

REQUEST FOR PROPOSALS (RFP) 3-1732

**BIKEWAYS STRATEGY AND
FEASIBILITY STUDIES FOR
SUPERVISORIAL DISTRICT 5**



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

Key RFP Dates

Issue Date:	May 23, 2013
Pre-Proposal Conference Date:	June 4, 2013
Question Submittal Date:	June 11, 2013
Proposal Submittal Date:	June 20, 2013
Interview Date:	July 3, 2013

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May 23, 2013

NOTICE OF REQUEST FOR PROPOSALS

(RFP): 3-1732: "BIKEWAYS STRATEGY AND FEASIBILITY STUDIES FOR SUPERVISORIAL DISTRICT 5"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to Bikeways Strategy and Feasibility Studies for Supervisorial District 5.

Proposals must be received in the Authority's office at or before 2:00 p.m. on June 20, 2013.

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

**Orange County Transportation Authority
Contracts Administration and Materials Management
600 South Main Street, 4th Floor
Orange, California 92868
Attention: Robert Webb, Senior Contract Administrator**

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

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

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 Request For Proposals (RFP) may do so by downloading the RFP from CAMM NET at www.octa.net/cammnet.

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 www.octa.net. From the site menu click on CAMM NET to register.

To receive all further information regarding this RFP 3-1732, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

<u>Category:</u>	<u>Commodity:</u>
Services (General)	Program / Project Development and Management Services
Professional Consulting	Administrative Consulting
	Consultant Services - General
	Consultant Services - Land Use
	Consultant Services - Transit Planning
	Consultant Services - Transportation Planning
	Feasibility Studies (Consulting)
	Traffic Planning Consulting
Professional Services	Transit Management Services
	Transportation Service Providers
	Vanpool Services

A pre-proposal conference will be held on June 4, 2013, at 1:30 p.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 829. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established July 3, 2013, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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

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

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

SECTION I: INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS

A. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on June 4, 2013, at 1:30 p.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 829. All prospective Offerors are encouraged to attend the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

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

C. ADDENDA

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

D. AUTHORITY CONTACT

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

Robert Webb, Senior Contract Administrator
Contracts Administration and Materials Management Department
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5743, Fax: 714.560.5792
Email: rwebb@octa.net

E. CLARIFICATIONS

1. Examination of Documents

Should an Offeror require clarifications of this RFP, the Offeror shall notify

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

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and must be received by the Authority no later than 5:00 p.m., on June 11, 2013.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
 - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
 - (2) Personal Delivery: Contracts Administration and Materials Management Department, 600 South Main Street, 4th Floor, Orange, California 92868.
 - (3) Facsimile: (714) 560-5792.
 - (4) Email: rwebb@octa.net

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than June 14, 2013. Offerors may download responses from CAMM NET at www.octa.net/cammnet, or request responses be sent via U.S. Mail by emailing or faxing the request to Robert Webb, 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:

Category:
Services (General)

Commodity:
Program / Project Development

Professional Consulting	and Management Services Administrative Consulting Consultant Services - General Consultant Services - Land Use Consultant Services - Transit Planning Consultant Services - Transportation Planning Feasibility Studies (Consulting) Traffic Planning Consulting
Professional Services	Transit Management Services Transportation Service Providers Vanpool Services

Inquiries received after 5:00 p.m. on June 11, 2013, will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be received in the Authority's office at or before 2:00 p.m. on June 20, 2013.

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

2. Address

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

**Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
600 South Main Street, 4th Floor
Orange, California 92868
Attention: Robert Webb, Senior Contract Administrator**

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

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

Firms must obtain a visitor badge from the receptionist in the lobby of the 600 Building prior to delivering any information to CAMM.

3. Identification of Proposals

Offeror shall submit an **original and 6 copies** of its proposal in a sealed package, addressed as shown above in F.2. The outer envelope must show the Offeror's name and address and clearly marked with RFP number.

4. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to postpone proposal openings for its own convenience.
- d. Proposals received and opened by Authority are public information and must be made available to any person upon request.
- e. Submitted proposals are not to be copyrighted.

G. PRE-CONTRACTUAL EXPENSES

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

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

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

H. JOINT OFFERS

Where two or more firms desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint

venture. The Authority intends to contract with a single firm and not with multiple firms doing business as a joint venture.

I. TAXES

Offerors' proposals are subject to State and Local sales taxes. However, the Authority is exempt from the payment of Federal Excise and Transportation Taxes.

J. PROTEST PROCEDURES

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

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a firm-fixed price contract specifying firm-fixed prices for individual tasks specified in the Scope of Work, included in this RFP as Exhibit A.

L. CONFLICT OF INTEREST

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

M. CODE OF CONDUCT

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

N. DEBARMENT & SUSPENSION:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY PARTICIPANT AND LOWER-TIER PARTICIPANTS

Unless otherwise permitted by law, any person or firm that is debarred, suspended, or voluntarily excluded, as defined in the Federal Transit Administration (FTA) Circular 2015.1, dated April 28, 1989, may not take part in any federally funded transaction, either as a participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, the Authority, acting on behalf of the district, may not enter into any transaction with such debarred, suspended, or voluntarily excluded persons or firms during such period.

SECTION II: PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT

A. PROPOSAL FORMAT AND CONTENT

1. Format

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

2. Letter of Transmittal

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

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, whether the firm is a Disadvantaged Business Enterprise (DBE), contact person's name and address, 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.
- (4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.
- (5) 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 tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.
- (3) Indicate adequacy of labor resources utilizing a table projecting the labor-hour allocation to the project by individual task.
- (4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

Offeror to:

- (1) Describe the approach to completing the tasks 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) Furnish a project schedule for completing the tasks in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (5) Identify any special issues or problems that are likely to be

encountered in this project and how the Offeror would propose to address them.

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

d. **Exceptions/Deviations**

State any exceptions to or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where Offeror wishes to propose alternative approaches to meeting the Authority's technical or contractual requirements, these should be thoroughly explained. If no contractual exceptions are noted, Offeror will be deemed to have accepted the contract requirements as set forth in Exhibit C.

4. Cost and Price Proposal

As part of the cost and price proposal, the Offeror shall submit proposed pricing to provide the services for each work task 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 firm-fixed-price contract specifying firm-fixed-prices for individual tasks.

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. Party and Participant Disclosure Forms

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors,

Offeror is required to complete and sign the Party and Participant Disclosure Forms provided in this RFP and submit as part of the proposal. Offeror is required to submit only **one** copy of the completed form(s) as part of its proposal and it should be included in only the **original** proposal. The prime consultant and subcontractors must complete the form entitled "Party Disclosure Form". The form entitled "Participant Disclosure Form" must be completed by lobbyists or agents representing the prime consultant. The form is included in Exhibit D. Therefore, the prime consultant, subcontractors and agents will be required to report all campaign contributions from the proposal submittal date up and until the Board of Directors makes a selection, which is currently scheduled for August 12, 2013.

2. Status of Past and Present Contracts Form

Offeror shall identify the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement, or litigation. A separate form must be completed for each contract you identify. The Status of Past and Present Contracts Form can be found in Exhibit E.

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

3. Disadvantaged Business Enterprise Program and Forms

Offeror shall complete Exhibit F-1, Exhibit F-2, and Exhibit F-3 per the instructions set forth in Exhibit F, entitled "Disadvantaged Business Enterprise – Race Neutral Solicitation Provisions."

4. Restrictions on Lobbying Form

As a recipient of federal funds, the Authority is required to certify compliance with the influencing restrictions and efforts of Offeror to influence federal officials regarding specific procurements in excess of \$1,000,000.00 that must be disclosed pursuant to section 1352, Title 31, U.S. Code.

This RFP includes, under Exhibit G, the following: a certification form entitled "Certification of Restrictions on Lobbying," the office of Management and Budget (OMB) Standard Form LLL entitled "Disclosure of Lobbying Activities," and a document entitled "Limitation on Payments to Influence Certain Federal Transactions."

The Offeror to this solicitation will be required to complete and submit to the Authority in their proposal, the certification form entitled "Certification of Restrictions on Lobbying" whether or not any lobbying efforts took place. If the Offeror did engage in lobbying activities, then OMB Standard Form LLL "Disclosure of Lobbying Activities" must also be completed and submitted to the Authority.

5. Safety Specifications

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

SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

- 1. Qualifications of the Firm 20%**

Technical experience in performing work of a closely similar nature; experience working with public agencies; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.
- 2. Staffing and Project Organization 25%**

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 30%**

Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of resource allocation among the tasks; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.
- 4. Cost and Price 25%**

Reasonableness of the total price as well as the individual tasks; 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 July 3, 2013, 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 the Regional Planning and Highways Committee, the Offeror with the highest final ranking or a short list of top ranked firms within the competitive range whose proposal(s) is most advantageous to the Authority. The Board Committee will review the evaluation committee's recommendation and forward its decision to the full Board of Directors for final action.

C. AWARD

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

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

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

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

Offerors who were not awarded the contract may obtain a debriefing concerning the strengths and weaknesses of their proposal. Unsuccessful Offerors, who wish to be debriefed, must request the debriefing in writing or electronic mail and the Authority must receive it within seven (7) business days of notification of the contract award.

EXHIBIT A: SCOPE OF WORK

Scope of Work: District 5 Bikeways Collaborative

Background

The Orange County Transportation Authority (OCTA) will conduct regional bikeways planning efforts on a supervisorial district-level basis for all of Orange County. These efforts would follow similarly to the Fourth District Bikeways Collaborative, which included the development of a bikeways strategy and a set of feasibility studies. More information on the Fourth District Bikeways Collaborative can be found at www.octa.net/Bikeways. This project is being primarily funded through a federal grant received by the Orange County Council of Governments (OCCOG). Therefore, OCCOG will also be regularly involved.

This scope of work is for the development of a bikeways strategy (Strategy) and a set of feasibility studies (Studies) for the Supervisorial District 5 area (Attachment 1) which includes the following jurisdictions:

- Aliso Viejo
- County of Orange
- Caltrans
- Dana Point
- Laguna Beach
- Laguna Hills
- Laguna Niguel
- Laguna Woods
- Lake Forest
- Mission Viejo
- Rancho Santa Margarita
- San Clemente
- San Juan Capistrano

The Strategy will build upon the 2009 Commuter Bikeways Strategic Plan (CBSP) and prioritize regional bikeway corridors that connect to major activity centers including employment areas, transportation centers, colleges and universities. More information on the CBSP can be found at www.octa.net/bikeways. The regional bikeway corridors will be identified based on consensus-building and facilitation efforts led by OCTA.

The corridors will be scored top-ranking corridors will be further analyzed in the Studies. The Studies will help to develop grant-ready projects for future Federal, State, and local funding opportunities. They will build from information identified in the Strategy and provide recommendations to complete and enhance the corridor. These recommendations will be detailed through conceptual striping plans, cross sections, simulations, and line item cost estimates.

Task 1: Project Management

Project management services will be on-going throughout the duration of the 20-month schedule. These services include providing general oversight and direction, coordination of meetings, developing monthly progress reports, updating the schedule and invoicing.

Task 1.1 Budget and Schedule

All work shall be completed within 20 months. Upon contract execution, the CONSULTANT Project Manager shall prepare a budget & schedule to include all of the tasks described in this scope of work and delivery dates. The project budget & schedule shall include all activities (by work task, whether performed by the CONSULTANT or by others), start dates, activity durations, product submittal dates, relationships among work tasks (including critical path items), and float time. The schedule shall account for at least 2 week review of all deliverables by OCTA and other study participants. The CONSULTANT Project Manager shall be responsible for timely transmittal of the data and information to all sub CONSULTANTS in order that the sub CONSULTANTS are able to maintain the project schedule. Should adjustments to the schedule be needed as the project progresses, the CONSULTANT Project Manager shall be responsible for updating the schedule accordingly.

Monthly project management meetings will cover any budget and/or schedule issues and to prepare for any task deliverables. The initial kickoff meeting will include all members of the CONSULTANT and OCTA project teams and will focus on introductions, general roles, and expectations. OCTA will prepare the agendas.

Monthly invoices shall include progress reports in a memo format that include a concise description of the tasks performed to date, next month's tasks, and any issues. These progress reports will also be used as talking points for updating the OCTA and OCCOG committees and Boards.

Task 1 Deliverables
<ul style="list-style-type: none">• *Budget & schedule
<ul style="list-style-type: none">• Attendance at Project Kickoff meeting
<ul style="list-style-type: none">• Monthly invoices and *progress reports (hard copies)
<ul style="list-style-type: none">• Monthly project management meetings

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows

Task 2: Bikeways Strategy

The CONSULTANT will develop a Bikeways Strategy document (Strategy) that recommends a set of regional bikeway corridors for priority implementation by the local jurisdictions. The regional bikeway corridors will be identified based on consensus-building and facilitation between three main groups:

- A project development team (PDT) comprised of technical staff from OCTA, Caltrans District 12, County of Orange, and the District 5 cities;
- Key decision-makers and elected officials; and
- Community stakeholders and bicycle user groups.

PDT meetings and events described in Task 4 will be held to facilitate discussions among these groups. The CONSULTANT will support OCTA in organizing and hosting these meetings. OCTA will lead the effort to communicate with the three groups with support from the CONSULTANT.

Task 2.1 Establish regional goals & objectives

Goals & objectives will build upon the regional strategy currently established in the CBSP, which includes prioritization of connections to major employment centers, transportation centers, colleges, and universities. They should also build off previous efforts for the Districts 4, 1 & 2 Bikeways Collaboratives, but will special consideration for the unique context of District 5.

PDT Meeting #1

The purpose of this meeting will be to establish a set of goals and objectives for the Bikeways Strategy. In order to facilitate, the CONSULTANT will develop a presentation providing context and background information on the District 5 area. This may include current mode share, travel patterns, demographics, and best practices (hard copies)

The CONSULTANT will provide the meeting materials listed in “Task 2.1 Deliverables” to OCTA who will distribute to the PDT members. Following the meeting, The CONSULTANT will provide meeting notes generally describing the meeting discussion, noting any key comments, and action items. The CONSULTANT will also compile the contact information from the sign-in sheet to be included in the meeting notes.

Task 2.1 Deliverables:
• Attendance at PDT meeting # 1
• *a presentation providing context for bicycle transportation in District 5.
• Sign-in sheets (hard copies)
• *Agendas (hard copies)
• *Handouts (hard copies)
• *Display boards or posters (color hard copies)
• Snacks & refreshments
• *Meeting notes & attendance contact list

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows

Task 2.2 Develop evaluation criteria

The draft evaluation criteria will build off of previous work for the Districts 4, 1 & 2 Bikeways Collaboratives. The evaluation criteria shall address the goals and objectives established at PDT#1 and build upon the CBSP performance criteria which include safety, ease of implementation, continuity, and regional significance. Additional criteria should also be considered that may include factors consistent with those used in current funding programs and/or state of the art planning. For example, OCTA’s Bikeway Priority Index (BPI) (as illustrated in Exhibit B) was used to evaluate projects under OCTA’s Bicycle Corridor Improvement Program Call for Projects (BCIP). Another example is level of traffic stress. The final methodologies used for measuring each criterion shall be documented in the Strategy and all data or tools (e.g. spreadsheets) shall be transferred to OCTA for future use.

PDT meeting #2

The focus of PDT#2 will be to present the draft evaluation criteria. The CONSULTANT will develop a brief memo to be distributed to the PDT for review prior to the meeting. The memo will describe the draft evaluation criteria, explain the methodology, and provide justification/support for including each criterion. The memo should include a simplified summary table of the evaluation criteria. The CONSULTANT will also develop a brief presentation to walk the PDT members through the draft evaluation criteria and solicit input. The CONSULTANT will compile the PDT’s comments on the draft and develop a Response to Comments table.

Task 2.2 Deliverables:
• *a memo describing the evaluation criteria for PDT review
• Attendance at PDT meeting #2
• *a presentation describing each criterion (hard copies)
• Sign-in sheets (hard copies)
• *Agendas (hard copies)
• *Handouts (hard copies)
• *Display boards or posters (color hard copies)
• Snacks & refreshments
• *Response to Comments table
• *evaluation criteria data and tools
• *Meeting notes & attendance contact list

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows

Task 2.3 Develop an inventory

The inventory will identify bikeway segments that, when pieced together, will ultimately comprise the regional bikeway corridors. The CONSULTANT and OCTA will facilitate the development of the inventory based on input from PDT members. The inventory discussion will focus on:

- “easy-to-implement” bikeway projects that are expected to have low construction costs and can be implemented in relatively short order
- high priority projects that the cities/County has had a strong interest in pursuing
- any controversial bikeways
- existing and proposed bikeway map corrections

Focus Area Meetings

The inventory will be developed through up to five Focus Area meetings. Each meeting will focus on a specific subarea of District 5, to be drafted by the CONSULTANT. The CONSULTANT will seek out various meeting times and locations from PDT members. OCTA will provide a series of contextual maps intended to assist PDT members in identifying bikeways for the inventory that highlight layers including, but not limited to:

- areas of high propensity to bicycle (as identified by OCTA’s ¹Bicycle Priority Index)
- Level of Traffic Stress
- optimal freeway and river crossings
- utility corridors (e.g. Edison right-of-way, flood control channels, railways)
- steep grading
- ²Regional Priority Locations & major trip generators

PDT members will be encouraged to draw directly on these maps and highlight locations of interest. The CONSULTANT will compile these markups from the Focus Area meetings into a GIS data layer file and provide it to OCTA.

Task 2.3 Deliverables:
• Attendance at Focus Area meetings (up to 5)
• Focus Areas map
• a GIS data layer file compiling the PDT’s input and annotations
• Sign-in sheets (hard copies)
• *Agendas (hard copies)
• *Display boards or posters (color hard copies)
• *Meeting notes & attendance contact list

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows

¹ The Bicycle Priority Index (BPI) is a GIS tool that was developed by OCTA and is comprised of thirteen weighted demographic and spatial factors. Areas that are characterized strongly by these factors score highly on the index.

² OCTA’s 2009 Commuter Bikeways Strategic Plan identified regional priority locations which include major employment centers, transportation centers, colleges, and universities.

Task 2.4 Develop regional bikeway corridors

The regional bikeway corridors will be comprised of existing & proposed bikeways that meet the goals & objectives established at PDT 1. They will improve connectivity across jurisdictional boundaries and serve key locations such as major employment centers, transportation centers, colleges, universities, and other regional bikeways/trails such as the Aliso Creek Trail. The regional corridors will be compiled into a GIS data layer file and provided to OCTA.

PDT Meeting #3

Prior to PDT #3, the CONSULTANT will arrange a meeting with OCTA to review the inventory and piece together the draft regional corridors. The resulting draft regional bikeway corridors will be presented to the PDT at PDT #3 through a presentation developed by the CONSULTANT. The presentation will outline and run through key features that may include: mileage, key locations served, and unique challenges/opportunities. The CONSULTANT will compile the PDT’s comments and, under the direction of OCTA develop a Response to Comments table. Based on the comments from the PDT, the CONSULTANT will revise the draft regional corridors accordingly to be used for Bikeway Workshop #1 (described under Task4). Once the corridors are finalized following Bikeway Workshop #1, the CONSULTANT will provide a GIS data layer file to OCTA.

Task 2.4 Deliverables
• A meeting to develop draft regional bikeway corridors
• Attendance at PDT meeting #3
• *A presentation describing the draft regional bikeway corridors
• *Sign-in sheets (hard copies)
• *Agendas (hard copies)
• *Display boards or posters (color hard copies)
• *Response to Comments table
• *Meeting notes & attendance contact list
• a GIS data layer file of the Final Regional Bikeway Corridors

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows

Task 2.5 Draft and Final Bikeways Strategy

The Bikeways Strategy will serve as a reference document for local jurisdictions is intended to assist with project prioritization and development. It will primarily lay out the final corridors and priority ranking. For the ranking, the CONSULTANT will apply the evaluation criteria to each of the regional bikeway corridors and rank them based on performance. The ranking framework should be tiered and provide a recommended set of top-performing corridors for feasibility study (further described in Task 3). Based on previous studies, the CONSULTANT should anticipate approximately 50 miles of top tier corridors in this area. Potential easy-to-implement segments will be highlighted along all the corridors.

The Bikeways Strategy will also include:

- a toolbox of bikeway treatments that the PDT may reference for project development
- a list of potential funding sources
- a description of the collaborative planning process.

PDT meeting #4

The PDT #4 will be conducted to present the Draft Bikeways Strategy and seek approval to release for public review. Under the direction of OCTA, the CONSULTANT will develop a draft for review by the OCTA and PDT prior to PDT #4. The CONSULTANT will develop a presentation outlining the contents of the draft Bikeways Strategy, with special attention to the proposed ranking. The CONSULTANT will compile the PDT’s comments on the draft and develop a Response to Comments table. The CONSULTANT will revise the draft accordingly and provide it to OCTA for public review.

Following the public review period, OCTA will provide direction to the CONSULTANT for any broad-scale revisions to the Revised Draft Strategy. The CONSULTANT will revise accordingly and provide a final version of the Bikeways Strategy to OCTA for distribution to the PDT and any other project participants.

Task 2 Deliverables
• *Draft Bikeways Strategy
• *A presentation describing the Draft Bikeway Strategy and proposed ranking
• Attendance at PDT meeting #4
• *Sign-in sheets (hard copies)
• *Agendas (hard copies)
• *Handouts (hard copies)
• Snacks & refreshments
• *Response to Comments table
• *Meeting notes & attendance contact list
• *Revised Draft Bikeways Strategy
• *Final Bikeways Strategy (15 hard copies)

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows

Task 3: Feasibility Studies

The top-ranked corridors will be further studied through feasibility studies in an effort to assist implementing agencies with project development. The Feasibility Studies are intended to be a reference document for local jurisdictions, who will ultimately be responsible for final design, ROW acquisition, and environmental compliance.

Task 3.1 Data Collection

The CONSULTANT will be responsible for the collection and assembly of existing information relevant to the Studies. The information will include, but not be limited to the following for roadways and property along and directly adjacent to the corridor:

- existing arterial/intersection geometrics (OCTA will provide for CMP facilities)
- existing arterial speeds
- existing traffic volumes (OCTA will provide for CMP and MPAH facilities)
- existing vehicle, pedestrian, and bicycle accident data
- knowledge of who owns and/or is leasing land where right-of-way acquisition is required
- approved and pending street improvements and development projects
- relevant plans/strategies that have been recently updated/adopted

Based on the CONSULTANT's research and knowledge, the CONSULTANT will develop a list of data sources that are proposed to be sought in compiling data. OCTA and the PDT will review the list for missing, more accurate, and or more up-to-date data. Once the list is final, the CONSULTANT will seek those data from the approved data sources and compile them into the Data Collection Memo. The Memo will describe the data sources and include summary tables of the data. Summary tables should be formatted in a way that can be easily exported to Microsoft Excel. The Memo is intended to be a reference document summarizing all the relevant info that local jurisdictions will need for final design and implementation.

Task 3 Deliverables
<ul style="list-style-type: none">• A list of data sources
<ul style="list-style-type: none">• Data Collection Memo

Task 3.2 Proposed Improvements

Based on the Data Collection Memo, the CONSULTANT will develop recommendations to improve the top corridors. The proposed improvements will include design recommendations for specific projects to complete unbuilt portions of the bikeway corridor and/or enhance existing portions of the bikeway corridors. The proposed improvements shall consist of capital and operational improvements that may include innovative pavement treatments and signage. For improvements that would require changes to traffic operations, the CONSULTANT shall provide traffic analysis as required.

PDT#5

The draft proposed improvements will be presented at the PDT #5 through a presentation developed by the CONSULTANT. A summary of the proposed improvements will be provided to OCTA & the PDT prior to PDT#5. The CONSULTANT will compile comments from the OCTA & PDT and under the direction of OCTA, develop a Response to Comments table.

Task 3.2 Deliverables

• *Draft Improvements Summary
• Attendance at PDT meeting #5
• *A presentation describing the draft design recommendations
• *Sign-in sheets (hard copies)
• *Agendas (hard copies)
• *Handouts (hard copies)
• Snacks & refreshments
• *Response to Comments table
• *Meeting notes & attendance contact list

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows.

Task 3.3 Draft and Final Feasibility Studies

Once the proposed improvements are approved by OCTA and the PDT, the CONSULTANT shall develop draft Feasibility Studies. The Studies should illustrate the proposed improvements in conceptual striping plans, cross sections, and/or simulations. They Studies will also recommend phasing and next steps (e.g. environmental compliance, final design, etc.) and provide detailed cost estimates.

PDT Meeting #6

A summary of the draft studies will be presented at the PDT #6 meeting. The presentation should outline the main contents of the studies, with special attention to the phasing. The CONSULTANT will compile comments from the OCTA & PDT and under the direction of OCTA, develop a Response to Comments table.

Task 3.3 Deliverables

• *Draft Feasibility Studies
• Attendance at PDT meeting #6
• *A presentation outlining the draft feasibility studies
• *Agendas (hard copies)
• Snacks & refreshments
• *Response to Comments table
• *Meeting notes & attendance contact list
• *Final Feasibility Studies (15 hard copies)

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows.

Task 4: Outreach

The objective of this task is to engage the public and ensure the Collaborative’s efforts are publicly vetted, as well as technically feasible.

Outreach events, Bikeways Workshops, and regular updates to the OCTA and OCCOG Boards and Committees will be conducted throughout the planning process. The CONSULTANT will support OCTA in organizing and hosting these events. OCTA will lead the effort to communicate with the public with support from the CONSULTANT.

Task 4.1: Board & Committee Updates

The CONSULTANT will support OCTA staff in presenting regular updates to various OCTA and OCCOG Boards and Committees at key milestones in the process including project initiation, when the Draft Corridors & Ranking and available, project completion.

The OCTA Bicycle & Pedestrian Subcommittee meets quarterly. The OCTA Regional Planning & Highways Committee meets on the first and third Mondays of the month. The OCTA Board meets on the second and fourth Mondays of the month. The OCCOG TAC meets every first Tuesday on the month. The OCCOG Board meets every last Thursday of the month.

Task 4.1 Deliverables
• *Presentations to OCTA B&P Subcommittee (up to 5),
• *Presentations to OCTA’s Regional Planning and Highways Committee (up to 2)
• *Presentations to OCTA’s Board of Directors (up to 2)
• *Presentations to OCCOG TAC (up to 5),
• *Presentations to OCCOG Board (up to 2)

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows.

Task 4.2: Survey & Local Outreach Events

The CONSULTANT will develop a survey and attend up to 4 local outreach events to gather input for the inventory and evaluation criteria. The intent of these is to gather input from diverse geographies and demographics including current bikeway users, bicycle advocates, and the “interested but concerned.” These will occur after PDT #2 and before PDT #3 to ensure that the draft evaluation criteria are presented to the public after the PDT’s review, and that public input is considered in drafting the corridors.

For the survey, the CONSULTANT will develop the questions and provide it to OCTA for design and print. The questions should be similar to those used for the Districts 4, 1 & 2 Bikeways Collaboratives. Once final, OCTA will promote and post the survey online and provide hard copies for distribution at the local outreach events.

For the events, the CONSULTANT will conduct research and gather suggestions from the PDT regarding potential local events to piggyback onto such as farmers’ markets, city-sponsored public workshops, etc...These suggestions will be compiled into a list and shared with OCTA for review and selection. The CONSULTANT will attend the selected events and solicit input and completion of the survey.

Task 4.2 Deliverables
• *Survey questions
• List of potential outreach events
• Attendance at local outreach events (up to 4)
• Sign-up sheets (hard copies)
• *Display boards or posters (color hard copies)

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows.

Task 4.3: Bikeway Workshop #1

Following PDT #3, a Bikeway Workshop will be conducted to finalize the evaluation criteria and corridors. The CONSULTANT will present a refined set of corridors and evaluation criteria that reflect comments and suggestions from the PDT and the local outreach events. The target audience for the workshop will include:

- District 5 Elected officials
- Bicycle user and advocacy groups (e.g. bicycle advisory committees, bicycle coalitions); and
- community and neighborhood groups of interest (e.g. schools, residents, homeowners associations, businesses).

To prepare for the Bikeway Workshop, OCTA and the CONSULTANT will hold 3 preparation meetings to discuss the invitation list, agenda, speakers, meeting materials, location, date & time,

Task 4.3 Deliverables:
• Attendance at 3 meetings to prepare for Bikeway Workshop #1
• Attendance at Bikeway Workshop #1
• *presentation describing the revised evaluation criteria and draft regional bikeway corridors
• Sign-in sheets (hard copies)
• *Handouts
• *Agendas (hard copies)
• *Display boards or posters (color hard copies)
• *Meeting notes & attendance contact list

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows.

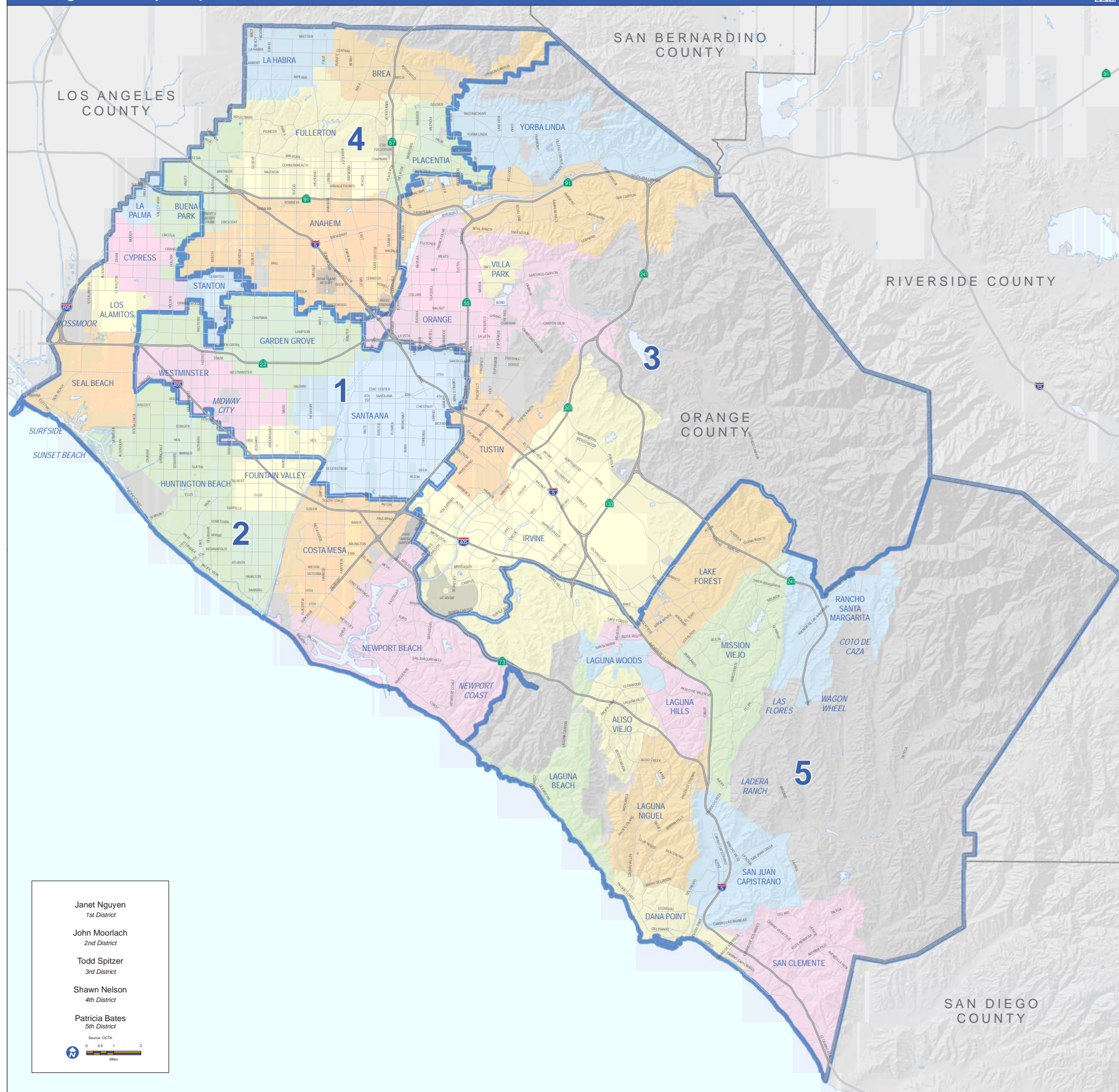
Task 4.4: Bikeway Workshop #2

The Bikeway Workshop #2 will be conducted to discuss the revised draft Bikeways Strategy, with special attention to the proposed ranking of corridors. The revised draft bikeways strategy will be presented that reflects the comments and suggestions made at PDT #4. This meeting will occur during the general public review period.

Task 4.3 Deliverables:
• A meeting to develop draft regional bikeway corridors
• Draft PDT meeting #3
• presentation describing the draft regional bikeway corridors
• 3 meetings to prepare for Bikeway Workshop #1
• Bikeway Workshop #1
• presentation describing the refined draft regional bikeway corridors
• Sign-in sheets (hard copies)
• *Handouts
• *Agendas (hard copies)
• *Display boards or posters (color hard copies)
• *Meeting notes & attendance contact list

*shall be provided in electronic format that can be edited with Adobe Acrobat, Microsoft Word, or Excel for Windows.

Orange County Supervisorial District



Janet Nguyen
 1st District
 John Moorlach
 2nd District
 Todd Spitzer
 3rd District
 Shawn Nelson
 4th District
 Patricia Bates
 5th District

Source: OCTA

EXHIBIT B: COST AND PRICE FORMS

PRICE SUMMARY SHEET

REQUEST FOR PROPOSALS (RFP) 3-1732

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 firm-fixed price contract.

TASKS	
1. Project Management	\$
2. Bikeways Strategy	\$
3. Feasibility Studies	\$
4. Outreach	\$
TOTAL	\$

The above prices are quoted on a firm fixed price basis.

1. I acknowledge receipt of RFP 3-1732 and Addenda No.(s) _____
2. This offer shall remain firm for _____ days from the date of proposal
(Minimum 120)

COMPANY NAME _____

ADDRESS _____

TELEPHONE _____

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-3-1732**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 _____
6 **THIS AGREEMENT** is effective as of this ____ day of _____, 201_, by
7 and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184,
8 Orange, CA 92863-1584, a public corporation of the state of California (hereinafter referred to as
9 "AUTHORITY"), , (hereinafter referred to as "CONSULTANT").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT to provide bikeways
12 strategy and feasibility studies for Supervisorial District 5; and

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

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

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

17 **WHEREAS**, the AUTHORITY's Board of Directors approved this Agreement on____;

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 the 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

1 C. performance of any terms or conditions of this Agreement shall not be construed as a
2 waiver or

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

8 **ARTICLE 2. AUTHORITY DESIGNEE**

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

11 **ARTICLE 3. SCOPE OF WORK**

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

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

18 **Names** **Functions**

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

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

6 **ARTICLE 4. TERM OF AGREEMENT**

7 This Agreement shall commence upon the effective date of this Agreement, and shall continue
 8 in full force and effect through June 30, 2015, unless earlier terminated or extended as provided in this
 9 Agreement.

10 **ARTICLE 5. PAYMENT**

11 A. For CONSULTANT's full and complete performance of its obligations under this Agreement,
 12 and subject to the maximum cumulative payment obligation provisions set forth in Article 7,
 13 AUTHORITY shall pay CONSULTANT on a firm fixed price basis in accordance with the following
 14 provisions.

15 B. The following schedule shall establish the firm fixed payment to CONSULTANT by
 16 AUTHORITY for each work task set forth in the Scope of Work. The schedule shall not include any
 17 CONSULTANT expenses not approved by AUTHORITY including but not limited to reimbursement for
 18 local meals.

<u>Task</u>	<u>Description</u>	<u>Firm Fixed Price</u>
		.00
		.00
		<u>.00</u>
TOTAL FIRM FIXED PRICE PAYMENT		<u>.00</u>

24 C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding
 25 to the work actually completed by CONSULTANT. Percentage of work completed shall be documented
 26 in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice

1 submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be
2 requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY
3 may decline to make full payment for any task listed in paragraph B of this Article until such time as
4 CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully
5 completed all work required under the task. AUTHORITY's payment in full for any task completed shall
6 not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task; final
7 acceptance shall occur only when AUTHORITY's release of the retention described in paragraph D.

8 D. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations
9 under this Agreement, AUTHORITY shall retain percent (%) of the amount of each invoice submitted for
10 payment by CONSULTANT. All retained funds shall be released by AUTHORITY and shall be paid to
11 CONSULTANT within sixty (60) days of payment of final invoice, unless AUTHORITY elects to audit
12 CONSULTANT's records in accordance with Article 17 of this Agreement. If AUTHORITY elects to
13 audit, retained funds shall be paid to CONSULTANT within thirty (30) calendar days of completion of
14 such audit in an amount reflecting any adjustment required by such audit. CONSULTANT agrees to
15 release subcontractor retention within thirty (30) calendar days after the subconsultants work is
16 satisfactory completed. These prompt payment provisions are required to be incorporated in all
17 subcontract agreements issued by CONSULTANT. During the term of the Agreement, at its sole
18 discretion, AUTHORITY reserves the right to release all or a portion of the retained amount based on
19 CONSULTANT'S satisfactory completion of certain milestones. CONSULTANT shall invoice
20 AUTHORITY for the release of the retention in accordance with ARTICLE 5.

21 E. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in
22 duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied by the
23 monthly progress report specified in paragraph C of this Article. AUTHORITY shall remit payment
24 within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include
25 the following information:

- 26 1. Agreement No. C-3-1732;

- 1 2. Specify the task number for which payment is being requested;
- 2 3. The time period covered by the invoice;
- 3 4. Total monthly invoice (including project-to-date cumulative invoice amount) and
- 4 retention;
- 5 5. Monthly Progress Report;
- 6 6. Certification signed by the CONSULTANT or his/her designated alternate that a)
- 7 The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The
- 8 backup information included with the invoice is true, complete and correct in all material respects; c) All
- 9 payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be
- 10 made to subcontractors and suppliers from the proceeds of the payments covered by the certification
- 11 and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain
- 12 from a subcontractor or supplier unless so identified on the invoice.
- 13 7. Any other information as agreed or requested by AUTHORITY to substantiate the
- 14 validity of an invoice.

15 **ARTICLE 6. PROMPT PAYMENT CLAUSE**

16 A. CONSULTANT agrees to pay each subcontractor for the satisfactory work performed under

17 this Agreement, no later than seven (7) calendar days from the receipt of each payment CONSULTANT

18 receives from AUTHORITY. CONSULTANT agrees further to return retainage payments to each

19 subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed.

20 AUTHORITY reserves the right to request the appropriate documentation from CONSULTANT showing

21 payment has been made to the subcontractors. Any delay or postponement of payment from the above

22 referenced time frames may occur only for good cause following written approval by AUTHORITY.

23 B. Failure to comply with this provision or delay in payment without prior written approval from

24 AUTHORITY will constitute noncompliance, which may result in appropriate administrative sanctions,

25 including, but not limited to a penalty of two percent (2%) of the invoice amount due per month for every

26 month that payment is not made.

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

ARTICLE 7. MAXIMUM OBLIGATION

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

ARTICLE 8. NOTICES

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

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584

ATTENTION:

ATTENTION: Bob Webb
Senior Contract Administrator
(714) 560 – 5743 rwebb@octa.net

ARTICLE 9. INDEPENDENT CONTRACTOR

CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of

1 CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and
2 other amounts due its employees in connection with this Agreement and shall be responsible for all
3 reports and obligations respecting them, such as social security, income tax withholding, unemployment
4 compensation, workers' compensation and similar matters.

5 **ARTICLE 10. INSURANCE**

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

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

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

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

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

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

18 B. Proof of such coverage, in the form of an insurance company issued policy endorsement
19 and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of
20 any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days
21 from the effective date of this Agreement with the AUTHORITY, its officers, directors, employees and
22 agents designated as additional insured on the general and automobile liability. Such insurance shall
23 be primary and non-contributive to any insurance or self-insurance maintained by AUTHORITY.
24 Furthermore, AUTHORITY reserves the right to request certified copies of all related insurance policies.

25 C. CONSULTANT shall include on the face of the Certificate of Insurance the Agreement
26 Number C-3-1732; and, the Contract Administrator's Name, Senior Contract Administrator.

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

4 **ARTICLE 11. ORDER OF PRECEDENCE**

5 Conflicting provisions hereof, if any, shall prevail in the following descending order of
6 precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 3-
7 1732, (3) CONSULTANT's proposal dated ; and (4) all other documents, if any, cited herein or
8 incorporated by reference.

9 **ARTICLE 12. CHANGES**

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

18 **ARTICLE 13. DISPUTES**

19 A. Except as otherwise provided in this Agreement, any dispute concerning a question of fact
20 arising under this Agreement which is not disposed of by supplemental agreement shall be decided by
21 AUTHORITY's Director, Contracts Administration and Materials Management (Camm), who shall
22 reduce the decision to writing and mail or otherwise furnish a copy thereof to CONSULTANT. The
23 decision of the Director, Camm, shall be final and conclusive.

24 B. The provisions of this Article shall not be pleaded in any suit involving a question of fact
25 arising under this Agreement as limiting judicial review of any such decision to cases where fraud by
26 such official or his representative or board is alleged, provided, however, that any such decision shall

1 be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous
2 as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any
3 appeal proceeding under this Article, CONSULTANT shall be afforded an opportunity to be heard and
4 to offer evidence in support of its appeal.

5 C. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with
6 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
7 CAMM. This Disputes clause does not preclude consideration of questions of law in connection with
8 decisions provided for above. Nothing in this Agreement, however, shall be construed as making final
9 the decision of any AUTHORITY official or representative on a question of law, which questions shall be
10 settled in accordance with the laws of the state of California.

11 **ARTICLE 14. TERMINATION**

12 A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or
13 part, by giving CONSULTANT written notice thereof. Upon termination, AUTHORITY shall pay
14 CONSULTANT its allowable costs incurred to date of that portion terminated. Said termination shall be
15 construed in accordance with the provisions of CFR Title 48, Chapter 1, Part 49, of the Federal
16 Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to
17 termination for convenience. If AUTHORITY sees fit to terminate this Agreement for convenience, said
18 notice shall be given to CONSULTANT in accordance with the provisions of the FAR referenced above
19 and Article 8, herein. Upon receipt of said notification, CONSULTANT agrees to comply with all
20 applicable provisions of the FAR pertaining to termination for convenience.

21 B. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or state
22 proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT
23 makes an assignment for the benefit of creditors, or for cause if CONSULTANT fails to perform in
24 accordance with the scope of work or breaches any term(s) or violates any provision(s) of this
25 Agreement and does not cure such breach or violation within ten (10) calendar days after written notice
26 thereof by AUTHORITY. CONSULTANT shall be liable for any and all reasonable costs incurred by

1 AUTHORITY as a result of such default or breach including, but not limited to, reprourement costs of
2 the same or similar services defaulted by CONSULTANT under this Agreement.

3 **ARTICLE 15. INDEMNIFICATION**

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

10 **ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS**

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

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

<u>Subcontractor Name/Addresses</u>	<u>Subcontractor Amounts</u>
	.00
	.00

25 **ARTICLE 17. ACCESS TO RECORDS AND REPORTS**

26 CONSULTANT shall provide AUTHORITY, the U.S. Department of Transportation (DOT), the

1 Comptroller General of the United States, or other agents of AUTHORITY, such access to
2 CONSULTANT's accounting books, records, payroll documents and facilities of the CONSULTANT
3 which are directly pertinent to this Agreement for the purposes of examining, auditing and inspecting all
4 accounting books, records, work data, documents and activities related hereto. CONSULTANT shall
5 maintain such books, records, data and documents in accordance with generally accepted accounting
6 principles and shall clearly identify and make such items readily accessible to such parties during
7 CONSULTANT's performance hereunder and for a period of four (4) years from the date of final
8 payment by AUTHORITY. AUTHORITY's right to audit books and records directly related to this
9 Agreement shall also extend to all first-tier subcontractors identified in Article 16 of this Agreement.
10 CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means
11 whatsoever or to copy excerpts and transcriptions as reasonably necessary.

12 **ARTICLE 18. CONFLICT OF INTEREST**

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

23 **ARTICLE 19. CODE OF CONDUCT**

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

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

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

5 **ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY**

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

13 **ARTICLE 22. CIVIL RIGHTS ASSURANCE**

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

16 A. Compliance with Regulations: CONSULTANT shall comply with the Regulations relative to
17 nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter,
18 "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time,
19 (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a
20 part of this Agreement.

21 B. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the
22 Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and
23 retention of subcontractors, including procurements of materials and leases of equipment. The
24 CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by
25 Section 21.5 of the Regulations, including employment practices when the Agreement covers a
26 program set forth in Appendix B of the Regulations.

1 C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all
2 solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be
3 performed under a subcontract, including procurements of materials or leases of equipment, each
4 potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's
5 obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of
6 race, color, or national origin.

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

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

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

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

20 F. Title VI of the Civil Rights Act: In determining the types of property or services to acquire, no
21 person in the United States shall, on the grounds of race, color, or national origin, be excluded from
22 participation in, be denied the benefits of, or otherwise be subjected to discrimination under any
23 program or activity receiving Federal financial assistance in violation of Title VI of the Civil Rights Act of
24 1964, as amended, 42 U.S.C. Sections 2000d *et seq.* and DOT regulations, "Nondiscrimination in
25 Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil
26 Rights Act of 1964," 49 CFR Part 21. In addition, FTA Circular 4702.1, "Title VI and Title VI-Dependent

1 Guidelines for FTA Recipients,” 05-13-07, provides FTA guidance and instructions for implementing
 2 DOT’s Title VI regulations.

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

7 H. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (A)
 8 through (H) in every subcontract, including procurements of materials and leases of equipment, unless
 9 exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such
 10 action with respect to any subcontract or procurement as the AUTHORITY may direct as a means of
 11 enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event
 12 a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier
 13 as a result of such direction, the CONSULTANT may request the AUTHORITY to enter into such
 14 litigation to protect the interests of the AUTHORITY, and, in addition, the CONSULTANT may request
 15 the United States to enter into such litigation to protect the interests of the United States.

16 **ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISES**

17 Race-Neutral DBE Participation

18 **[INTERNAL NOTE: USE THE FOLLOWING LANGUAGE IF CONSULTANT HAS PROPOSED TO
 19 UTILIZE DBES IN THE PERFORMANCE OF THE CONTRACT.]**

20 At the time of contract execution, the CONSULTANT committed to utilize
 21 DBE(s) in the performance of this DOT-assisted contract, and further agrees to
 22 ensure that DBE subcontractors listed on the “***DBE Race-Neutral
 23 Participation Listing***” (***Exhibit B***) perform work and/or supply materials in
 24 accordance with original commitments, unless otherwise directed and/or
 25 approved by the Authority prior to the CONSULTANT effectuating any changes
 26 to its race-neutral DBE participation commitment(s) (*Refer to Subsection H:
 “Performance of DBE Subcontractors”*).

27 **[INTERNAL NOTE: USE THE FOLLOWING LANGUAGE IF CONSULTANT HAS NOT PROPOSED
 28 TO UTILIZE DBES IN THE PERFORMANCE OF THE CONTRACT.]**

29 At the time of contract execution, the CONSULTANT did not commit to utilize
 30 DBE(s) in the performance of this DOT-assisted contract. However, in the
 31 event DBE(s) are utilized in the performance of this contract, the
 32 CONSULTANT shall comply with reporting requirements delineated under

Section E: "Race-Neutral DBE Submission and Ongoing Reporting Requirements (Post-Award)".

A. In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Orange County Transportation Authority (AUTHORITY) has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs". The project is subject to these stipulated regulations. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

1. Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's DOT-assisted contracting opportunities.
2. Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and subcontracts.
3. Ensure non-discrimination in the award and administration of AUTHORITY's DOT-assisted contracts.
4. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
5. Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
6. Help remove barriers to the participation of DBEs in DOT-assisted contracts.
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

B. CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations. In

1 the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program
2 with respect to DOT-assisted contracts, the Regulations shall prevail.

3 C. AUTHORITY's New Race-Neutral DBE Policy Implementation Directives: Pursuant to
4 recently released Race-Neutral DBE policy directives issued by the U.S. DOT in response to the
5 Ninth Circuit U.S. Court of Appeals decision in *Western States Paving Co. v. Washington State*
6 *Department of Transportation*, the Authority has implemented a wholly Race-Neutral DBE Program.
7 A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms.
8 Therefore, under a Race-Neutral DBE Program, AUTHORITY does not establish numeric race-
9 conscious DBE participation goals on its DOT-assisted contracts. CONSULTANT shall not be
10 required to achieve a specific level of DBE participation as a condition of contract compliance in the
11 performance of this DOT-assisted contract. However, CONSULTANT shall adhere to race-neutral
12 DBE participation commitment(s) made at the time of contract award.

13 D. Definitions: The following definitions apply to the terms as used in these provisions:

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

20 2. "Small Business Concern" means a small business as defined pursuant to Section 3 of
21 the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small
22 business concern shall not include any concern or group of concerns controlled by the same socially
23 and economically disadvantaged individual or individuals which has annual average gross receipts in
24 excess of \$19.57 million over the previous three fiscal years.

25 3. "Socially and Economically Disadvantaged Individuals" means those individuals who are
26 citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans,

1 Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women
2 and any other minorities or individuals found to be disadvantaged by the Small Business Administration
3 pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65.

4 Members of the following groups are presumed to be socially and economically disadvantaged:

5 a. "Black Americans," which includes persons having origins in any of the Black racial
6 groups of Africa;

7 b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban,
8 Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

9 c. "Native Americans," which includes persons who are American Indians, Eskimos,
10 Aleuts, or Native Hawaiians;

11 d. "Asian-Pacific Americans," which includes persons whose origins are from Japan,
12 China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust
13 Territories of the Pacific, and the Northern Marianas;

14 e. "Asian-Indian Americans," which includes persons whose origins are from India,
15 Pakistan, and Bangladesh; and

16 f. Women, regardless of ethnicity or race.

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

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

24 6. "Regular Dealer" means a firm that owns, operates or maintains a store, warehouse, or
25 other establishment in which the materials or supplies required for the performance of the contract are
26 bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must

1 engage in, as its principal business, and in its own name, the purchase and sale of the product in
2 question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products
3 need not keep such products in stock if it owns or operates distribution equipment.

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

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

11 i. The individual must demonstrate that he/she has personally suffered social
12 disadvantage.

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

15 iii. The individual's social disadvantage must be chronic, longstanding and
16 substantial, not fleeting or insignificant.

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

19 v. A determination of social disadvantage must be made before proceeding to
20 make a determination of economic disadvantage.

21 b. Economic Disadvantage

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

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

1 With respect to the individual:

- 2 • availability of financing
- 3 • bonding capability
- 4 • availability of outside equity capital
- 5 • available markets

6 With respect to the individual and the business concern:

- 7 • personal and business assets
- 8 • personal and business net worth
- 9 • personal and business income and profits

10 E. Race-Neutral DBE Submission and Ongoing Reporting Requirements (Post-Award)

11 CONSULTANT shall complete and submit the following DBE exhibits (forms) at the times specified:
12 “Monthly Race-Neutral DBE Subcontractors Paid Report Summary and Payment Verification” (Form
13 103) (Exhibit C). If CONSULTANT is a DBE firm and/or has proposed to utilize DBE firms,
14 CONSULTANT will be required to complete and submit a Form 103 to AUTHORITY by the 10th of
15 each month until completion of the contract to facilitate reporting of race-neutral DBE participation,
16 following the first month of contract activity. CONSULTANT shall report the total dollar value paid to
17 DBEs for the applicable reporting period. CONSULTANT shall also report the DBE’s scope of work
18 and the total subcontract value of commitment for each DBE reported. CONSULTANT is advised
19 not to report the participation of DBEs toward CONSULTANT’s race-neutral DBE attainment until the
20 amount being counted has been paid to the DBE. Upon completion of the contract, CONSULTANT
21 will be required to prepare and submit to the Authority a “Race-Neutral DBE Subcontractors Paid
22 Report Summary and Payment Verification” (Form 103) (Exhibit D) clearly marked “Final” to facilitate
23 reporting and capturing actual DBE race-neutral attainments. CONSULTANT shall complete and
24 submit a Final Form 103 whether or not DBEs were utilized in the performance of the contract.

25 F. DBE Eligibility and Commercially Useful Function Standards : A DBE must be a small
26 business concern as defined pursuant to Section 3 of the U.S. Small Business Act and relevant

1 regulations promulgated pursuant thereto. A DBE may participate as a prime contractor, subcontractor,
 2 joint venture partner with a prime or subcontractor, vendor of material or supplies, or as a trucking
 3 company. A DBE joint venture partner must be responsible for specific contract items of work, or clearly
 4 defined portions thereof. Responsibility means actually performing, managing and supervising the work
 5 with its own forces. The DBE joint venture partner must share in the capital contribution, control,
 6 management, risks and profits of the joint venture commensurate with its ownership interest. A DBE
 7 must perform a commercially useful function in accordance with 49 CFR 26.55 (i.e., must be
 8 responsible for the execution of a distinct element of the work and must carry out its responsibility by
 9 actually performing, managing and supervising the work). A DBE should perform at least thirty percent
 10 (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially
 11 useful function. DBEs must be certified by the California Unified Certification Program (CUCP). Listings
 12 of DBEs certified by the CUCP are available from the following sources: The CUCP web site, which can
 13 be accessed at <http://www.californiaucp.com>; or the Caltrans "Civil Rights" web site at
 14 <http://www.dot.ca.gov/hq/bep>. The CUCP DBE Directory, which may be obtained from the Department
 15 of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive,
 16 Sacramento, California 95815; Telephone: (916) 445-3520.

17 G. DBE Crediting Provisions : When a DBE is proposed to participate in the contract, either
 18 as a prime CONSULTANT or Subcontractor, only the value of the work proposed to be performed by
 19 the DBE with its own forces may be counted towards race-neutral DBE participation. If CONSULTANT
 20 is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be
 21 counted. If a DBE intends to subcontract part of the work of its subcontract to a lower tier
 22 Subcontractor, the value of the subcontracted work may be counted toward race-neutral DBE
 23 participation only if the DBE Subcontractor is a certified DBE and actually performs the work with their
 24 own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime
 25 Contractor's race-neutral DBE attainment. CONSULTANT is to calculate and credit participation by
 26 eligible DBE vendors of equipment, materials, and suppliers toward race-neutral DBE attainment, as

1 follows: Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the
2 Contract, obtained from a regular dealer; or One hundred percent (100%) of expenditure(s) for
3 equipment, materials and supplies required under the Contract, obtained from a DBE manufacturer.
4 The following types of fees or commissions paid to DBE Subcontractors, Brokers, and Packagers may
5 be credited toward the prime CONSULTANT's race-neutral DBE attainment, provided that the fee or
6 commission is reasonable, and not excessive, as compared with fees or commissions customarily
7 allowed for similar work, including: Fees and commissions charged for providing bona fide professional
8 or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies
9 required in the performance of the Contract; Fees charged for delivery of material and supplies
10 (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery
11 service is not also the manufacturer of, or a regular dealer in, the material and supplies; Fees and
12 commissions charged for providing any insurance specifically required in the performance of the
13 Contract. CONSULTANT may count the participation of DBE trucking companies toward race-neutral
14 DBE attainment, as follows: The DBE must be responsible for the management and supervision of the
15 entire trucking operation for which it is responsible on a particular contract. The DBE must itself own
16 and operate at least one fully licensed, insured, and operational truck used on the Contract. The DBE
17 receives credit for the total value of the transportation services it provides on the contract using trucks it
18 owns, insures, and operates using drivers it employs. The DBE may lease trucks from another DBE
19 firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another
20 DBE receives credit for the total value of the transportation services the lessee DBE provides on the
21 contract. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE
22 who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a
23 result of the lease arrangement. The DBE does not receive credit for the total value of the
24 transportation services provided by the lessee, since these services are not provided by a DBE. For
25 purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over
26 the truck. This does not preclude the leased truck from working for others during the term of the lease

1 with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased
2 truck. Leased trucks must display the name and identification number of the DBE. If CONSULTANT
3 listed a non-certified DBE 1st tier subcontractor to perform work on this contract, and the non-certified
4 DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower
5 tier DBE certified Subcontractor or Vendor, the value of work performed by the lower tier DBE firm's
6 own forces can be counted toward race-neutral DBE participation on the contract.

7 H. Performance of DBE Subcontractors: DBE subcontractors listed by CONSULTANT in its
8 "DBE Race-Neutral Participation Listing" (Exhibit B) submitted at the time of proposal submittal shall
9 perform the work and supply the materials for which they are listed, unless the CONSULTANT has
10 received prior written authorization from the Authority to perform the work with other forces or to obtain
11 the materials from other sources. CONSULTANT shall provide written notification to the AUTHORITY in
12 a timely manner of any changes to its anticipated DBE participation. This notice should be provided
13 prior to the commencement of that portion of the work.

14 I. Additional DBE Subcontractors: In the event CONSULTANT identifies additional DBE
15 subcontractors or suppliers not previously identified by CONSULTANT for race-neutral DBE
16 participation under the contract, CONSULTANT shall notify the Authority by submitting Exhibit E:
17 "Request for Additional DBE Firm" to enable CONSULTANT to capture all race-neutral DBE
18 participation. CONSULTANT shall also submit, for each DBE identified after contract execution, a
19 written confirmation from the DBE acknowledging that it is participating in the contract for a specified
20 value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the
21 written confirmation).

22 J. DBE Certification Status: If a listed DBE subcontractor is decertified during the life of
23 the project, the decertified subcontractor shall notify CONSULTANT in writing with the date of
24 decertification. If a non-DBE subcontractor becomes a certified DBE during the life of the project,
25 the DBE subcontractor shall notify CONSULTANT in writing with the date of certification.
26 CONSULTANT shall furnish the written documentation to AUTHORITY in a timely manner.

1 K. CONSULTANT's Assurance Clause Regarding Non-Discrimination: In compliance
2 with State and Federal anti-discrimination laws, CONSULTANT shall affirm that they will not exclude
3 or discriminate on the basis of race, color, national origin, or sex in consideration of contract award
4 opportunities. Further, CONSULTANT shall affirm that they will consider, and utilize subcontractors
5 and vendors, in a manner consistent with non-discrimination objectives.

6 **ARTICLE 24. PROHIBITED INTERESTS**

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

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

12 **ARTICLE 25. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

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

1 the express written consent of AUTHORITY.

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

7 **ARTICLE 26. PATENT AND COPYRIGHT INFRINGEMENT**

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

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

1 copyright indemnity thereto.

2 **ARTICLE 27. FINISHED AND PRELIMINARY DATA**

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

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

18 **ARTICLE 28. CONTRACTOR PURCHASED EQUIPMENT**

19 A. If during the course of this Agreement, additional equipment is required, which will be paid for by
 20 the AUTHORITY, CONSULTANT must request prior written authorization from the AUTHORITY's
 21 project manager before making any purchase. As part of this purchase request, CONSULTANT shall
 22 provide a justification for the necessity of the equipment or supply and submit copies of three (3)
 23 competitive quotations. If competitive quotations are not obtained, CONSULTANT must provide the
 24 justification for the sole source.

25 B. CONSULTANT shall maintain an inventory record for each piece of equipment purchased that
 26 will be paid for by the AUTHORITY. The inventory record shall include the date acquired, total cost,

1 serial number, model identification, and any other information or description necessary to identify said
2 equipment or supply. A copy of the inventory record shall be submitted to the AUTHORITY upon
3 request.

4 C. At the expiration or termination of this Agreement, CONSULTANT may keep the equipment and
5 credit AUTHORITY in an amount equal to its fair market value. Fair market value shall be determined,
6 at CONSULTANT's expense, on the basis of an independent appraisal. CONSULTANT may sell the
7 equipment at the best price obtainable and credit AUTHORITY in an amount equal to the sales price. If
8 the equipment is to be sold, then the terms and conditions of the sale must be approved in advance by
9 AUTHORITY'S project manager.

10 A. D. Any subconsultant agreement entered into as a result of this Agreement shall contain all
11 provisions of this clause.

12 **ARTICLE 29. FORCE MAJEURE**

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

20 **ARTICLE 30. PRIVACY ACT**

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

1 comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

2 **ARTICLE 31. INCORPORATION OF FTA TERMS**

3 All contractual provisions required by Department of Transportation (DOT), whether or not
4 expressly set forth in this document, as set forth in Federal Transit Administration (FTA) Circular
5 4220.1F, as amended, are hereby incorporated by reference. Anything to the contrary herein
6 notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other
7 provisions contained in this Agreement. CONSULTANT shall not perform any act, fail to perform any
8 act, or refuse to comply with any requests, which would cause AUTHORITY to be in violation of the
9 FTA terms and conditions.

10 **ARTICLE 32. FEDERAL CHANGES**

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

15 **ARTICLE 33. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

16 AUTHORITY and CONSULTANT acknowledge and agree that, notwithstanding any
17 concurrence by the Federal Government in or approval of the solicitation or award of the underlying
18 Agreement, absent the express written consent by the Federal Government, the Federal Government is
19 not a party to this Agreement and shall not be subject to any obligations or liabilities to the
20 AUTHORITY, CONSULTANT, or any other party (whether or not a party to this Agreement) pertaining
21 to any matter resulting from the underlying Agreement. CONSULTANT agrees to include these
22 requirements in all of its subcontracts.

23 **ARTICLE 34. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND**
24 **RELATED ACTS**

25 A. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act
26 of 1986, as amended, 31 U.S.C. §§3801 et seq. and U.S. DOT regulations, "Program Fraud Civil

1 Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this project. Accordingly, by signing this
2 Agreement, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has
3 made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement of the FTA
4 assisted project for which this Agreement's work is being performed. CONSULTANT also
5 acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement,
6 submission, or certification, the Federal Government reserves the right to impose penalties of the
7 Program Fraud Civil Remedies Act of 1986 on the CONSULTANT to the extent the Federal
8 Government deems appropriate.

9 B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious,
10 or fraudulent claim, statement, submission, or certification to the Federal Government under an
11 agreement connected with a project that is financed in whole or part with Federal assistance awarded
12 by FTA under the authority of 49 U.S.C. §5307 et seq., the Government reserves the right to impose
13 the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. on the CONSULTANT, to the
14 extent the Federal Government deems appropriate. CONSULTANT agrees to include this requirement
15 in all of its subcontracts.

16 **ARTICLE 35. RECYCLED PRODUCTS**

17 CONSULTANT shall comply with all the requirements of Section 6002 of the Resource
18 Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the
19 regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the
20 procurement of the items designated in subpart B of 40 CFR Part 247. CONSULTANT agrees to
21 include this requirement in all of its subcontracts.

22 **ARTICLE 36. ENERGY CONSERVATION REQUIREMENTS**

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

26 /

1 **ARTICLE 37. CLEAN AIR**

2 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
3 to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each violation
4 to AUTHORITY, who will in turn, report each violation as required to assure notification to FTA and the
5 appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its
6 subcontracts.

7 **ARTICLE 38. CLEAN WATER REQUIREMENTS**

8 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
9 to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONSULTANT shall
10 report each violation to AUTHORITY and understands and agrees that the AUTHORITY who will in
11 turn, report each violation as required to assure notification to FTA and appropriate EPA Regional
12 Office. CONSULTANT agrees to include this requirement in all of its subcontracts.

13 **ARTICLE 39. FLY AMERICA REQUIREMENT**

14 CONSULTANT agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance
15 with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that
16 recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air
17 carriers for the U.S. Government-financed international air travel and transportation of their personal
18 effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter
19 of necessity, as defined by the Fly America Act. CONSULTANT shall submit, if a foreign air carrier was
20 used, an appropriate certification or memorandum adequately explaining why service by a U.S. carrier
21 was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a
22 certificate of compliance with the Fly America requirements. CONSULTANT agrees to include the
23 requirements of this section in all subcontracts that may involve international air transportation.

24 **ARTICLE 40. DEBARMENT AND SUSPENSION**

25 This contract is a covered transaction for purposes of 49 CFR Part 29. As such, CONSULTANT
26 is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates,

1 as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

2 CONSULTANT is required to comply with 49 CFR 29, Subpart C and must include the
3 requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

4 **ARTICLE 41. HEALTH & SAFETY REQUIREMENTS**

5 CONSULTANT shall comply with all the requirements set forth in Exhibit F, Level 1 Safety
6 Specifications.

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

8 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-3-1732 to be
9 executed on the date first above written.

10 **CONSULTANT**

ORANGE COUNTY TRANSPORTATION AUTHORITY

11 By _____

By _____

12 Darrell Johnson
13 Chief Executive Officer

14 APPROVED AS TO FORM:

15 By _____

16 Kennard R. Smart, Jr.
17 General Counsel

18 APPROVED:

19 By _____

20 Kia Mortazavi
21 Executive Director Planning

22 Date _____

EXHIBIT D: PARTY AND PARTICIPANT DISCLOSURE FORMS

PARTY DISCLOSURE FORM**Information Sheet****ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

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

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

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND ITS AFFILIATED AGENCIES

To be completed only if campaign contributions have been made in the preceding 12 months.

Prime Firm's Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding
Title and Number: _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Greg Winterbottom, Chairman

Shawn Nelson, Vice Chairman

Patricia Bates, Director

Lori Donchak, Director

Gail Eastman, Director

Matthew Harper, Director

Michael Hennessey, Director

Steve Jones, Director

Jeff Lalloway, Director

Gary Miller, Director

John Moorlach, Director

Al Murray, Director

Janet Nguyen, Director

Miguel Pulido, Director

Tim Shaw, Director

Todd Spitzer, Director

Frank Ury, Director

PARTICIPANT DISCLOSURE FORM**Information Sheet****ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

The attached Participant Disclosure Form must be completed by participants in a proceeding involving a license, permit, or other entitlement for use. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are a participant in a proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date you begin to actively support or oppose an application for license, permit, or other entitlement for use pending before the OCTA or any of its affiliated agencies, and continues until three months after a final decision is rendered on the application or proceeding by the Board of Directors.

No board member or alternate may solicit or accept a campaign contribution of more than \$250 from you and/or your agency during this period if the board member or alternate knows or has reason to know that you are a participant.

- B. The attached disclosure form must be filed if you or your agent has contributed more than \$250 to any board member or alternate for the OCTA or any of its affiliated agencies during the 12-month period preceding the beginning of your active support or opposition. (The disclosure form will assist the board members in complying with the law.)
- C. If you or your agent have made a contribution of more than \$250 to any board member or alternate during the 12 months preceding the decision in the proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a participant in the proceeding.

The Participant Disclosure Form should be completed and filed with the proposal submitted by a party, or should be completed and filed the first time that you lobby in person, testify in person before, or otherwise directly act to influence the vote of the board members of the OCTA or any of its affiliated agencies.

1. An individual or entity is a "participant" in a proceeding involving an application for a license, permit or other entitlement for use if:
 - a. The individual or entity is not an actual party to the proceeding, but does have a significant financial interest in the Authority's or one of its affiliated agencies' decision in the proceeding.

AND

- b. The individual or entity, directly or through an agent, does any of the following:
 - (2) Communicates directly, either in person or in writing, with a board member or alternate of the OCTA or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;
 - (3) Communicates with an employee of the OCTA or any of its affiliated agencies for the purpose of influencing a member's vote on the proposal; or
 - (4) Testifies or makes an oral statement before the Board of Directors of the OCTA or any of its affiliated agencies.
2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.
3. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit, or other entitlement for use. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.

4. To determine whether a campaign contribution of more than \$250 has been made by a participant or his or her agent, contributions made by the participant within the preceding 12 months shall be aggregated with those made by the agent within the preceding 12 months or the period of the agency, whichever is shorter. Campaign contributions made to different members or alternates are not aggregated.
5. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

To be completed only if campaign contributions have been made in the preceding 12 months.

Prime's Firm Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding
Title and Number: _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Greg Winterbottom, Chairman

Shawn Nelson, Vice Chairman

Patricia Bates, Director

Lori Donchak, Director

Gail Eastman, Director

Matthew Harper, Director

Michael Hennessey, Director

Steve Jones, Director

Jeff Lalloway, Director

Gary Miller, Director

John Moorlach, Director

Al Murray, Director

Janet Nguyen, Director

Miguel Pulido, Director

Tim Shaw, Director

Todd Spitzer, Director

Frank Ury, Director

EXHIBIT E: STATUS OF PAST AND PRESENT CONTRACTS

STATUS OF PAST AND PRESENT CONTRACTS FORM

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement or in legal action. A separate form must be completed for each contract. Offeror shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value.

If the contract was terminated, list the reason for termination. Offeror must also identify and state the status of any litigation, claims or settlement agreements related to any of the identified contracts. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

Project city/agency/other:	
Contact Name:	Phone:
Project Award Date:	Original Contract Value:
Term of Contract:	
1) Status of contract:	
2) Identify claims/litigation or settlements associated with the contract:	
3) Reason for termination	

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

Name

Date

Title

**EXHIBIT F: DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND
FORMS**

RACE-NEUTRAL SOLICITATION PROVISIONS

I. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION PROVISIONS

A. DBE Policy and Applicability

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

This DOT-assisted project is subject to these stipulated regulations. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of small businesses, including DBEs as defined in 49 CFR 26, in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

- Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's DOT-assisted contracting opportunities.
- Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and subcontracts.
- Ensure non-discrimination in the award and administration of Authority's DOT-assisted contracts.
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.
- Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

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

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

B. Authority's New Race-Neutral DBE Policy Implementation Directives

Pursuant to recently released Race-Neutral DBE policy directives issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving Co. v. Washington State Department of Transportation*, **the Authority has implemented a wholly Race-Neutral DBE Program.**

A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. A Race-Neutral Program utilizes measures that can assist a wide variety of small businesses including DBEs, such as arranging solicitations, times for the presentation of proposals, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime Consultants to subcontract portions of work that they might, otherwise, perform with their own forces). However, under a Race-Neutral DBE Program, the Authority may no longer advertise DOT-assisted contracts containing numeric race-conscious goals or require an Offeror to utilize DBEs as a condition of award. Race-neutral DBE participation includes any time a DBE obtains a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE goal.

C. Definitions

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

- i. ***"Disadvantaged Business Enterprise (DBE)"*** means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- ii. ***"Small Business Concern"*** means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual

average gross receipts in excess of \$19.57 million over the previous three fiscal years.

- iii. **"Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:
- a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
 - e. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - f. Women, regardless of ethnicity or race.
- iv. **"Owned and Controlled"** means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.
- v. **"Manufacturer"** means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Consultant.
- vi. **"Regular Dealer"** means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required

for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

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

a. Social Disadvantage

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

b. Economic Disadvantage

- 1) The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.
- 2) The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

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

With respect to the individual and the business concern:

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

D. DBE Proposal Submission Requirements

1. “DBE Race-Neutral Participation Listing” (Exhibit F-2)

If the Offeror is a DBE or intends to utilize DBE subconsultants and/or purchase goods or services from DBE vendors or DBE suppliers in the performance of this contract, the Offeror shall provide the following information for every DBE firm who will be proposed and/or listed to participate to facilitate capturing race-neutral DBE participation under this contract:

- a. The complete name and address of each DBE who will participate in the contract;
- b. A description of the work that each DBE will perform or provide;
- c. The dollar amount of the work to be performed or provided by the DBE;
- d. Valid DBE Certification eligibility status, in conformance with 49 CFR, Part 26;
- e. The Offeror shall also submit, for each DBE to perform under this contract, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

The “DBE Race-Neutral Participation Listing” information must be submitted on Exhibit F-2 and should be included with the proposal submittal; however, in the event that the referenced Exhibit is not included, the Exhibit shall be submitted to the Authority no later than 48 hours following proposal submission due date and timeline for the Offeror to be deemed responsive.

In the event that the Offeror is not a DBE and/or does not intend to utilize DBEs in the performance of this contract, the Offeror shall indicate “None” under the column entitled “DBE Firm Name” of the “DBE Race-Neutral Participation Listing” (Exhibit F-2) and submit accordingly.

The “DBE Race-Neutral Participation Listing” form content will not be considered in evaluating the proposal or determining award of any contract.

2. “Bidders List” (Exhibit F-3)

The U.S. Department of Transportation (DOT) requires the Authority to create and maintain a “Bidders List” containing information about all firms (DBE and non-DBE) that bid, propose or quote on the Authority’s DOT-assisted contracts, in accordance with 49 CFR Part 26.11, for use in the Authority’s overall annual DBE goal-setting process. Therefore, the Offeror shall provide the requested information for every firm who submitted a bid, proposal or quote, including the primary Offeror, whether successful or unsuccessful in their attempt to obtain a contract:

- a. Firm name;
- b. Firm address;
- c. Firm’s status as a DBE or non-DBE;
- d. Age of the firm;
- e. Type of services provided by the firm; and
- f. Range of annual gross receipts for the last year.

The “Bidders List” information must be submitted on **Exhibit F-3** and should be included with the proposal submittal; however, in the event that the referenced Exhibit is not included, the Exhibit shall be submitted to the Authority no later than 48 hours following proposal submission due date and timeline for the Offeror to be deemed responsive.

The “Bidders List” content will not be considered in evaluating the proposal or determining award of any contract.

E. DBE Certification

The Authority requires all DBEs listed by Offeror for participation to be certified as eligible DBEs at the time of proposal submission. Only participation by DBEs certified under the DOT regulations published under 49 CFR Part 26 may be credited towards race-neutral DBE participation. It is the responsibility of the Offeror to verify the DBE certification status of all listed DBEs.

The Authority is a Certifying Member Agency of the California Unified Certification Program (UCP). The Authority will accept DBE certification from other certifying member agencies of the UCP, which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81. A listing of California UCP certifying member agencies is available from the UCP website, which can be accessed at <http://www.californiaucp.com>.

F. DBE Eligibility and Commercially Useful Function Standards

- i. A DBE must be a small business concern as defined pursuant to Section 3 of the U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
- ii. A DBE may participate as a prime consultant, subconsultant, joint venture partner with a prime or subconsultant, vendor of material or supplies, or as a trucking company.
- iii. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- iv. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55 (i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.
- v. DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources:
 - a. The CUCP web site, which can be accessed at <http://www.californiaucp.com>; or the Caltrans "Civil Rights" web site at <http://www.dot.ca.gov/hq/bep>.
 - b. The CUCP DBE Directory, which may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815; Telephone: (916) 445-3520.

G. DBE Crediting Provisions

- i. When a DBE is proposed to participate in the contract, either as a prime Consultant or Subconsultant, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards race-neutral DBE participation. If the Consultant is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted.

- ii. If a DBE intends to subcontract part of the work of its subcontract to a lower tier Subconsultant, the value of the subcontracted work may be counted toward race-neutral DBE participation only if the DBE Subconsultant is a certified DBE and actually performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Consultant's race-neutral DBE attainment.
- iii. Consultant is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward race-neutral DBE attainment, as follows:
 - a. Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a regular dealer; or
 - b. One hundred percent (100%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a DBE manufacturer.
- iv. The following types of fees or commissions paid to DBE Subconsultants, Brokers, and Packagers may be credited toward the prime Consultant's race-neutral DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
 - a. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
 - b. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 - c. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.
- v. Consultant may count the participation of DBE trucking companies toward race-neutral DBE attainment, as follows:
 - a. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
 - b. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

- c. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
 - d. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - e. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 - f. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- vi. If the Consultant listed a non-certified DBE 1st tier Subconsultant to perform work on this contract, and the non-certified DBE subconsultant subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subconsultant or Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward race-neutral DBE participation on the contract.

H. DBE "Frauds" and "Fronts"

Only legitimate DBEs are eligible to participate as DBEs in DOT-assisted contracts. Therefore, Offerors are hereby cautioned against knowingly and willfully using "fronts". The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Further, any indication of fraud, waste, abuse or mismanagement of Federal funds should be immediately reported to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline: (800) 424-9071; or to the following field office: FTA Special Agent-in-Charge, 210 Mission Street, Room 2210, San Francisco, CA 94105-1839; Telephone: (415) 744-3133; Fax: (415) 744-2726.

DBE RACE-NEUTRAL PARTICIPATION LISTING

Bidder/Offeror shall complete and submit **Exhibit F-2: “DBE Race-Neutral Participation Listing”** in a **sealed envelope** with the bid/proposal, but no later than 48 hours following bid opening or proposal due date and timeline. (NOTE: In the event of no race-neutral DBE participation, Bidder/Offeror shall mark “None” under the column entitled “DBE Firm Name”.)

The DBE information and content provided under Exhibit F-2: “DBE Race-Neutral Participation Listing” will not be considered in evaluating the bid/proposal or determining award of any contract.

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____		
Business Address:		Check Appropriate Box Describing Subcontractor/Supplier Activity:		
Contact Person:		Subcontractor (100%)	Supplier (60%)	
Telephone:	Fax:	Regular Dealer (60%)	Broker	
License No., Classification and Expiration:		Manufacturer (100%)	Trucker	
Subcontract Amount:				

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____		
Business Address:		Check Appropriate Box Describing Subcontractor/Supplier Activity:		
Contact Person:		Subcontractor (100%)	Supplier (60%)	
Telephone:	Fax:	Regular Dealer (60%)	Broker	
License No., Classification and Expiration:		Manufacturer (100%)	Trucker	
Subcontract Amount:				

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____		
Business Address:		Check Appropriate Box Describing Subcontractor/Supplier Activity:		
Contact Person:		Subcontractor (100%)	Supplier (60%)	
Telephone:	Fax:	Regular Dealer (60%)	Broker	
License No., Classification and Expiration:		Manufacturer (100%)	Trucker	
Subcontract Amount:				

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

Bidder/Offeror:	
Business Address:	
Contact Name:	Title:
Phone: ()	Fax: ()

Total Contract Amount:		\$	
DBE Race-Neutral Participation Value (% of Total Contract Value): <i>(NOTE: Mark "NONE" if no DBEs will be utilized.)</i>	%	DBE Race-Neutral Participation Dollar (\$) Value: <i>(NOTE: Mark "NONE" if no DBEs will be utilized.)</i>	\$

Signature of Authorized Representative	Printed Name
Date	Title

**BIDDERS LIST
FORM F-3**

Bidder/Offeror: _____ **IFB/RFP No.:** _____

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

The Bidder/Offeror is to complete all requested information on **Exhibit F-3: Bidders List** for themselves and all subcontractors, and submit this information at the time of bid submission. However, if not elected to do so at the time of bid submission, Bidders/Offerors must submit such information at the request of the Authority within the prescribed timeline set forth in the solicitation. The AUTHORITY will utilize this information to assist in the AUTHORITY's overall annual DBE goal-setting process. **The Bidders List content will not be considered in evaluating the bid/proposal or determining award of any contract.**

Prime Bidder's/Offeror's Information:	
Name of Prime's Firm:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:
Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): <input type="checkbox"/> African American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Native American <input type="checkbox"/> Woman <input type="checkbox"/> Hispanic American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

Provide the following information for every subcontractor (DBE and non-DBE) included in this bid, proposal or quote.	
Name of Subcontractor's Firm:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:
Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): <input type="checkbox"/> African American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Native American <input type="checkbox"/> Woman <input type="checkbox"/> Hispanic American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

Provide the following information for every subcontractor (DBE and non-DBE) included in this bid, proposal or quote.	
Name of Subcontractor's Firm:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:
Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): <input type="checkbox"/> African American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Native American <input type="checkbox"/> Woman <input type="checkbox"/> Hispanic American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

Provide the following information for every subcontractor (DBE and non-DBE) included in this bid, proposal or quote.	
Name of Subcontractor's Firm:	Phone: ()
Firm Address:	Fax: ()
	E-mail:
	Type of work/services/materials provided:
Number of years in business:	
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
DBE Certification Eligibility (place an "X"): <input type="checkbox"/> African American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Native American <input type="checkbox"/> Woman <input type="checkbox"/> Hispanic American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

If necessary, this Bidders List form can be duplicated to include all firms (DBE and non-DBE) that have submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract.

Failure of the Bidder/Offeror to submit this required Bidders List form will deem the Bidder/Offeror non-responsive.

EXHIBIT G: RESTRICTIONS ON LOBBYING

**CERTIFICATION OF
RESTRICTIONS ON LOBBYING**

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

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

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

Executed this _____ day of _____, 20__

By _____
(Signature of authorized official)

(Title of authorized official)

CERTIFICATION
LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS

A. DEFINITIONS

B. AUTHORITY, AS USED IN THIS CLAUSE, MEANS THE ORANGE COUNTY TRANSPORTATION AUTHORITY, ACTING ON BEHALF OF THE ORANGE COUNTY TRANSIT DISTRICT.

1. Covered Federal action, as used in this clause, means any of the following Federal actions:
The awarding of any Federal contract.
 - a. The making of any Federal grant.
 - b. The making of any Federal loan.
 - c. The entering into of any cooperative agreement.
 - d. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. Indian tribe and tribal organization, as used in this clause, have the meaning provided in Section 4 of the Indian self-determination and Education Assistance Act (25 U.S.C. 4508) and include Alaskan Natives.
3. Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
4. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or other were recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
5. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:
 - (1) An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.
 - (2) A member of the uniformed services, as defined in the

subsection 101(3), Title 37, United States Code.

- (3) A special Government employee, as defined in Section 202, Title 18, United States Code.
 - (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2.
6. Person, as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 7. Reasonable compensation, as used in this clause, means with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
 8. Reasonable payment, as used in this clause means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.
 9. Recipient, as used in this clause, includes the CONSULTANT and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 10. Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.
 11. State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State regional or interstate entity having governmental duties and powers.

C. PROHIBITIONS

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

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

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

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

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

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

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

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

b. Professional and technical services

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

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

Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in

the preparation, submission or negotiation of any bid, proposal, or application or that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include contractors and trade associations.

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

- (4) Only those services expressly authorized by paragraph B.3.a.(1) and (2) of this clause are permitted under this clause.
- (5) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

c. Disclosure

- (1) The consultant who requests or receives from an agency a Federal contract shall file with that agency a disclosure form OMB standard form LLL, Disclosure of Lobbying Activities, (Attachment to the bid package) if such person has made or had agreed to made any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B.1. of this clause, if paid for with appropriated funds.

- (2) The consultant shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph II.A. of this clause. An event that materially affects the accuracy of the information reported includes:

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

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

A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

- (3) The consultant shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.
- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until

received by the prime CONSULTANT. The prime CONSULTANT shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding CONSULTANT.

d. Agreement

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

e. Penalties

(1) Any person who makes an expenditure prohibited under paragraph a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Consultants may relay without liability on the representation made by their subcontractors in the certification and disclosure forms.

f. Cost Allowability:

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

DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		2. Status of Federal Action: <input type="checkbox"/> a. bid/offer application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material changes For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency: _____			7. Federal Program Name/Description: CFDA number, if applicable: _____		
8. Federal Action Number, if known: _____			9. Award Amount, if known: \$ _____		
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI) <p style="text-align: center;">(attach Continuation Sheet(s) SF - LLL - A if necessary)</p>			b. Individuals Performing Services (including address if different from No 10a) (last name, first name, MI): <p style="text-align: center;">(attach Continuation Sheet(s) SF - LLL - A if necessary)</p>		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned			13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other specify: _____		
12. Forum of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify nature: _____ value: _____			14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s) or Member(s) contracted for Payment indicated in Item, 11: <p style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A if necessary)</p>		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No					
16. Information requested through this form is authorized by Code 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.				Signature: _____ Print name: _____ Title: _____ Telephone No: _____ Date: _____	
Federal Use Only				Authorized for Local Reproduction Standard Form - LLL	

L:\CAMM\BOB\IRFP\IRFP 3-1732 DISTRICT 5 BIKEWAYS\IRFP-2-1657 EXHIBIT F (CERTIFICATION OF RESTRICTIONS ON LOBBYING).DOC

DISCLOSURE OF LOBBYING ACTIVITIES

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

INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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

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

DISCLOSURE OF LOBBYING ACTIVITIES

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

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

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EXHIBIT H: SAFETY SPECIFICATIONS

LEVEL 1 SAFETY SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

- A. The Consultants, its sub-tier Consultants, suppliers, and employees have the obligation to comply with all Authority health, safety and environmental compliance department (HSEC) policies, 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 Consultants or its sub-tier contractors may be cause for termination of scope, contracts, or agreements with the Authority, at the sole discretion of the Authority.
- C. The health, safety, and environmental requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be planned and performed, and safe conditions shall be maintained during the course of this work scope.
- D. The Authority Project Manager shall be responsible to ensure a safety orientation is conducted for all Consultant personnel, sub-tier Consultants, suppliers, vendors, and new employees assigned to the project prior to commencement of the project.
- E. The Consultant shall ensure that all Consultant vehicles, including those of its sub-tier Consultants, 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 Consultant is encouraged to exceed minimum requirements. When the Consultant safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of public and workers.

G. INJURY AND ILLNESS PREVENTION PLAN

The Contractor shall submit to the Authority, a copy of their company Injury and Illness Prevention Plan (IIPP) in accordance with California Code of Regulations (CCR) Title 8, Section 3203. The intent and elements of the IIPP shall be implemented and enforced by the Contractor and its sub-tier contractors, suppliers, and vendors.

H. Policy or Certification of Compliance of Company's Substance Abuse Prevention Policy.

1.2 HAZARD COMMUNICATION

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

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

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

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

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

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

C. A final written incident investigative report shall be submitted within seven (7) calendar days, and include the following information. The current status of anyone injured, photos of the incident area, detailed description of what happened, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of the task planning documentation, and the corrective action initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report acceptable to OCTA.

1.4 PERSONAL PROTECTIVE EQUIPMENT

A. The Consultant, its sub-tier Consultants, suppliers, and employees are required to comply with the Authority's personal protective equipment (PPE) policy while performing work at any Authority facility, i.e. eye protection policy, hearing protection policy, head protection, safety vests, Work Shoe Policy.

- B. The Consultant, its sub-tier Consultants, 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. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

1.5 REFERENCES

- A. CCR Title 8 Standards (Cal/OSHA)
- B. FCR Including 1910 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH Standards
- D. OCTA Construction Management Procedures Manual
- E. OCTA Yard Safety Rules
- F. OCTA Emergency Response Guide
- G. OCTA Weekly Safety Briefings

END OF SECTION