

**REQUEST FOR PROPOSALS (RFP) 1-3675**

# **PAVEMENT INSPECTOR PRE-QUALIFICATION PROGRAM**



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

## **Key RFP Dates**

<b>Issue Date:</b>	<b>October 14, 2021</b>
<b>Question Submittal Date:</b>	<b>October 25, 2021</b>
<b>Proposal Submittal Date:</b>	<b>November 4, 2021</b>

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October 14, 2021

**NOTICE OF REQUEST FOR PROPOSALS (RFP)**

**RFP 1-3675 : "PAVEMENT INSPECTOR PRE-QUALIFICATION PROGRAM "**

**TO: ALL OFFERORS**

**FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY**

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to provide prequalification of pavement inspectors. The budget for this project is \$118,545 for a two (2)-year term.

**Proposals must be submitted to the Authority at or before 2:00 p.m. on November 4, 2021.**

**Proposals must be submitted electronically through the following URL link: <https://www.octa.net/secure/UploadMyFile.aspx> at or before 2:00 p.m. on November 4, 2021. Select "RFP 1-3675" 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 not be accepted.

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 1-3675 , firms and subcontractors must be registered on CAMM NET with at least one of the

following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Consultant Services - Transit Planning
Professional Services	Consultant Services - Transportation Planning
	Engineering - General
	Inspection - Testing & Analysis
	Engineering - Civil

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:

Sue Ding  
Contracts Administration and Materials Management Department  
Phone: 714.560. 5631, Fax: 714.560.5792  
Email: sding@octa.net

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

**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 via email to [sding@octa.net](mailto:sding@octa.net) by the Authority no later than 5:00 p.m., on October 25, 2021.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.

## 3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than October 28, 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 Sue Ding, Senior Contract Administrator.

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

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Consultant Services - Transit Planning
	Consultant Services - Transportation Planning
Professional Services	Engineering - General
	Inspection - Testing & Analysis
	Engineering - Civil

Inquiries received after 5:00 p.m. on October 25, 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](https://www.octa.net/Proposal_Upload_Link) at or before 2:00 p.m. on November 4, 2021. Select "RFP 1-3675" 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 a time and expense price contract specifying fully-burdened hourly rates for the work specified in the Scope of Work, included in this RFP as Exhibit A.

**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, and submitted in 8 1/2" x 11" format. Charts and schedules may be included in 11" x 17" format. Proposals should not include any unnecessarily elaborate or promotional materials. Proposals should not exceed fifty (50) pages in length, excluding any appendices, cover letters, resumes, or forms.

#### **2. Letter of Transmittal**

The Letter of Transmittal shall be addressed to Sue Ding, Sr. 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, phone number and fax number, and email address; relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgement of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 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. Describe experience in working with the various government agencies identified in this RFP.
- 4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.
- 5) Identify all firms hired or retained to provide lobbying or advocating services on behalf of the Offeror by company name, address, contact person, telephone number and email address. This information is required to be provided by the Offeror immediately during the evaluation process, if a lobbyist or advocate is hired or retained.
- 6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

**b. Proposed Staffing and Project Organization**

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

Offeror to:

- 1) Identify key personnel proposed to perform the work in the specified scope of work and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- 2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.
- 3) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- 4) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

**c. Work Plan**

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

Offeror to:

- 1) Describe the approach to completing the services 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 work 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 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 or any technical and/or contractual exceptions after the proposal submittal date identified in the RFP. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed by Authority.

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

**4. Cost and Price Proposal**

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



**SECTION III: EVALUATION AND AWARD**

### **SECTION III. EVALUATION AND AWARD**

#### **A. EVALUATION CRITERIA**

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

- 1. Qualifications of the Firm 30%**

Technical experience in performing work of a closely similar nature; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.
- 2. Staffing and Project Organization 30%**

Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.
- 3. Work Plan 20%**

Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of resource allocation among the work; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.
- 4. Cost and Price 20%**

Reasonableness of the fully-burdened labor rates for the services outlined in Exhibit A, Scope of Work included in this RFP; 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.

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 INSPECTOR PRE-QUALIFICATION PROGRAM**

The Scope of Work consists of establishing pavement management pre-qualification sites (control section), determining the Pavement Condition Indices (PCIs) based on ASTM: D6433 methodology “standard practice for roads and parking lots pavement condition index surveys,” and pre-qualifying/calibrating Consultant/vendor/local agency inspection personnel (agency inspectors). The pre-qualifying of agency inspectors shall be in accordance with the Orange County Transportation Authority’s (OCTA) “Countywide Pavement Management Plan Guidelines” (PMPGM) dated April 2018 section 2.6. Consultant shall provide statistical analysis of surface distress data.

### **WORK TO BE PERFORMED**

#### **1. SELECTION OF PREQUALIFICATION SITES**

Consultant shall identify a minimum of twenty (20) suitable sites to establish the “Ground Truth” against which inspectors will be evaluated. A series of at least four (4) sites should be established for each type of pavement surface to be inspected: Asphalt Concrete (AC), Portland Cement Concrete (PCC), Asphalt Concrete over Portland Cement Concrete (AC/PCC), and Asphaltic Seal Coats over Asphalt Concrete (ASC/AC). For semi-automated inspection systems, the sites should be about 200 feet long by one lane wide (typically 12 feet). For “windshield” or walking surveys the sites should be a minimum of 100 feet long by one (1) to four (4) lanes wide. One (1) of the four (4) sites should be good to very good condition but not so good that the PCI will be 100. One (1) of the four (4) sites should be in relatively poor condition but with a PCI greater than 10. The other two (2) sites should be in moderate condition and exhibit reasonable quantities of the major distress types listed in Section 2.1 of the OCTA PMPGM.

All inspection sites shall be located in the same general area to the extent feasible on two-lane roads (Local Streets and Highways).

Consultant shall provide technical memo describing sites, locations, types, severity of surface distresses, detailed measurements, PCIs, quantities of distresses, and mean values for each site.

## **2. INSPECTION OF THE SITES**

Consultant shall use their most experienced inspection staff to inspect the sites. Each site must be inspected at least four (4) times by the experienced inspector(s) using ASTM D6433 stress definitions and a detailed walking measurement. There must be at least one (1) day between repeated inspections, and the inspectors should not be allowed to have or review the prior inspection data prior to the re-inspection. The PCI and quantities of each distress type-severity combination found shall be calculated using MicroPaver or StreetSaver for each of the minimum four (4) inspections of each of the minimum four (4) sites. The "Ground Truth" PCI value (and quantities of distress type-severity combinations, if used) for each site against which the agency inspectors' data will be judged should be the mean values from each agency based on these inspections. Any standard spreadsheet program can be used to calculate the required mean values. The inspection sites and related technical information will be submitted for OCTA review.

Consultant shall provide technical memo describing sites, locations, types, severity of surface distresses, detailed measurements, PCIs, quantities of distresses and mean values for each site.

## **3. INSPECTOR TEST INSTRUCTIONS / WORKSHEETS**

Develop written prequalification test instructions and worksheets based on OCTA's Countywide Pavement Management Guidelines, for submittal to OCTA for review and approval.

OCTA shall provide the inspector names and contact information to Consultant. Consultant will be responsible for providing the inspector with the locations, written instructions, and worksheets to help assure consistent collection and submittal of the pavement inspection data. The data and analysis of the inspector's test results shall be recorded and provided to OCTA.

Consultant shall submit data analysis of the inspector's test results for OCTA review and approval.

## **4. CALIBRATION/PRE-QUALIFICATION OF THE AGENCY INSPECTORS**

The agency inspectors must independently complete the survey of the sites and provide the data in MicroPaver or StreetSaver format that will allow the PCI to be calculated. The PCI values calculated by OCTA's Consultant from agency inspectors'

distress data shall be compared with mean values from Consultant's detailed walking surveys. The agency inspections for each site, when compared to Consultant's mean values for each site, shall satisfy the following acceptability criteria:

**Acceptability Criteria**

- a)  $nRMSE \leq 1.4$  where:

$$nRMSE = \sqrt{\frac{\sum_{i=1}^n \left( \frac{RPCI_i - BPCI_i}{SD_{PCI}} \right)^2}{n}}$$

Where:

$nRMSE$  = Normalized root mean square error or deviation

$RPCI_i$  = Reported PCI for control section  $i$

$BPCI_i$  = Baseline PCI for control section  $i$

$n$  = Number of control sections

and

$$SD_{PCI} = \frac{100 - BPCI}{3.6}$$

- b) Inspectors that obtain  $nRMSE$  values higher than 1.4 will be allowed to re-inspect and re-submit PCI values for three control sections. OCTA will indicate the three control sections where the inspectors showed the highest deviations from the baseline survey. Re-inspections are allowed only once. The normalized root mean square error ( $nRMSE$ ) will be recalculated and the criteria described at point (a) applied.
- c) All inspections must be performed independently by each inspector.
- d) At least one (1) inspector of a Consultant firm or local agency staff must be prequalified.

## **5. STATISTICAL ANALYSIS OF DISTRESS DATA**

Consultant shall analyze distress data for each inspector as part of the pre-qualification assessments. Consultant shall use appropriate software to analyze data to compare data from automated distress collection efforts to data collected manually, under the direction of the statistician. Consultant shall provide guidelines for agencies to use in selecting vendors to provide inspection services, whether automated or manual. Where the data fails to meet the acceptability criteria stated in Task 3, the inspector will be given the opportunity to re-inspect these sites, as stated above, and return the revised data to OCTA's Consultant within ten (10) working days of their original

inspection date. Consultant shall provide a final report including analysis of distress data and selection guidelines for local agencies. Consultant will be responsible for coordinating the test results with the inspector and responding to any questions inspectors may have.

Consultant shall provide a technical memo describing variance, likely cause of variances, and revaluation of "Ground Truth" sites, where necessary. The memo shall also include any inspector questions and Consultant response.

## **6. DETAILED ANALYSIS OF VARIANCE FROM "GROUND TRUTH"**

If after re-inspection the pavement data still fails to meet the acceptability criteria, Consultant shall provide findings and recommendations concerning any greater than expected variability in Pavement Condition Indices, as follows:

- Evaluate data for one (1) inspector from each company or agency based on the assumption that inspectors belonging to the same company or agency used similar protocol for data collection.
- Evaluate data from five (5) of the control sections: three (3) Asphalt Concrete (AC) sections, one (1) Portland Cement Concrete (PCC) section, and one (1) Asphalt Concrete over Portland Cement Concrete (AC/PCC) section, or Asphalt Seal Coat of Asphalt Concrete (ASC/AC), as applicable, where greatest variations from the "Ground Truth" were observed.
- Re-evaluate the "Ground Truth" for any inspection site where 75 percent or more of inspectors fail to meet the acceptability criteria.
- Document findings and recommendations in the final report.

## **7. FINAL REPORT**

Prepare a final report summarizing the scope of the project and identifying analytical methodology, areas of interest or concern, and recommendations for modification and/or improvement of the pre-qualification/calibration process for pavement inspectors. In a separate appendix, list those inspectors recommended for pre-qualification.

Consultant shall provide final report summarizing results of technical memos, statistical analysis of distress data, comparison of automated and manual data collection results with recommendations and inspector pre-qualification list.



**EXHIBIT B: COST AND PRICE FORMS**

## PRICE SUMMARY SHEET

### SCHEDULE OF FEES

#### SCHEDULE I - PROPOSED HOURLY RATE SCHEDULE

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

**Firm Name:**

**Key Personnel:**

		Year 1	Year 2
Job Function	Name	Fully-Burdened Hourly Labor Rates (Effective – 11/30/22)	Fully-Burdened Hourly Labor Rates (12/1/22 –11/30/23)
Principal Engineer		\$_____	\$_____
Project Engineer		\$_____	\$_____

NOTE: The above designated job functions will be used for cost analysis purposes.

**Other Labor Charges:**

		Year 1	Year 2
Job Function	Name	Fully Burdened Hourly Labor Rates (Effective – 11/30/22)	Fully Burdened Hourly Labor Rates (12/1/22 –11/30/23)

**SCHEDULE II – PROPOSED OTHER DIRECT COSTS**

Other Direct Costs (ODC)		
Type of ODC	Unit	Rate
1.		
2.		
3.		
4.		
5.		
6.		

All other direct expenses will be paid at cost. Any expenses other than those identified above require approval by the project manager, and adequate cost documentation must be included with the invoice for reimbursement.

*Supporting documentation must accompany invoice.*

\*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, and any other expenses not included within this Exhibit B.

1. I acknowledge receipt of RFP 1-3675 and Addenda No.(s) \_\_\_\_\_
2. This offer shall remain firm for \_\_\_\_\_ days from the date of proposal  
(Minimum 120)

COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_

E-Mail: \_\_\_\_\_

SIGNATURE OF PERSON  
AUTHORIZED TO BIND OFFEROR \_\_\_\_\_

SIGNATURE'S NAME AND TITLE \_\_\_\_\_

DATE SIGNED \_\_\_\_\_

**EXHIBIT C: PROPOSED AGREEMENT**



EXHIBIT C

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

6 **ARTICLE 2. AUTHORITY DESIGNEE**

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

9 **ARTICLE 3. SCOPE OF WORK**

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

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

16 **Names**

**Functions**

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

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

#### 4 **ARTICLE 4. TERM OF AGREEMENT**

5 This Agreement shall commence and continue in full force and effect through November 30, 2023,  
6 unless earlier terminated or extended as provided in this Agreement.

#### 7 **ARTICLE 5. PAYMENT**

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

11 B. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to  
12 the work actually completed by CONSULTANT. CONSULTANT shall not charge AUTHORITY for drive  
13 time. Work completed shall be documented in a monthly progress report prepared by CONSULTANT,  
14 which shall accompany each invoice submitted by CONSULTANT. AUTHORITY shall pay  
15 CONSULTANT at the hourly labor rates specified in Exhibit B, entitled "Price Summary Sheet," which is  
16 attached to and by this reference, incorporated in and made a part of this Agreement. These rates shall  
17 remain fixed for the term of this Agreement and are acknowledged to include CONSULTANT's overhead  
18 costs, general costs, administrative costs and profit. CONSULTANT shall also furnish such other  
19 information as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole  
20 discretion, AUTHORITY may decline to make full payment until such time as CONSULTANT has  
21 documented to AUTHORITY'S satisfaction that CONSULTANT has fully completed all work required.  
22 AUTHORITY's payment in full shall constitute AUTHORITY's final acceptance of CONSULTANT's work.

23 C. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in  
24 duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices  
25 electronically to AUTHORITY's Accounts Payable Department at [vendorinvoices@octa.net](mailto:vendorinvoices@octa.net). Each invoice  
26 shall be accompanied by the monthly progress report specified in paragraph B of this Article.



## EXHIBIT C

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

- 3 1. Agreement No. C-1-3675;
- 4 2. Specify the effort for which the payment is being requested;
- 5 3. The time period covered by the invoice;
- 6 4. Labor (staff name, hours charged, hourly billing rate, current charges, and  
7 cumulative charges) performed during the billing period;
- 8 5. Total monthly invoice (including project-to-date cumulative invoice amount);
- 9 6. Itemized expenses including support documentation incurred during the billing  
10 period;
- 11 7. Monthly Progress Report;
- 12 8. Certification signed by the CONSULTANT or his/her designated alternate that a)  
13 The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup  
14 information included with the invoice is true, complete and correct in all material respects; c) All payments  
15 due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to  
16 subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The  
17 invoice does not include any amount which CONSULTANT intends to withhold or retain from a  
18 subcontractor or supplier unless so identified on the invoice.
- 19 9. Any other information as agreed or requested by AUTHORITY to substantiate the  
20 validity of an invoice.

21 **ARTICLE 6. MAXIMUM OBLIGATION**

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

**ARTICLE 7. NOTICES**

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

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Sue Ding

Sr. Contract Administrator

(714) 560 - 5631

sding@octa.net

**ARTICLE 8. INDEPENDENT CONTRACTOR**

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

**ARTICLE 9. INSURANCE**

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

EXHIBIT C

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

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

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

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

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

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

18       C.       CONSULTANT shall include on the face of the certificate of insurance the Agreement Number  
19       C-1-3675; and the Senior Contract Administrator's Name, Sue Ding.

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

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

24       /

25       /

26       /

**ARTICLE 10. ORDER OF PRECEDENCE**

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

**ARTICLE 11. CHANGES**

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

**ARTICLE 12. DISPUTES**

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

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

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**ARTICLE 13. TERMINATION**

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

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

**ARTICLE 14. INDEMNIFICATION**

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

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**ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

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

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

**Subcontractor Name/Addresses****Subcontractor Functions****ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

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

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**ARTICLE 17. CONFLICT OF INTEREST**

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

**ARTICLE 18. CODE OF CONDUCT**

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

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

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

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

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

**ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY**

In connection with its performance under this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that

employees are treated during their employment, without regard to their race, religion, color, sex, age or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**ARTICLE 22. PROHIBITED INTERESTS**

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

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

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

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

C. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be released by CONSULTANT to any other person or agency except after prior written approval by



1 AUTHORITY, except as necessary for the performance of services under this Agreement. All press  
2 releases, including graphic display information to be published in newspapers, magazines, etc., are to be  
3 handled only by AUTHORITY unless otherwise agreed to by CONSULTANT and AUTHORITY.

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

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

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

25 /

26 /

**ARTICLE 25. FINISHED AND PRELIMINARY DATA**

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

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

**ARTICLE 26. FORCE MAJEURE**

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

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**ARTICLE 27. HEALTH AND SAFETY REQUIREMENT**

CONSULTANT shall comply with all the requirements set forth in Exhibit \_\_, Level 1 Safety Specifications.

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

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-1-3675 to be executed as of the date of the last signature below.

**CONSULTANT**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Georgia Martinez  
Department Manager, Contracts and Procurement

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

James M. Donich  
General Counsel

**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.

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

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.

**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.

**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 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, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of task planning documentation, copy of the Physician's first report of injury and corrective actions initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report provided to OCTA.

#### **1.4 DESIGNATED HEALTH AND SAFETY REPRESENTATIVE**

- A. Upon contract award, the contractor within 10 business days shall designate an on-site health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.
- 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 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. 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:

\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_

**Area Below Reserved for Authority Use Only:**

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