-going system/software ~~M~~maintenance agreements);
21. Physical building security system (including any on-going system/software ~~M~~maintenance agreements);
22. Janitorial services;
23. Trash pickup;
24. Building ~~M~~maintenance;
25. Additional buildout and provision of items above to support growth and
26. Cash safes and cash drawers.

Contractor – All items below shall be provided within the Implementation and Operations and Maintenance Phases pricing.

1. Desktop computer environments;
2. All phone systems (internal operations and direct customer support);
3. Desktop computer environments and phone systems for two (2) permanent Authority personnel;
4. All printers (personal and group);

5. All copiers (personal and group);
6. All scanners (handheld, paper, personal and group);
7. Desktop computer environments and phone systems for an additional three (3) Authority-designated oversight personnel during mobilization of the Facility and during Operational and Acceptance Testing;
8. All training room desktop computer environments and Equipment, including presentation screens;
9. All network Equipment (routers, firewalls, switches, hubs, gateways, etc.);
10. Responsibilities as described in Volume II, Section 1.1.1.8 Network, Communications, Telephony, Security and Surveillance;
11. All consumables;
12. Paper shredding services;
13. Point of contact and management of all OCTA provided building **M**aintenance, power and generator **M**aintenance or servicing, trash pickup and janitorial services;
14. Point of contact and coordination of any additional buildout to support growth (at no additional labor costs to the Authority);
15. Physical human security as deemed necessary by the Contractor;
16. Receptionist or Walk-in Center greeter as deemed necessary by the Contractor and
17. Provision of items above to support growth.

1.5. Back Office Systems and CSC Operations Statement of Work

In this Request for Proposals (RFP), the Authority is requesting written technical and Price Proposals from qualified proposing contractors ("Offerors") interested in providing BOS and CSC Operations. The Project includes the design, development, testing, installation, operations and Maintenance of a complete and integrated BOS and CSC Operations that meets the needs of OCTA as specified in the Scope of Work and Requirements.

The BOS functionality which shall be provided, implemented, operated and maintained by the Contractor include but are not limited to the following:

- Account management;
- Self-Service Website;
- Self-Service Mobile Application (Phase II and optional);
- Customer communications and Notifications;
- Case management;
- Payment processing;
- Transponder inventory management;
- Financial management, reconciliation and settlement;
- Initial CSC-based collections;
- Collections Placements;
- Printing and mailing;
- Violation processing;
- Vehicle Registration Hold processing;
- Post-contact customer satisfaction surveys;
- Searches and reporting;
- Data warehouse (Phase II and optional);
- BOS and CSC performance monitoring and reporting;
- Interfaces to all Third-Party Service Providers and

- Interface monitoring and reconciliation.

BOS Hardware, systems and services which shall be provided, implemented, operated and maintained by the Contractor include but are not limited to the following:

- BOS production environment;
- Multiple supporting computing environments;
- Desktop Environments;
- CSC Equipment;
- Customer contact systems;
- Automatic Call Distribution (ACD), Interactive Voice Response (IVR) and telephony systems;
- Network Equipment;
- Network and systems monitoring systems;
- Data center and other identified Equipment;
- Disaster Recovery (DR) and Business Continuity systems;
- Training systems and
- Capability to support work-at-home CSRs and operations and in accordance with the Approved Disaster Recovery and Business Continuity Plans. For example, during an event similar to the COVID-19 outbreak.

Third-Party Service Providers which shall be provided and managed by the Contractor include but are not limited to the following:

- Collections Agencies - two (2);
- Registered Owner Identification (ROV) Lookup Provider;
- Print/Mail House Service Provider (optional at Contractor's discretion);
- Lockbox Service Provider (optional at Contractor's discretion);
- Customer Satisfaction Survey Provider Subcontractor;
- Payment Card Industry (PCI) Qualified Security Assessor Services (or qualified Internal Security Assessor (ISA));
- Merchant Service Providers - two (2) and
- Off-Site Data Storage Provider.

1.5.1. Contractor Implementation Phase Responsibilities

During the BOS and CSC Operations Implementation Phase (from Effective Date until Go-Live of the BOS and CSC Operations) the Contractor shall be responsible for the following, including but not limited to:

- Implementation of BOS server environment at Contractor provided location;
- Design inputs to the new I-405 CSC Facility;
- Support of I-405 BOS access from the current OCTA Store WIC;
- Staffing of all BOS support and CSC Operations;
- Operational planning and mobilization;
- BOS implementation and testing;
- Facilitation and participation in meetings and coordination with the Authority, the ETTM System Contractor and existing and new Third-Party Service Providers;
- Coordination, planning and testing with all Third-Party Service Providers;
- Contractor required additional build-out/fit-out of the Authority-provided Facilities;
- Provision of all additional Contractor required furniture and furnishing required for the CSC;
- Provision of all required CSC office Equipment;
- Development of all plans and documentation described herein;

- Development of all CSC standard operational procedures (SOPs);
- Compliance with all Security Standards;
- Compliance with all Approved plans;
- Development of all training material;
- Conducting training of all Contractor and Authority's staff;
- Learning and adhering to the Authority's processes, procedures, Business Rules and policies relative to Express Lanes operations and financial administration;
- Establishing direct processor agreements with California and other state DMVs;
- Operational Readiness Demonstration and
- Numerous other coordination, planning and preparation activities.

1.5.2. Contractor Operations and Maintenance Phase Services

After commencement of CSC Operations (the "Operations and Maintenance Phase"), the Contractor's Operational responsibilities include but are not limited to:

- Operational activities related to the functional use of the BOS:
 - Account establishment, Maintenance and closures;
 - Customer service, including Violation-related activities, via phone, mail, email, fax, text messaging, chat and in-person;
 - Provision of customer support for problems with customer interfaces;
 - Payment and refund processing;
 - Credit Card processing, including authorizations, refunds and reconciliation;
 - Production of all customer Notifications;
 - Inbound and outbound mail processing;
 - Sending e-blasts to customers through the email system at the direction of the Authority;
 - Return mail processing;
 - Violation payment processing;
 - Case creations and management;
 - Document imaging of incoming work (such as, customer communications) and outgoing work (such as, scanning checks before deposit);
 - Use of skip tracing services to acquire updated mailing addresses;
 - Transponder inventory management, including customer order Fulfillment support, transponder recall and recycling;
 - Customer dispute processing;
 - Coordination and support with resolution of disputed tolls and other issues with Interoperable Agencies;
 - Initial CSC-based collections;
 - Coordination with Collection Agency(ies) pursuing payment of debts owed by individuals or businesses, including payment processing and reporting;
 - Coordination with the DMV(s) for registration suspensions and/or holds, as well as releases once tolls, fees, and other charges are paid;
 - California Franchise Tax Board Tax Intercept support;
 - Bankruptcy support and associated account updates;
 - Investigative Review and hearing support;
 - Financial management and reporting;
 - Reporting for CTOC and the Western Regional Hub;
 - All transaction and financial reconciliation activities;
 - All Interface reconciliation activities;
 - Compliance with all Security Standards;

- BOS performance management and reporting;
- CSC staff and process performance monitoring and reporting;
- Adding/removing/modifying users in the BOS and modifying the user-Configurable elements of the telephony system such as call queue routing and message on-hold selections and
- Toll adjustment implementation.

- Operational activities not directly related to functional use of the BOS:
 - Complete BOS operations and Maintenance and monitoring of all processes and interfaces;
 - Complete network and systems security monitoring and resolution of issues;
 - Compliance with all Security Standards;
 - Compliance with all Security Standards while operating with at-home agents, if required;
 - Complete PCI compliance, monitoring and resolution of issues;
 - Disaster Recovery (DR) and Business Continuity management;
 - Complete BOS Maintenance and Software Support Services;
 - Enhancement and upgrades to the BOS per the Requirements;
 - Enhancements to the BOS at Authority's direction;
 - Onsite technical support for Contractor's staff and Authority's staff;
 - Monitoring and optimization of Registered Owner of Vehicle (ROV) identification processes;
 - Monitoring of incoming and outgoing mail services, including address correction and update;
 - CSC customer service staffing and operational management;
 - CSC Work processing and management;
 - CSC Facility Maintenance not covered by the Authority;
 - On-going recruitment and management of the personnel required to operate the CSC and meet the Requirements of this Agreement;
 - On-going training of all Contractor staff and Authority's staff;
 - Physical security of the operations Facilities, funds, personnel, and Equipment;
 - Payment Card Industry Data Security Standards (PCI DSS) compliance;
 - Provision of audit(s) performed by an independent Qualified Security Assessor or qualified Internal Security Assessor (ISA);
 - Compliance with all National Automated Clearing House Association (NACHA) requirements;
 - Support for the Authority's audits of BOS and CSC Operations;
 - Management of Customer Satisfaction Survey information;
 - Production and distribution of customer materials;
 - Distribution of transponders, mounting strips;
 - Distribution of non-BOS generated customer notifications by mail;
 - Annual SSAE 18 Type II performed by independent auditor;
 - Paper document storage (at I-405 CSC) and destruction and records management;
 - Quality Control (QC) and Quality Assurance (QA) activities for the CSC;
 - Quality review of BOS-generated notifications;
 - Quality review of image processing using the ETTM System-provided tool;
 - Assist with internal/external audits;
 - Assist with data collections/analysis stemming from litigation and
 - Assist with insurance/risk management activities.

1.6. Phase II Services

The following services shall be included in Phase II of the Work which will commence after the BOS Acceptance. Optional items are at the Authority's discretion to implement:

- Self-Service Mobile Application (Phase II and optional);
- Data warehouse and data analytics/business intelligence (Phase II and optional) and
- Collection Agencies direct access to BOS.

1.7. Future Functionality

The following functionality shall not be assumed for the base Agreement, but should be considered as potential future functionality:

- Occupancy Detection System (ODS) integration;
- Integration with Money Services Provider;
- Customer invoicing prior to the Violation process and
- Adherence to national Interoperability.

1.8. Services Not Included

The services procured under this Agreement *does not* include:

- ETTM Systems;
- Trip building;
- Image review services for the purpose of trip building (QA/QC reviews are required) and
- Provision of retail transponder distribution provider.

1.9. Pass Through Costs

The following items and Services shall be provided by the Contractor, with costs passed through to the Authority via invoice:

- Postage (not including any efforts, mail-house costs or other costs required to obtain the postage rate);
- Skip-Tracing and
- Facilities related incidental costs as directed and Approved by the Authority.

1.10. Direct Payment Items

The following items and services shall be entered into the Authority's accounts payable weekly batch by the Contractor for direct payment from the Authority to the vendor and not the paid for by the Contractor:

- Welcome/transponder kits;
- Transponder shipping supplies/materials including envelopes, sealing wafers, special inserts, and stickers;
- Transponder readers and programmers, if pre-approved by the Authority;
- Domain names and Uniform Resource Locators (URLs). Does not include any related software or licenses related to security and/or encryption (for example, secure socket layer certificates) and
- Other items as determined solely by the Authority.