

REQUEST FOR PROPOSALS (RFP) 3-2836

AVERAGE VEHICLE OCCUPANCY COUNTS



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

Key RFP Dates

| | |
|---------------------------------|---------------------------|
| Issue Date: | August 28, 2023 |
| Question Submittal Date: | September 7, 2023 |
| Proposal Submittal Date: | September 21, 2023 |
| Interview Date: | October 12, 2023 |

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August 28, 2023

NOTICE OF REQUEST FOR PROPOSALS (RFP)

RFP 3-2836: "AVERAGE VEHICLE OCCUPANCY COUNTS"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to provide the 91 Express Lanes' and General Purpose Lanes' average vehicle occupancy counts and vehicle classification reports.

Please note that by submitting a Proposal, Offeror certifies that it is not subject to any Ukraine/Russia-related economic sanctions imposed by the State of California or the United States Government including, but not limited to, Presidential Executive Order Nos. 13660, 13661, 13662, 13685, and 14065. Any individual or entity that is the subject of any Ukraine/Russia-related economic sanction is not eligible to submit a Proposal. In submitting a Proposal, all Offerors agree to comply with all economic sanctions imposed by the State or U.S. Government.

The budget for this project is \$200,000.00 for a five (5)-year term.

Proposals must be submitted, electronically, through the following URL link: <http://www.octa.net/Proposal Upload Link>, at or before the deadline of **2:00 p.m. on September 21, 2023. The link has an upload file size limit of 80MB. Authority will not accept hard copy proposals for this RFP.**

Offerors are instructed to click the upload link, select "**RFP 3-2836**" from the drop-down menu, and follow the instructions as prompted to upload the proposal. The upload link will expire at the submittal deadline and will not allow proposals to be uploaded.

Should Offerors encounter technical issues with uploading the proposals via the link provided, Offerors are required to contact the Contract Administrator prior to the submission deadline. Proposals and supplemental information to proposals received after the date and time specified above will be rejected.

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

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

To receive all further information regarding this RFP 3-2836, 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> |
| Professional Consulting | Consultant Services - Transit Planning |
| | Consultant Services – Tolling Systems Design and Development |
| Professional Services | Engineering - Traffic |

The Authority has established October 12, 2023, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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

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

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

SECTION I: INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS**A. EXAMINATION OF PROPOSAL DOCUMENTS**

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

B. ADDENDA

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

C. AUTHORITY CONTACT

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

Jackie Le, Senior Contract Administrator
Contracts Administration and Materials Management Department
Phone: 714.560.5486
Email: jle@octa.net

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

D. CLARIFICATIONS**1. Examination of Documents**

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

2. Submitting Requests

- a. All questions, must be put in writing and received via e-mail at jle@octa.net no later than 5:00 p.m., on September 7, 2023.
- b. Requests for clarifications, questions, and comments must be clearly labeled, "Written Questions RFP 3-2836", in the subject line of the e-mail. The Authority is not responsible for failure to respond to a request that has not been labeled as such.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET no later than September 12, 2023. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via email.

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:

Professional Consulting

Professional Services

Commodity:

Consultant Services - Transit

Planning

Consultant Services – Tolling

Systems Design and

Development

Engineering - Traffic

Inquiries received after 5:00 p.m. on September 7, 2023 will not be responded to.

E. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be submitted, electronically, through the following URL link: <http://www.octa.net/Proposal Upload Link>, at or before the deadline of **2:00 p.m. on September 21, 2023. The link has an upload file size limit of 80MB. Authority will not accept hard copy proposals for this RFP.**

Offerors are instructed to click the upload link, select “**RFP 3-2836**” from the drop-down menu, and follow the instructions as prompted to upload the proposal. The upload link will expire at the submittal deadline and will not allow proposals to be uploaded.

Should Offerors encounter technical issues with uploading the proposals via the link provided, Offerors are required to contact the Contract Administrator prior to the submission deadline. Proposals and supplemental information to proposals received after the date and time specified above will be rejected.

2. Acceptance of Proposals

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

F. PRE-CONTRACTUAL EXPENSES

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

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

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

G. JOINT OFFERS

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

H. TAXES

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

I. PROTEST PROCEDURES

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

J. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a firm-fixed price contract specifying firm-fixed prices for work specified in the Scope of Work, included in this RFP as Exhibit A. The term of the Agreement will be five (5) years.

K. CONFLICT OF INTEREST

All Offerors responding to this RFP must avoid organizational conflicts of interest which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships

or contracts, an Offeror is unable, or potentially unable to render impartial assistance or advice to the Authority; an Offeror's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or an Offeror has an unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the Offeror's proposal.

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

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

L. CODE OF CONDUCT

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

M. OWNERSHIP OF RECORDS/PUBLIC RECORDS ACT

All proposals and documents submitted in response to this RFP shall become the property of the Authority and a matter of public record pursuant to the California Public Records Act, Government Code sections 6250 et seq. (the "Act"). Offerors should familiarize themselves with the provisions of the Act requiring disclosure of public information. Offerors are discouraged from marking their proposal documents as "confidential" or "proprietary."

If a Proposal does include "confidential" or "proprietary" markings and the Authority receives a request pursuant to the Act, the Authority will endeavor (but cannot guarantee) to notify the Offeror of such a request. In order to protect any information submitted within a Proposal, the Offeror must pursue, at its sole cost and expense, any and all appropriate legal action necessary to maintain the confidentiality of such information. The Authority generally does not consider pricing information, subcontractor lists, or key personnel, including resumes, as being exempt from disclosure under the Act. In no event shall the Authority or any of its officers, directors, employees, agents, representatives, or consultants be liable to Offeror for the disclosure of any materials or information submitted in response to the RFP or by failing to notify Offeror of a request seeking its Proposal. The Authority reserves the right to make an independent decision to disclose records and material.

Notwithstanding the above, all information regarding proposal responses will be held as confidential until such time as the evaluation has been completed; an

award has been made by the Board of Directors or Authority Staff, as appropriate; and the contract has been fully negotiated.

N. STATEMENT OF ECONOMIC INTERESTS

The awarded Offeror (including designated employees and subconsultants) may be required to file Statements of Economic Interests (Form 700) in accordance with the Political Reform Act (Government Code section 81000 et seq.). This applies to individuals who make, participate in making, or act in a staff capacity for making governmental decisions. The Authority determines which individuals are required to file a Form 700, and if such determination is made, the individuals must file Form 700s with the Authority's Clerk of the Board no later than thirty (30) days after the execution of the Agreement, annually thereafter for the duration of the Agreement, and within thirty (30) days of termination of the Agreement.

SECTION II: PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT

A. PROPOSAL FORMAT AND CONTENT

1. Format

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

2. Letter of Transmittal

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

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, contact person's name and address, 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) Demonstrate experience and capability with average vehicle occupancy counts and vehicle classification reports.
- (6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

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

Offeror to:

- (1) Identify key personnel proposed to perform the work in the specified 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) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (4) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

Offeror to:

- (1) Describe the approach to completing the work specified in the Scope of Work. The approach to the work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the work and specify who would perform them.
- (3) Furnish a project schedule for completing the work in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control, as well as budget and schedule control for the project.
- (5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.

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

d. Exceptions/Deviations

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

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

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 with all anticipated expenses to complete the Scope of Work.

5. Appendices

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

B. FORMS

1. Status of Past and Present Contracts Form

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

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

2. Proposal Exceptions and/or Deviations Form

Offerors shall complete the form entitled "Proposal Exceptions and/or Deviations" provided in this RFP and submit it as part of the original

proposal. For each exception and/or deviation, a new form should be used, identifying the exception and/or deviation and the rationale for requesting the change. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed nor considered by the Authority.

SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

- 1. Qualifications of the Firm 20%**
 Technical experience in performing work of a closely similar nature; strength and stability of the firm; strength, stability, experience, and technical competence of subcontractors; assessment by client references.
- 2. Staffing and Project Organization 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 25%**
 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 30%**
 Reasonableness of the total price; 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 October 12, 2023, 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, the evaluation committee will score the proposals to develop a competitive range. 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.

C. AWARD

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.

Offeror acknowledges that the Authority's Board of Directors reserves the right to award this contract in its sole and absolute discretion to any Offeror to this RFP regardless of the evaluation committee's recommendation or recommendation of a Board Committee.

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

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

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

EXHIBIT A: SCOPE OF WORK

SCOPE OF WORK

AVERAGE VEHICLE OCCUPANCY COUNTS

PROJECT BACKGROUND

The 91 Express Lanes is a four (4)-lane, eighteen (18)-mile tolled facility built in the median of California's Riverside Freeway (SR-91) between the Costa Mesa Freeway (SR-55) in the City of Anaheim and Interstate 15 (I-15) interchange in Riverside County. The Orange County Transportation Authority (OCTA) 91 Express Lanes (91 EL) segment opened in 1995 and the Riverside County Transportation Commission (RCTC) 91 EL segment opened in 2017. OCTA operates the 91 EL from SR-55 to the Orange County/Riverside County line. RCTC operates the 91 EL that extends from the Orange County/Riverside County line to the I-15 interchange in the City of Corona.

The 91 EL includes an all-electronic toll collection system at freeway speeds which does not accept cash on the road and requires all drivers to have a FasTrak® transponder to pay for the toll. There is no entry/exit except at the endpoints, so there is only a single bi-directional toll station in the middle of the 91 EL of each segment. Each Toll Zone consists of two (2) tolled lanes for vehicles carrying two (2) or fewer persons and one (1) lane for vehicles carrying three (3) or more persons. Vehicles on the 91 Express Lanes with three (3) or more persons are required to access a dedicated High Occupancy Vehicle three plus (3+) toll lane at the Toll Zones.

Access Points provide access to the OCTA 91 EL. The following three (3) points are provided:

- SR-91 eastbound west of the SR-55 junction;
- SR-55 northbound west of the SR-91 junction; and
- SR-91 westbound at the Orange/Riverside County line area.

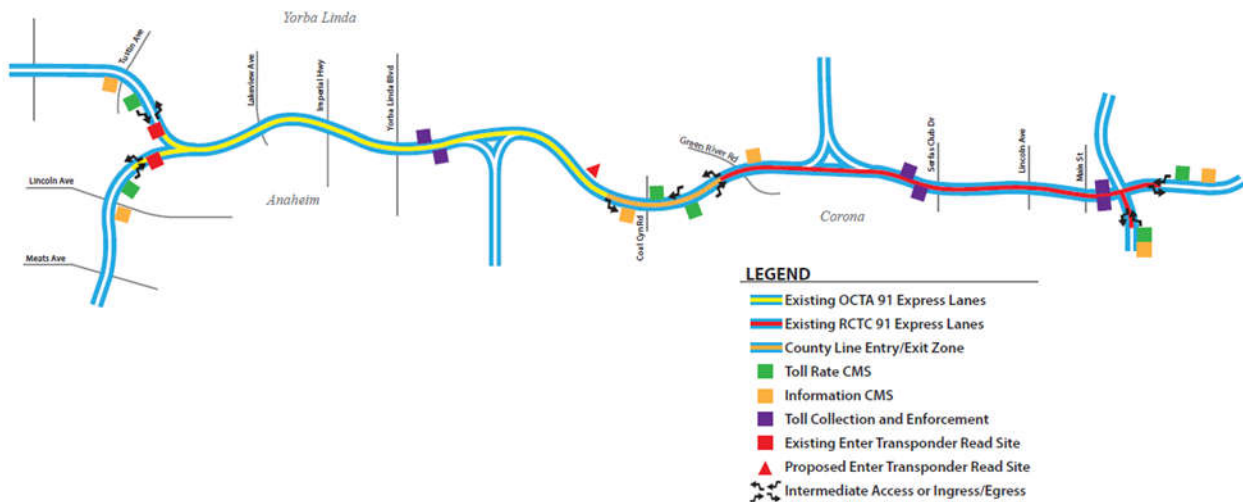


Figure 1-1: 91 Express Lanes Tolling Layout identifies the entry/exit and Toll Zone locations for the 91 Express Lanes and the RCTC Extension.

OCTA seeks a Consultant to perform vehicle occupancy analysis for the OCTA 91 EL and the 91 General Purpose (GP) lanes in Orange County.

PROJECT DESCRIPTION

Task 1 - Data Collection:

The Consultant shall collect vehicle occupancy and vehicle classification data for both the 91 EL and 91 GP lanes in Orange County. The counts shall be taken for two (2) consecutive days, (Mondays, Fridays, and public holidays are to be avoided), three (3) hours in the morning (generally between 6:00 a.m. to 9:00 a.m.) and three (3) hours in the afternoon/evening (generally 3:00 p.m. to 6:00 p.m.) and shall be taken in the peak direction of travel. Peak direction of travel in the morning period is westbound and peak direction of travel in the afternoon/evening period is eastbound. The Consultant shall take into consideration seasonal periods for sufficient daylight to observe vehicle occupants and adjust the hours accordingly, with prior approval of OCTA.

The counts shall be conducted from the westbound and eastbound toll collection and enforcement sites (see Figure 1-1). The 91 GP lane counts shall be conducted from the Lakeview Avenue overpass.

Vehicle occupancy counts shall be conducted four (4) times during the year in the months of February, May, August and November. The potential effects of holidays shall be

considered and avoided in the selection of days on which to conduct the counts. Days of inclement weather should also be avoided, when possible.

Deliverables/Milestones – Task 1

- Data collection

Task 2 - Vehicle Count Data Processing and Reporting:

The Consultant shall compile the data and prepare summary tables for the report. The report shall show separate results of the counts at each location (e.g., 91 EL and 91 GP lanes) and for each count day.

Table 1: The table shall provide a summary in fifteen (15)-minute intervals of the occupancy by types of vehicles (Passenger vehicles, trucks, motorcycles, vanpools, buses) during the peak hours. The table shall include the total vehicle and total person counts and occupancy per vehicle during each fifteen (15)-minute interval. Data provided shall be for morning and afternoon/evening peak hours as noted above.

Table 2: The table shall show the summary of the average vehicle occupancy by one (1)-hour, two (2)-hour, and three (3)-hour intervals during both peak hour periods in fifteen (15)-minute intervals, (6:00 - 7:00, 6:15 – 7:15, 6:30 – 7:30 for 1-hour interval, 6:00 – 8:00, 6:15-8:15 for 2-hour intervals, etc.). The table shall contain the hours, vehicle total, persons total, and occupancy per vehicle.

Table 3: The table shall show vehicle and occupancy summary by vehicle classification for both the morning and afternoon/evening peak periods by the following:

One (1) hour interval: the hour interval reflected shall be the hour that achieves the highest AVO percentage in Table 2.

Three (3)-hour interval reflected in Table 2 for both eastbound and westbound peak hour periods.

Deliverables/Milestones – Task 2

- Data processing

Task 3 – Reports Submission:

The Consultant shall submit the final report, via email, to OCTA within thirty (30) days from when the count was performed. The report shall be in PDF format and/or other format as requested by OCTA. At OCTA's request, Consultant shall make revisions to the reports, as necessary.

Deliverables/Milestones – Task 3

- Completed reports

LIMITATION ON GOVERNMENTAL DECISIONS

Nothing contained in this scope of work permits Consultant's personnel to authorize or direct any actions, votes, appoint any person, obligate, or commit OCTA to any course of action or enter into any contractual agreement on behalf of OCTA to any course of action or enter into any contractual agreement on behalf of OCTA. In addition, Consultant's personnel shall not provide information, an opinion, or a recommendation for the purpose of affecting a decision without significant intervening substantive review by OCTA to any course of action or enter into any contractual agreement on behalf of OCTA personnel, counsel, and management.

EXHIBIT B: COST AND PRICE FORMS

PRICE SUMMARY SHEET**REQUEST FOR PROPOSALS (RFP) 3-2836**

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

| Description | Firm-Fixed Price | | | | |
|---|-----------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| | Year 1 Effective – 10/31/24 | Year 2 11/1/24- 10/31/25 | Year 3 11/1/25- 10/31/26 | Year 4 11/1/26- 10/31/27 | Year 5 11/1/27- 10/31/28 |
| Quarterly Verification Count Reports Task 1 | \$ _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Quarterly Verification Count Reports Task 2 | \$ _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Quarterly Verification Count Reports Task 3 | \$ _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Firm-Fixed Price Annual Payment | \$ _____ | \$ _____ | \$ _____ | \$ _____ | \$ _____ |

Total Firm-Fixed Price Payment for Five (5) Years \$ _____

The undersigned, upon acceptance, agrees to provide the service in accordance with the terms, conditions, and requirements as contained in RFP 3-2836 and the supporting documents for all prices proposed.

-
1. I acknowledge receipt of RFP 3-2836 and Addenda No.(s) _____
 2. This offer shall remain firm for _____ days from the date of proposal
(Minimum 120)

COMPANY NAME _____

ADDRESS _____

TELEPHONE _____

SIGNATURE OF PERSON
AUTHORIZED TO BIND OFFEROR _____

SIGNATURE'S NAME AND TITLE _____

DATE SIGNED _____

EXHIBIT C: PROPOSED AGREEMENT

PROPOSED AGREEMENT NO. C-3-2836

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

THIS AGREEMENT is effective this _____ day of _____, 2023 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and , , , (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONSULTANT to provide average vehicle occupancy counts and vehicle classification services for the 91 Express Lanes and General Purpose Lanes; and

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

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

WHEREAS, CONSULTANT wishes to perform these services;

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

ARTICLE 1. COMPLETE AGREEMENT

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

1 B. AUTHORITY's failure to insist in any one or more instances upon CONSULTANT's
2 performance of any terms or conditions of this Agreement shall not be construed as a waiver or
3 relinquishment of AUTHORITY's right to such performance or to future performance of such terms or
4 conditions and CONSULTANT's obligation in respect thereto shall continue in full force and effect.
5 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 times
15 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 C. No person named in paragraph B of this Article, or his/her successor approved by
23 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or
24 level of commitment hereunder be changed, without the prior written consent of AUTHORITY. Should
25 the services of any key person become no longer available to CONSULTANT, the resume and
26 qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as

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

ARTICLE 4. TERM OF AGREEMENT

This Agreement shall commence upon execution by both parties, and shall continue in full force and effect through October 31, 2028, unless earlier terminated or extended as provided in this Agreement.

ARTICLE 5. PAYMENT

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

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

| Description | Firm-Fixed Price | | | | |
|---|-------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
| | Effective – 10/31/24 | 11/1/24 – 10/31/25 | 11/1/25 – 10/31/26 | 11/1/26 – 10/31/27 | 11/1/27 – 10/31/28 |
| Quarterly Verification Count Reports Task 1 | \$_____ | \$_____ | \$_____ | \$_____ | \$_____ |
| Quarterly Verification Count Reports Task 2 | \$_____ | \$_____ | \$_____ | \$_____ | \$_____ |
| Quarterly Verification Count Reports Task 3 | \$_____ | \$_____ | \$_____ | \$_____ | \$_____ |
| Firm-Fixed Price Annual Payment | \$_____ | \$_____ | \$_____ | \$_____ | \$_____ |

Total Firm-Fixed Price Payment for Five (5) Years \$_____

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

submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to make full payment for any task listed in paragraph B of this Article until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required under the task. AUTHORITY's payment in full for any task completed shall constitute AUTHORITY's final acceptance of CONSULTANT's work under such task.

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

1. Agreement No. C-3-2836;
2. Specify the task number for which payment is being requested;
3. The time period covered by the invoice;
4. Total quarterly invoice (including project-to-date cumulative invoice amount);
5. Quarterly Progress Report;
6. Certification signed by the CONSULTANT or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
7. Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.

ARTICLE 6. 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 7. NOTICES

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

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Jackie Le

Title:

Title: Senior Contract Administrator

Phone:

Phone: (714) 560 - 5486

Email:

Email: jle@octa.net

ARTICLE 8. INDEPENDENT CONTRACTOR

A. CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all

1 reports and obligations respecting them, such as social security, income tax withholding, unemployment
2 compensation, workers' compensation and similar matters.

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

7 **ARTICLE 9. INSURANCE**

8 A. CONSULTANT shall procure and maintain insurance coverage in full force and effect during
9 the entire term of the Agreement. Coverage shall be full coverage and not subject to self-insurance
10 provisions. CONSULTANT shall provide the following insurance coverage:

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

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

17 3. Workers' Compensation with limits as required by the State of California including
18 a Waiver of Subrogation in favor of AUTHORITY, its officers, directors and employees; and

19 4. Employers' Liability with minimum limits of \$1,000,000 per accident, \$1,000,000
20 policy limit-disease, and \$1,000,000 policy limit employee-disease.

21 B. Proof of such coverage, in the form of a certificate of insurance and an insurance policy
22 blanket additional insured endorsement, designating AUTHORITY, its officers, directors and employees
23 as additional insureds on general liability and automobile liability, as required by Agreement. Proof of
24 insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective
25 date of the Agreement and prior to commencement of any work. Such insurance shall be primary and
26 non-contributive to any insurance or self-insurance maintained by AUTHORITY. Furthermore,

1 AUTHORITY reserves the right to request certified copies or review all related insurance policies, in
2 response to a related loss.

3 C. CONSULTANT shall include on the face of the certificate of insurance the Agreement Number
4 C-3-2836 and, the Senior Contract Administrator's Name, Jackie Le.

5 D. CONSULTANT shall also include in each subcontract, the stipulation that subconsultants shall
6 maintain insurance coverage in the amounts required of CONSULTANT as provided in the Agreement.
7 Subconsultants will be required to include AUTHORITY as additional insureds on the Commercial
8 General Liability, and Auto Liability insurance policies.

9 E. Insurer must provide AUTHORITY with at least thirty (30) days' prior notice of cancellation or
10 material modification of coverage, and ten (10) days' prior notice for non-payment of premium.

11 **ARTICLE 10. ORDER OF PRECEDENCE**

12 Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:
13 (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 3-2836;
14 (3) CONSULTANT's proposal dated _____; (4) all other documents, if any, cited herein or
15 incorporated by reference.

16 **ARTICLE 11. CHANGES**

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

25 **ARTICLE 12. DISPUTES**

26 A. Except as otherwise provided in this Agreement, when a dispute arises between

1 CONSULTANT and AUTHORITY, the project managers shall meet to resolve the issue. If project
2 managers do not reach a resolution, the dispute will be decided by AUTHORITY's Director of Contracts
3 Administration and Materials Management (CAMP), who shall reduce the decision to writing and mail or
4 otherwise furnish a copy thereof to CONSULTANT. The decision of the Director, CAMP, shall be the
5 final and conclusive administrative decision.

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

11 **ARTICLE 13. TERMINATION**

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

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

1 **ARTICLE 14. INDEMNIFICATION**

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

8 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

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

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

20 **Subcontractor Name/Addresses**

Subcontractor Amount

21
22
23
24
25 **ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

26 CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to

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

9 **ARTICLE 17. CONFLICT OF INTEREST**

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

18 B. If AUTHORITY determines that CONSULTANT, its employees, or subconsultants are subject
19 to disclosure requirements under the Political Reform Act (Government Code section 81000 et seq.),
20 CONSULTANT and its required employees and subconsultants shall complete and file Statements of
21 Economic Interest (Form 700) with AUTHORITY's Clerk of the Board disclosing all required financial
22 interests.

23 **ARTICLE 18. CODE OF CONDUCT**

24 CONSULTANT agrees to comply with AUTHORITY's Code of Conduct as it relates to Third-
25 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 19. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

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

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

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

10 **ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY**

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

18 **ARTICLE 22. PROHIBITED INTERESTS**

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

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

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

1 shall be retained by AUTHORITY.

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

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

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

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

1 upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination
2 with other material not provided by CONSULTANT when such use in combination infringes upon an
3 existing U.S. letters patent or copyright.

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

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

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

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

1 negotiated for all preliminary data.

2 **ARTICLE 26. HEALTH AND SAFETY REQUIREMENT**

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

5 **ARTICLE 27. LIMITATION ON GOVERNMENTAL DECISIONS**

6 CONSULTANT shall not make, participate in making, or use its position to influence any
7 governmental decisions as defined by the Political Reform Act, Government Code section 8100 et seq.,
8 and the implementing regulations in Title 2 of the California Code of Regulations section 18110 et seq.
9 CONSULTANT's personnel performing services under this Agreement shall not authorize or direct any
10 actions, votes, appoint any person, obligate, or commit AUTHORITY to any course of action or enter into
11 any contractual agreement on behalf of AUTHORITY. In addition, CONSULTANT's personnel shall not
12 provide information, an opinion, or a recommendation for the purpose of affecting a decision without
13 significant intervening substantive review by AUTHORITY personnel, counsel, and management.

14 **ARTICLE 28. FORCE MAJEURE**

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

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____

APPROVED AS TO FORM:

By: _____

Page 15 of 15

EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS FORM

STATUS OF PAST AND PRESENT CONTRACTS FORM

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

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

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

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

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

Name

Signature

Title

Date

EXHIBIT E: SAFETY SPECIFICATIONS

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

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

1.2 REGULATORY

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

Contractor shall comply with the Policy or Program of the Company's Substance Abuse Prevention Policy that complies with the most recent Drug Free Workplace Act. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

C. Heat Illness Prevention Program

Contractor shall comply with CCR Title 8, Section, Section 3395, Heat Illness Prevention. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

D. Hazard Communication Program

Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of SDS for all applicable chemical products used, if any. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

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

E. Storm Water Pollution Prevention Plan

The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the contract. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements. The program or plan if required by scope shall be provided to the Authority's Project Manager, upon request, within 72 hours.

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

- A. The Authority shall be promptly notified of any of the following types of incidents including but not limited to:
 1. Damage incidents of property (incidents involving third party, contractor or Authority property damage);
 2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration), a minor injury, and near miss incidents;
 3. Incidents impacting the environment, i.e. spills or releases on Authority projects or property.
 4. Outside Agency Inspections; agencies such as Cal/OSHA, DTSC, SCAQMD, State Water Resources Control Board, FTA, CPUC, EPA, USACE and similar agencies.
- B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the public that arise from the performance of Authority contract work. An immediate verbal notice followed by an initial written incident investigation report shall be submitted to the Authority's Project Manager within 24 hours of the incident.

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

1.4 DESIGNATED HEALTH AND SAFETY REPRESENTATIVE

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

- B. This person shall be a competent or qualified individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards (Cal/OSHA) and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.

1.5 PERSONAL PROTECTIVE EQUIPMENT

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

1.6 REFERENCES

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

END OF SECTION

EXHIBIT F: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

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

Offeror: _____

RFP No.: _____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

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

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

Complete Description of Deviation or Exception:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:

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