

REQUEST FOR PROPOSALS (RFP) 1-3402

PAVEMENT MANAGEMENT PLAN



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

Key RFP Dates

Issue Date:	April 20, 2021
Question Submittal Date:	April 30, 2021
Proposal Submittal Date:	May 13, 2021
Interview Date:	June 3, 2021

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April 20, 2021

NOTICE OF REQUEST FOR PROPOSALS (RFP)

RFP 1-3402: "PAVEMENT MANAGEMENT PLAN"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to develop a strategy for encouraging local agencies to utilize pavement preservation options to maintain arterial and local streets in good condition. The budget for this effort is \$156,000 for a one-year initial term.

Proposals must be submitted electronically through the following URL link: <https://www.octa.net/Proposal Upload Link> at or before 2:00 p.m. on May 13, 2021. Select "RFP 1-3402" from the drop-down menu and follow the instructions as prompted.

PLEASE NOTE:

Hard copy proposal submission will not be accepted for this RFP. Proposals must be submitted electronically at the link stated above and by the date and time as indicated.

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

Firms interested in obtaining a copy of this RFP may do so by downloading the RFP from CAMM NET at <https://cammnet.octa.net>.

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

To receive all further information regarding this RFP 1-3402, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Category:
Professional Consulting

Professional Services

Commodity:
Consultant Services - General
Consultant Services - Transit
Planning
Consultant Services -
Transportation Planning
Engineering - Civil
Engineering - General

The Authority has established June 3, 2021 as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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

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

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

SECTION I: INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS

A. EXAMINATION OF PROPOSAL DOCUMENTS

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

B. ADDENDA

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

C. AUTHORITY CONTACT

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

Iris Deneau, Senior Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560. 5786
Email: ideneau@octa.net

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

D. CLARIFICATIONS

1. Examination of Documents

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

2. Submitting Requests

- a. All questions must be put in writing and must be received by the Authority no later than 5:00 p.m. on April 30, 2021.
- b. Requests for clarifications, questions, and comments must be clearly labeled, "RFP 1-3402 Pavement Management Plan, Written Questions." The Authority is not responsible for failure to respond to a request that has not been labeled as such.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET no later than May 5, 2021. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via U.S. Mail by emailing or faxing the request to Iris Deneau, Senior Contract Administrator.

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

<p><u>Category:</u> Professional Consulting</p> <p>Professional Services</p>	<p><u>Commodity:</u> Consultant Services - General Consultant Services - Transit Planning Consultant Services - Transportation Planning Engineering - Civil Engineering - General</p>
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Inquiries received after 5:00 p.m. on April 30, 2021 will not be responded to.

E. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be submitted electronically through the following URL link: <https://www.octa.net/Proposal Upload Link> at or before 2:00 p.m. on May 13, 2021. Select “RFP 1-3402” from the drop-down menu and follow the instructions as prompted.

PLEASE NOTE:

Hard copy proposal submission will not be accepted for this RFP. Proposals must be submitted electronically at the link stated above and by the date and time as indicated.

2. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to issue a new RFP for the project.
- d. The Authority reserves the right to postpone proposal openings for its own convenience.
- e. Each proposal will be received with the understanding that acceptance by the Authority of the proposal to provide the services described herein shall constitute a contract between the Offeror and Authority which shall bind the Offeror on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted proposal and specifications.
- f. The Authority reserves the right to investigate the qualifications of any Offeror, and/or require additional evidence of qualifications to perform the work.
- g. Submitted proposals are not to be copyrighted.

F. PRE-CONTRACTUAL EXPENSES

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

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

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

G. JOINT OFFERS

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

H. TAXES

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

I. PROTEST PROCEDURES

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

J. CONTRACT TYPE

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

K. CONFLICT OF INTEREST

All Offerors responding to this RFP must avoid organizational conflicts of interest which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships, or contracts, an Offeror is unable, or potentially unable, to render impartial assistance or advice to the Authority; an Offeror's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or an Offeror has an unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the Offeror's proposal.

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

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

L. CODE OF CONDUCT

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

SECTION II: PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT

A. PROPOSAL FORMAT AND CONTENT

1. Format

Proposals should be typed with a standard 12-point font, double-spaced. Proposals should not include any unnecessarily elaborate or promotional materials. Proposals should not exceed fifty (50) pages in length, excluding any appendices, cover letters, resumes, or forms.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Iris Deneau, Senior Contract Administrator, and must, at a minimum, contain the following:

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, contact person's name and address, telephone and fax number, and email address; relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgement of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 120 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal

a. Qualifications, Related Experience, and References of Offeror

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing

capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror to:

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

b. Proposed Staffing and Project Organization

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

Offeror to:

- (1) Identify key personnel proposed to perform the work and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment, and how long each person has been with the firm.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.
- (3) Demonstrate the following:
 - Familiarity with Paver and Street Saver
 - Experience with pavement preservation strategies
 - Knowledge of pavement technology, i.e., pavement design concepts and pavement materials
 - Experience with delivering informational workshops and presentations to appointed and elected bodies
- (4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

Offeror to:

- (1) Describe the approach to completing the work specified in the Scope of Work. The approach to the work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who would perform them.
- (3) Identify methods that Offeror will use to ensure quality control, as well as budget and schedule control for the project.
- (4) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (5) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

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

All exceptions and/or deviations will be reviewed by the Authority and will be assigned a "pass" or "fail" status. Exceptions and deviations that "pass" do not mean that the Authority has accepted the change but that it is a potential negotiable issue. Exceptions and deviations that receive a "fail" status means that the requested change is not

something that the Authority would consider a potential negotiable issue. Offerors that receive a “fail” status on their exceptions and/or deviations will be notified by the Authority and will be allowed to retract the exception and/or deviation and continue in the evaluation process. Any exceptions and/or deviation that receive a “fail” status and the Offeror cannot or does not retract the requested change may result in the firm being eliminated from further evaluation.

e. Public Records Act Indemnification

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

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

Authority will review the request, determine if the disclosure of the records is required by law, and notify Proposer of such determination. If Authority determines that the disclosure of records is required by law, Authority will notify Proposer of such determination and provide Proposer the opportunity to seek a protective order or other appropriate legal relief to protect the records.

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

4. Cost and Price Proposal

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

The Offeror shall complete the "Price Summary Sheet" form included with this RFP (Exhibit B), and furnish any narrative required to explain the prices quoted in the schedules. It is anticipated that the Authority will issue a time-and-expense contract specifying fully-burdened labor rates and anticipated expenses to complete the Scope of Work.

5. Appendices

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

B. FORMS

1. Status of Past and Present Contracts Form

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

A separate form must be completed for each identified contract. Each form must be signed by the Offeror confirming that the information provided is true and accurate.

2. Proposal Exceptions and/or Deviations Form

Offerors shall complete the form entitled "Proposal Exceptions and/or Deviations" provided in this RFP and submit it as part of the original proposal. For each exception and/or deviation, a new form should be used, identifying the exception and/or deviation and the rationale for requesting

the change. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed nor considered by the Authority.

3. Public Records Act Indemnification Form

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

SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

1. **Qualifications of the Firm** **30%**
 Technical experience in performing work of a closely similar nature; strength and stability of the firm; strength, stability, experience, and technical competence of subcontractors; assessment by client references.

2. **Staffing and Project Organization** **30%**
 Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.

3. **Work Plan** **20%**
 Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity, and specificity of work plan; appropriateness of resource allocation; utility of suggested technical or procedural innovations.

4. **Cost and Price** **20%**
 Reasonableness of hourly rates; competitiveness with other offers received; adequacy of data in support of figures quoted.

B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established June 3, 2021 as the date to conduct interviews. All prospective Offerors are asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further discussion. The

interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

At the conclusion of the proposal evaluations, Offerors remaining within the competitive range may be asked to submit a Best and Final Offer (BAFO). In the BAFO request, the firms may be asked to provide additional information, confirm or clarify issues, and submit a final cost/price offer. A deadline for submission will be stipulated.

At the conclusion of the evaluation process, the evaluation committee will recommend to Authority's management the Offeror whose proposal is most advantageous to the Authority.

C. AWARD

The Authority may negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offerors simultaneously and, thereafter, to award a contract to the Offeror offering the most favorable terms to the Authority.

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

The selected Offeror will be required to submit to the Authority's Accounting department a current IRS W-9 form prior to commencing work.

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

EXHIBIT A: SCOPE OF WORK

SCOPE OF WORK **PAVEMENT PRESERVATION**

Background

The Orange County Transportation Authority (OCTA) is seeking a qualified Consultant for professional services to develop a strategy for encouraging local agencies to utilize pavement preservation options to maintain arterial and local streets in good condition (pavement condition index [PCI] of 75 or higher).

The Countywide Pavement Management Plan Guidelines require the use of software that is compliant with the American Society for Testing Materials (ASTM) Standard 6433 in preparing local pavement management plans. The currently approved software are Paver, which is supported by the American Public Works Association and the University of Colorado, and Street Saver, which is supported by the Metropolitan Transportation Commission (MTC). The MTC is the Metropolitan Planning Organization for the San Francisco bay area.

Orange County local agencies are required to submit Pavement Management Plans (PMP) to OCTA every two (2) years, compliant with the Countywide Pavement Management Plan Guidelines. Local PMPs are submitted on a staggered basis with fourteen (14) agencies submitting in even numbered years and twenty-one (21) agencies submitting in odd numbered years.

Pavement Management Minimum Consultant Qualifications

Proposals must demonstrate that the Consultant or Consultant team meets the following minimum qualifications to be eligible for consideration for this project. The minimum qualification is satisfied when the consultant, or at least one (1) member of the consultant team, has experience in the following:

- Familiarity with Paver and Street Saver
- Experience with pavement preservation strategies
- Knowledge of pavement technology, i.e., pavement design concepts and pavement materials
- Experience with delivering informational workshops and presentations to appointed and elected bodies

Consultant Scope of Services

Consultant shall provide workshop and meeting facilitation services, including workshop and meeting materials. Copies of presentations shall be provided to OCTA. OCTA will schedule the appropriate workshops and meetings and provide meeting facilities with computers as necessary.

Consultant shall facilitate a “kickoff” meeting with OCTA staff for the purpose of describing their approach to the project. OCTA will be responsible for scheduling the meeting and providing the meeting room (in-person or virtually).

Consultant shall conduct one (1) or more informational workshops as necessary. Consultant shall make at least one (1) presentation before the Measure M Technical Steering Committee and the Technical Advisory Committee.

Consultant shall facilitate OCTA staff meetings as necessary to report progress with the project.

Consultant shall invoice OCTA monthly and provide a monthly status report. Consultant shall provide a schedule in months showing expected timing of each task and deliverables.

Consultant Deliverables

Consultant shall secure current pavement management information from local agencies and obtain releases from local agencies and their consultants for use of PMPs previously submitted to OCTA. Consultant shall determine pavement conditions for each local agency and each unincorporated community in Orange County. This information will be based on ASTM Standard 6433 and provide PCIs for the overall local agency public street network, the Master Plan of Arterial Highways, and local streets. Public alleys may also be included.

Consultant shall determine what pavement preservation and rehabilitation strategies are recommended to reach or maintain local agency PCIs at 75 or better over the next ten (10) years. Emphasis will be placed on use of pavement management technologies to preserve streets in good conditions (PCI of 75 or above) during the ten (10)-year study period.

Consultant shall recommend a pavement preservation/rehabilitation program for each local agency to maintain all local agency public streets in good condition.

Consultant shall estimate the funding needed for each local agency to reach and maintain a PCI of 75 for both arterial highways and local streets in each jurisdiction.

Consultant shall identify current funding utilized by each local agency for pavement preservation and possible sources of additional funding needed to maintain streets in good condition.

Consultant shall recommend a program to maintain the overall street network at a PCI of 75, primarily using pavement preservation technology. This program will include the most cost-effective pavement preservation strategy to utilize, based on local conditions, including the appropriate cycle for the recommended pavement treatment.

Draft Report

Consultant shall provide five (5) copies of a draft report showing findings and recommendations.

Final Report

Upon conclusion of the project, the Consultant shall prepare and submit a final report describing the recommended pavement strategies and estimated costs for each local agency to reach and maintain a PCI of 75 for the overall street network, arterial, and local streets. Consultant shall provide five (5) copies of the final report.

EXHIBIT B: COST AND PRICE FORMS

PRICE SUMMARY SHEET

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Enter below the proposed price for each of the work phases described in the Scope of Work, Exhibit A. Prices shall include direct costs, indirect costs, and profits. The Authority's intention is to award a time-and-expense price contract.

SCHEDULE I --- HOURLY RATE SCHEDULE

INITIAL TERM: Effective through June 30, 2022

Key Personnel		Fully-Burdened Hourly Rates
Job Function	Name	Effective – 6/30/22
Project Manager	_____	\$ _____
Principal Engineer	_____	\$ _____
Project Engineer	_____	\$ _____
Project Administrator	_____	\$ _____
Field Technician	_____	\$ _____

For Cost Analysis Purposes:

Provide fully-burdened hourly rates for the above-referenced job functions. The fully-burdened hourly rates will be included in the resulting agreement should your proposal be selected for contract award.

Other Labor Charges	Fully-Burdened Hourly Rates
Job Function	Effective – 6/30/22
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

OPTION TERM: July 1, 2022 through June 30, 2023

Key Personnel		Fully-Burdened Hourly Rates
Job Function	Name	7/1/22 – 6/30/23
Project Manager	_____	\$ _____
Principal Engineer	_____	\$ _____
Project Engineer	_____	\$ _____
Project Administrator	_____	\$ _____
Field Technician	_____	\$ _____

Other Labor Charges	Fully-Burdened Hourly Rates
Job Function	7/1/22 – 6/30/23
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

SCHEDULE II --- OTHER DIRECT COSTS SCHEDULE

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

*Please note the following:

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

1. I acknowledge receipt of RFP 1-3402 and Addenda No.(s) _____

2. This offer shall remain firm for _____ days from the date of proposal
(Minimum 120)

COMPANY NAME _____

ADDRESS _____

TELEPHONE _____

FACSIMILE # _____

EMAIL ADDRESS _____

SIGNATURE OF PERSON
AUTHORIZED TO BIND OFFEROR _____

NAME AND TITLE OF PERSON
AUTHORIZED TO BIND OFFEROR _____

DATE SIGNED _____

EXHIBIT C: PROPOSED AGREEMENT

1 **PROPOSED AGREEMENT NO. C-1-3402**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 _____
6 **THIS AGREEMENT** is effective this ____ day of _____, 2021
7 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street,
8 P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California
9 (hereinafter referred to as "AUTHORITY"), and , , , (hereinafter referred to as "CONSULTANT").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT to develop a strategy for
12 encouraging local agencies to utilize pavement preservation options to maintain arterial and local
13 streets in good condition; and

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

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

17 **WHEREAS**, CONSULTANT wishes to perform these services;

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

20 **ARTICLE 1. COMPLETE AGREEMENT**

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

26 B. AUTHORITY's failure to insist in any one or more instances upon CONSULTANT's

EXHIBIT C

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

7 **ARTICLE 2. AUTHORITY DESIGNEE**

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

10 **ARTICLE 3. SCOPE OF WORK**

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

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

17 **Names** **Functions**

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

1 possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key
2 person, unless CONSULTANT is not provided with such notice by the departing employee.
3 AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt of these
4 qualifications concerning acceptance of the candidate for replacement.

5 **ARTICLE 4. TERM OF AGREEMENT**

6 A. This Agreement shall commence upon execution by both parties, and shall continue in full
7 force and effect through June 30, 2022 (Initial Term), unless earlier terminated or extended as provided
8 in this Agreement.

9 B. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to an
10 additional twelve (12) months, commencing July 1, 2022, and continuing through June 30, 2023 (Option
11 Term), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in
12 accordance with Exhibit A, entitled "Scope of Work," and at the rates set forth in Article 5, "Payment."

13 C. AUTHORITY's election to extend the Agreement beyond the Initial Term shall not diminish
14 its right to terminate the Agreement for AUTHORITY's convenience or CONSULTANT's default as
15 provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period
16 extending through June 30, 2023, which period encompasses the Initial Term and Option Term.

17 **ARTICLE 5. PAYMENT**

18 A. For CONSULTANT's full and complete performance of its obligations under this Agreement
19 and subject to the maximum cumulative payment obligation provisions set forth in Article 6,
20 AUTHORITY shall pay CONSULTANT on a time-and-expense basis in accordance with the following
21 provisions.

22 B. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding
23 to the work actually completed by CONSULTANT. Drive time may not be charged to AUTHORITY.
24 Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which
25 shall accompany each invoice submitted by CONSULTANT. AUTHORITY shall pay CONSULTANT at
26 the hourly labor rates specified in Exhibit B, entitled "Price Summary Sheet," which is attached to and

EXHIBIT C

1 by this reference, incorporated in and made a part of this Agreement. These rates shall remain fixed for
2 the term of this Agreement and are acknowledged to include CONSULTANT's overhead costs, general
3 costs, administrative costs and profit. CONSULTANT shall also furnish such other information as may
4 be requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion,
5 AUTHORITY may decline to make full payment until such time as CONSULTANT has documented to
6 AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required. AUTHORITY's
7 payment in full shall constitute AUTHORITY's final acceptance of CONSULTANT's work.

8 C. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in
9 duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices
10 electronically to AUTHORITY's Accounts Payable Department at vendorinvoices@octa.net. Each
11 invoice shall be accompanied by the monthly progress report specified in paragraph B of this Article.
12 AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each
13 invoice. Each invoice shall include the following information:

- 14 1. Agreement No. C-1-3402;
- 15 2. Specify the effort for which the payment is being requested;
- 16 3. The time period covered by the invoice;
- 17 4. Labor (staff name, hours charged, hourly billing rate, current charges, and
18 cumulative charges) performed during the billing period;
- 19 5. Total monthly invoice (including project-to-date cumulative invoice amount);
- 20 6. Itemized expenses including support documentation incurred during the billing
21 period;
- 22 7. Monthly Progress Report;
- 23 8. Certification signed by the CONSULTANT or his/her designated alternate that a)
24 The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The
25 backup information included with the invoice is true, complete and correct in all material respects; c) All
26 payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be

1 made to subcontractors and suppliers from the proceeds of the payments covered by the certification
2 and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain
3 from a subcontractor or supplier unless so identified on the invoice.

4 9. Any other information as agreed or requested by AUTHORITY to substantiate
5 the validity of an invoice.

6 **ARTICLE 6. MAXIMUM OBLIGATION**

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

12 **ARTICLE 7. NOTICES**

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

17 To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

22 ATTENTION:

ATTENTION: Iris Deneau

23 Title:

Title: Senior Contract Administrator

24 Phone:

Phone: (714) 560 - 5786

25 Email:

Email: ideneau@octa.net

26 /

1 **ARTICLE 8. INDEPENDENT CONTRACTOR**

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

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

13 **ARTICLE 9. INSURANCE**

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

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

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

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

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

26 B. Proof of such coverage, in the form of a certificate of insurance, with the AUTHORITY, its

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

8 C. CONSULTANT shall include on the face of the certificate of insurance the
9 Agreement No. C-1-3402; and, the Senior Contract Administrator's Name, Iris Deneau.

10 D. CONSULTANT shall also include in each subcontract the stipulation that subcontractors
11 shall maintain insurance coverage in the amounts required from CONSULTANT as provided in this
12 Agreement.

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

15 **ARTICLE 10. ORDER OF PRECEDENCE**

16 Conflicting provisions hereof, if any, shall prevail in the following descending order of
17 precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of
18 RFP 1-3402; (3) CONSULTANT's proposal dated _____; (4) all other documents, if any,
19 cited herein or incorporated by reference.

20 **ARTICLE 11. CHANGES**

21 By written notice or order, AUTHORITY may, from time to time, order work suspension and/or
22 make changes in the general scope of this Agreement, including, but not limited to, the services
23 furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work
24 suspension or change causes an increase or decrease in the price of this Agreement, or in the time
25 required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its
26 claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and

1 an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse
2 CONSULTANT from proceeding immediately with the Agreement as changed.

3 **ARTICLE 12. DISPUTES**

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

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

15 **ARTICLE 13. TERMINATION**

16 A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or
17 part, by giving CONSULTANT written notice thereof. Upon said notice, AUTHORITY shall pay
18 CONSULTANT its allowable costs incurred to date of termination and those allowable costs determined
19 by AUTHORITY to be reasonably necessary to effect such termination. Thereafter, CONSULTANT
20 shall have no further claims against AUTHORITY under this Agreement.

21 B. In the event either Party defaults in the performance of any of their obligations under this
22 Agreement or breaches any of the provisions of this Agreement, the non-defaulting Party shall have the
23 option to terminate this Agreement upon thirty (30) days' prior written notice to the other Party. Upon
24 receipt of such notice, CONSULTANT shall immediately cease work, unless the notice from
25 AUTHORITY provides otherwise. Upon receipt of the notice from AUTHORITY, CONSULTANT shall
26 submit an invoice for work and/or services performed prior to the date of termination. AUTHORITY

1 shall pay CONSULTANT for work and/or services satisfactorily provided to the date of termination in
2 compliance with this Agreement. Thereafter, CONSULTANT shall have no further claims against
3 AUTHORITY under this Agreement. AUTHORITY shall not be liable for any claim of lost profits or
4 damages for such termination.

5 **ARTICLE 14. INDEMNIFICATION**

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

14 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

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

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

26 /

1 Subcontractor Name/Addresses

Functions

2
3
4 **ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

5 CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to
6 CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY
7 deems necessary. CONSULTANT shall maintain such books, records, data and documents in
8 accordance with generally accepted accounting principles and shall clearly identify and make such
9 items readily accessible to such parties during CONSULTANT's performance hereunder and for a
10 period of four (4) years from the date of final payment by AUTHORITY. AUTHORITY's right to audit
11 books and records directly related to this Agreement shall also extend to all first-tier subcontractors
12 identified in Article 15 of this Agreement. CONSULTANT shall permit any of the foregoing parties to
13 reproduce documents by any means whatsoever or to copy excerpts and transcriptions as
14 reasonably necessary.

15 **ARTICLE 17. CONFLICT OF INTEREST**

16 CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict
17 of interest means that due to other activities, relationships or contracts, the CONSULTANT is
18 unable, or potentially unable to render impartial assistance or advice to the AUTHORITY;
19 CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be
20 otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is
21 obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they
22 are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY
23 pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this
24 Agreement.

25 **ARTICLE 18. CODE OF CONDUCT**

26 CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to

1 Third-Party contracts which is hereby referenced and by this reference is incorporated herein.
2 CONSULTANT agrees to include these requirements in all of its subcontracts.

3 **ARTICLE 19. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

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

8 **ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS**

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

12 **ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY**

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

20 **ARTICLE 22. PROHIBITED INTERESTS**

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

24 **ARTICLE 23. OWNERSHIP OF REPORTS AND DOCUMENTS**

25 A. The originals of all letters, documents, reports and other products and data produced under
26 this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made

1 for CONSULTANT's records but shall not be furnished to others without written authorization from
2 AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright therein
3 shall be retained by AUTHORITY.

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

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

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

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

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

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

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

15 A. All of CONSULTANT's finished technical data, including but not limited to illustrations,
16 photographs, tapes, software, software design documents, including without limitation source code,
17 binary code, all media, technical documentation and user documentation, photoprints and other graphic
18 information required to be furnished under this Agreement, shall be AUTHORITY's property upon
19 payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary
20 restriction except as elsewhere authorized in this Agreement. CONSULTANT further agrees that it
21 shall have no interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said
22 data is subject to the provisions of the Freedom of Information Act, 5 USC 552.

23 B. It is expressly understood that any title to preliminary technical data is not passed to
24 AUTHORITY but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,
25 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the
26 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given

1 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to
2 AUTHORITY if CONSULTANT causes AUTHORITY to exercise Article 11, and a price shall be
3 negotiated for all preliminary data.

4 **ARTICLE 26. FORCE MAJEURE**

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

12 **ARTICLE 27. HEALTH AND SAFETY REQUIREMENT**

13 CONSULTANT shall comply with all the requirements set forth in Exhibit __, Level 1 Safety
14 Specifications.

15 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-1-3402 to be
16 executed as of the date of the last signature below.

17 **CONSULTANT**

ORANGE COUNTY TRANSPORTATION AUTHORITY

18 By: _____

By: _____

19 Georgia Martinez
20 Department Manager, Contracts and Procurement

21 **APPROVED AS TO FORM:**

22
23 By: _____

24 James M. Donich
25 General Counsel
26

EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS FORM

STATUS OF PAST AND PRESENT CONTRACTS FORM

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

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

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

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

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

Name

Signature

Title

Date

EXHIBIT E: SAFETY SPECIFICATIONS

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

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

1.2 REGULATORY

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

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

- B. Substance Abuse Prevention Program
Contractor shall comply with the Policy or Program of the Company's Substance Abuse Prevention Policy that complies with the most recent Drug Free Workplace Act. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- C. Heat Illness Prevention Program
Contractor shall comply with CCR Title 8, Section, Section 3395, Heat Illness Prevention. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- D. Hazard Communication Program
Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of SDS for all applicable chemical products used, if any. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- a. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.
- E. Storm Water Pollution Prevention Plan
The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the contract. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements. The program or plan if required by scope shall be provided to the Authority's Project Manager, upon request, within 72 hours.

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

- A. The Authority shall be promptly notified of any of the following types of incidents including but not limited to:
1. Damage incidents of property (incidents involving third party, contractor or Authority property damage);
 2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration), a minor injury, and near miss incidents;
 3. Incidents impacting the environment, i.e. spills or releases on Authority projects or property.
 4. Outside Agency Inspections; agencies such as Cal/OSHA, DTSC, SCAQMD, State Water Resources Control Board, FTA, CPUC, EPA, USACE and similar agencies.
- B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the public

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

that arise from the performance of Authority contract work. An immediate verbal notice followed by an initial written incident investigation report shall be submitted to the Authority's Project Manager within 24 hours of the incident.

- C. A final written incident investigative report shall be submitted within seven (7) calendar days and include the following information. The Current Status of anyone injured, photos of the incident area, detailed description of what happened, Photos of the existing conditions and area of the injury/incident, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of task planning documentation, copy of the Physician's first report of injury, copy of Cal/OSHA 300 log of work related injuries and illnesses, the Cal/OSHA 301 Injury Illness Incident Report, and corrective actions initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report provided to OCTA.
- D. A Serious Injury, Serious Incident, OSHA Recordable Injury/Illness, or a Significant Near Miss shall require a formal incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within seven (7) calendar days of the incident. This review shall require a company senior executive, company program or project manager from the Contractors' organization to participate and present the incident review as determined by the OCTA Project Manager. The serious incident presentation shall include action taken for the welfare of the injured, a status report of the injured, causation factors that lead to the incident, a root cause analysis (using 5 whys and fishbone methods), and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.
1. Serious Injury : includes an injury or illness to one or more employees, occurring in a place of employment or in connection with any employment, which requires inpatient hospitalization for a period in excess of twenty-four hours for other than medical observation, or in which an employee suffers the loss of any member of the body, or suffers any serious degree of physical disfigurement. A serious injury also includes a lost workday or reassignment or restricted injury case as determined by the Physician's first report of injury or Cal/OSHA definitions.
 2. Serious Incident : includes but not limited to property damage of \$500.00 or more, an incident requiring emergency services (local fire, paramedics and ambulance response), news media or OCTA media relations response, and/or incidents involving other agencies (Cal/OSHA, EPA, AQMD, DTSC, Metrolink, FTA, FRA etc.) notification or representation.
 3. OSHA Recordable Injury / Illness : includes and injury / illness resulting in medical treatment beyond First Aid, an injury / illness which requires restricted duty, or an injury / illness resulting in days away from work.
 4. Significant Near Miss Incident : includes incidents where no property was damaged and no personal injury sustained, but where, given a slight shift in time or position, damage and/or injury easily could have occurred.

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

1.4 DESIGNATED HEALTH AND SAFETY REPRESENTATIVE

- A. Upon contract award, the contractor within 10 business days shall designate a health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.
- B. This person shall be a competent or qualified individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards (Cal/OSHA) and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.

1.5 PERSONAL PROTECTIVE EQUIPMENT

- A. The Contractor, its subcontractors, suppliers, and employees are required to comply with applicable personal protective equipment (PPE) requirements while performing work at any Authority project or property. Generally minimum PPE requirements include eye protection; hearing protection, head protection, class 2 or 3 safety reflective vests, and appropriate footwear.
- B. The Contractor, its subcontractors, suppliers, and employees are required to provide their own PPE, including eye, head, foot, and hand protection, safety vests, or other PPE required to perform their work safely on Authority projects or property. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

1.6 REFERENCES

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

END OF SECTION

EXHIBIT F: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

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

Offeror: _____

RFP No.: _____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

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

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

Complete Description of Deviation or Exception:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:

EXHIBIT G: PUBLIC RECORDS ACT IDEMNIFICATION – PROPOSAL DOCUMENTS

PUBLIC RECORDS ACT INDEMNIFICATION – PROPOSAL DOCUMENTS

Offeror is required to submit one copy of the completed and signed form as part of its proposal and it should be included only in the original proposal. Offeror shall complete either Option 1 or Option 2 which ever applies.

Option #1: Public Records Act Indemnification Agreement

By signing below, the Proposer agrees as follows regarding its Proposal:

If Authority receives a Public Records Act request (Government Code sections 6250 et seq.) which seeks any portion of Proposer’s proposal that the Proposer has marked as "confidential", "trade secret", "proprietary", "not subject to disclosure", or similar designation (the "PRA Documents"), the Authority will notify the Proposer of the request. The Proposer shall, within three business days of such notification from the Authority, inform the Authority as to whether it desires the PRA Documents to be withheld, and shall thereafter timely provide a legal basis for each such requested withholding. If the Authority determines to withhold the PRA Documents, Proposer shall indemnify and defend Authority from any and all costs or liabilities resulting from such withholding including, but not limited to, attorney fees and court costs.

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

In no case shall Authority be liable for any inadvertent disclosure of any Proposer proposal documents, or any disclosure made by Authority upon a good faith belief that disclosure is required by law, or in the event Proposer has failed to notify the Authority in writing of its desire to withhold the PRA Documents within three business days and/or to timely provide a legal basis for the withholding of documents, regardless of any marking or designation of such PRA Documents, and Proposer waives any claims it may have had related to such disclosure.

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

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____

Option #2: Non-Applicability

This Proposer has not marked any portion of its proposal as "confidential", "trade secret", "proprietary", "not subject to disclosure", or similar designation.

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

Contact Name: _____ (Print Name)

Title: _____

Signed by: _____

Date: _____