

October 12, 2023

AFFILIATED AGENCIES

Orange County Transit District

Local Transportation Authority

Service Authority for Freeway Emergencies

Consolidated Transportation Service Agency

> Congestion Management Agency

> > Service Authority for Abandoned Vehicles

SUBJECT: Request for Proposals (RFP) 3-2868 "Resource Management Plan Updates"

Gentlemen/Ladies:

This letter shall serve as Addendum No. 1 to the above RFP issued by the Orange County Transportation Authority (OCTA). Offerors are reminded that the proposal submittal date is at or before **2:00 p.m.**, **November 9, 2023**.

Offerors are advised that the Exhibits to the subject RFP were inadvertently missing from the RFP package. Therefore, the Exhibits are being added through this Addendum No. 1 as Attachment A.

Exhibits include the following:

Exhibit A – Scope of Work

Exhibit A – Scope of Work Attachment

Exhibit B – Price Summary Sheet

Exhibit C – Proposed Agreement

Exhibit D – Status of Past and Present Contracts Form

Exhibit E – Safety Specifications

Offerors are reminded to acknowledge receipt of this Addendum No. 1 in their transmittal letter and Exhibit B, "Price Summary Sheet." All changes addressed in this Addendum No. 1 shall be incorporated into the final Agreement.

Questions regarding this Addendum No. 1 should be directed to the undersigned at jle@octa.net.

Sincerely,

Jackie Le

Gackie Le

Senior Contract Administrator

Contracts Administration and Materials Management

EXHIBIT A: SCOPE OF WORK

Project Background

In 2006, Orange County voters approved the renewal of Measure M, effectively extending the half-cent sales tax to provide funding for transportation projects and programs in the county. As part of the renewed Measure M (OC Go, also known as Measure M2), a portion of the OC Go freeway program revenues were set aside for the OC Go Environmental Mitigation Program (EMP) to provide funding for programmatic mitigation to offset impacts from the thirteen (13) freeway projects covered by OC Go. The Orange County Transportation Authority (OCTA or Authority) prepared the OC Go Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP or Conservation Plan) as a mechanism to offset potential project-related effects on threatened and endangered species and their habitats in a comprehensive manner. A key component of the Conservation Plan has included the acquisition of seven (7) habitat Preserves totaling approximately 1,300 acres to offset habitat impacts (Attachment A).

The OC Go Conservation Plan was designed to complement the existing protected lands in Orange County, including lands protected under regional NCCP and HCPs in Orange County (Central and Coastal NCCP/HCP and the Southern Subregion HCP). The Conservation Plan and associated Environmental Impact Report/Statement (EIR/EIS) were finalized in 2016. The United States Fish and Wildlife Service and California Department of Fish and Wildlife (collectively referred to as the Wildlife Agencies) approved the Conservation Plan and issued permits to OCTA in 2017. Resource Management Plans (RMPs) that define the goals, objectives and monitoring needs committed to the Conservation Plan, have been developed for each Preserve. These documents were developed in collaboration with the Wildlife Agencies between 2015 and 2018. Each RMP contains detailed information and provides a framework for Preserve management activities and are available here: https://www.octa.net/programs-projects/programs/oc-go-measure-m/environmental-programs/environmental-mitigation-program/.

I. Project Objective

Through this Request for Proposals, OCTA intends to retain professional services of a consulting firm (Consultant) that shall update the RMPs to reflect current information pertaining to the OCTA preserves. OCTA envisions the Consultant shall be a resource during the two (2)-year contract term to facilitate the successful completion of the RMPs. The total allocated amount for this agreement is \$150,000.

Below is a general description of the OCTA Preserves, including the type of habitat each Preserve possesses:

- 1. Trabuco Rose (formerly known as Ferber Ranch) consists of three hundred ninety (396) acres of coastal sage scrub (CSS), chaparral, oak woodland, grassland and riparian habitat located at 19,998 Trabuco Oaks Drive, Trabuco Canyon, unincorporated Orange County (RMP finalized September 2017)
- 2. Wren's View (formerly known as O'Neill Oaks) consists of one hundred sixteen (116) acres of chaparral, CSS, riparian, and oak woodland habitat and is located on Live Oak in Foothill-Trabuco Canyon, unincorporated Orange County (RMP finalized September 2017)
- 3. Bobcat Ridge (formerly known as Hafen) consists of forty-eight (48) acres of chaparral, CSS, riparian, and oak woodland habitat and is located on Live Oak in Foothill-Trabuco Canyon, unincorporated Orange County (RMP finalized September 2017)
- 4. Live Oak Creek (formerly known as Saddle Creek South) consists of eighty-three (83) acres of chaparral, CSS, grassland, and oak woodland habitat and is located on Live Oak in Foothill-Trabuco Canyon, unincorporated Orange County (RMP finalized September 2017)
- Silverado Chaparral (formerly known as MacPherson) consists of two hundred four (204) acres of chaparral, grassland, CSS, and riparian including oak woodland habitat and is located on Silverado Canyon in Silverado-Modjeska, unincorporated Orange County (RMP finalized September 2017)
- 6. Pacific Horizon (formerly known as Aliso Canyon) consists of one hundred fifty-one (151) acres of chaparral, grassland, and CSS and is located adjacent to Moulton Meadows Park in the city of Laguna Beach (RMP finalized September 2018)
- 7. Eagle Ridge (formerly known as Hayashi) consists of three hundred one (301) acres of Oak and Walnut woodland, chaparral, grassland, riparian and CSS habitat located within the City of Brea, between Carbon Canyon Road and Chino Hills State Park (RMP finalized September 2018.)

II. RMP Work to Be Performed

a. General Narrative Updates

The existing RMPs include guidelines for the management and monitoring of the Preserves in accordance with the goals and objectives of OCTA's Conservation

Plan. The RMPs provide guidance for the ongoing protection, preservation, and adaptive management of the natural resources found within the Preserves. The Consultant shall review and understand the RMPs, OCTA's Conservation Plan, Preserve Annual Reports, and all associated materials of the OCTA Preserves to ensure that the Preserve RMPs reflect current resource status and current OCTA tasks and future management Preserve goals. In general, the Consultant shall be expected to be familiar with preserve conservation and resource management plans. The changes to the RMPs should be determined based on the Preserve-specific RMP, input from the OCTA Conservation Plan Administrator, existing Preserve resources (habitat and species), coordination with the Wildlife Agencies and available budget. OCTA shall be the lead in coordinating with the Wildlife Agencies and shall rely on the Consultant to provide support as needed. All updates to the RMPs must be approved by the Wildlife Agencies. The extent of attention needed on each RMP may vary. Consideration of combining the seven separate documents into one may be prudent if more efficient and cost effective.

Preserve site visits may be warranted for some RMP updates. The Consultant must have the capacity and experience to discuss aspects of land and preserve management including, but not limited to:

- Biological Resources
- Biological Monitoring and Management
- Invasive Species Control and Invasive Plant Species Control
- Nonnative Animal Species Management
- Adaptive Management
- Habitat Restoration
- Fire Management
- Property Management
- Cultural and Historic Resources
- Public Access and Recreation
- Public Outreach and Education
- Land Uses and Zoning within and adjacent to Preserves
- Funding

b. Tables, Figures and Appendices

The Consultant shall update or create new tables, figures and appendices (using existing documents) within the RMPs maps and exhibits, as applicable. Existing information and data (Annual Reports, biological surveys, and associated materials) are available and shall be provided to the selected consultant to update these items. Figures should contain the most up to date information of vegetation mapping and focused covered species surveys. All figures shall require updates to reflect the current names of the Preserves (at a minimum).

Each RMP's Appendices should at minimum incorporate the following OCTA supplied information/documents:

- Checklist and Annual Schedule for Ongoing Preserve Management and Biological Monitoring Actions for subject preserve
- Invasive Plants and Habitat Restoration Specifications
- Nesting Bird Policy for Preserve Management
- Fire Management Plan

Some or all this information may also be incorporated into the body of the RMPs as opposed to being included as an appendix.

III. Personal Experience, Qualifications and Requirements

General

OCTA is soliciting proposals through this procurement to retain a professional team to prepare as-needed updates to the RMPs for the OCTA Preserves. The Consultant shall provide a current resume for all proposed key personnel (i.e. project manager, conservation/environmental planner, biologist/wildlife biologist, GIS specialist, etc.).

Personnel Qualifications

The following qualifications and experience represent OCTA's recommended team for RMP personnel. The Consultant shall furnish documentation fully describing the specific qualifications for each person for review and consideration. OCTA may accept substitute qualifications if it is deemed in OCTA's interest.

a. Conservation/Environmental Planner

- Ability and experience preparing RMPs (warranting Wildlife Agency approvals).
- Ability to communicate complex and technical information effectively to general audiences.
- Ability to recommend adaptive management recommendations based on existing data and conditions.
- Ability to attend team meetings (potentially in the office and/or at the OCTA Preserves) with OCTA and the Wildlife Agencies.
- Ability to understand and relate California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documents to the RMP.
- Understand various types of environmental documents and planning agreements as they relate to CEQA and NEPA.
- In-depth understanding of OCTA, and the OCTA Conservation Plan.

b. Experience

Minimum of seven (7) years of experience with southern California native ecosystems, preserve management and direct experience developing RMPs. Minimum of five (5) years of experience with local, state, and federal environmental processes.

c. Wildlife Biologist

- Ability to advise on technical information and requirements of the thirteen (13) OCTA Conservation Plan Covered Species.
- Ability to prepare and contribute to the development of the RMPs.
- Prepare monthly progress reports describing overall progress of the work, discuss significant issues, and present proposed next steps as appropriate.

Experience

Minimum of five (5) years of experience with southern California native and invasive plant and animal communities and more specifically with demonstrated experience advising on the OCTA Conservation Plan covered species. The person(s) shall also have experience with preserve management and management plans.

d. GIS Specialist

- Ability to review and synthesize previous species data and produce new maps.
- Ability to create informational graphics to utilize within the RMPs and associated materials.

e. Experience

Minimum of five (5) years of experience with southern California native and invasive plant and animal communities. The person(s) shall also have experience with preserve management and management plans.

IV. Scope of Services/Deliverables/Schedule

Consultant shall review existing OCTA RMPs and Conservation Plan documents (final plan and annual reports) within four (4)-weeks of contract execution. Deliverables from the Consultant to OCTA include the following:

- 1. Consultant's summary of recommended updates:
- 2. Consultant's proposed schedule for RMP updates. The schedule must anticipate the following:
 - a. a draft document including time for OCTA review/incorporation of edits,
 - a revised draft and Wildlife Agency reviews (a pdf capturing response to comments to the wildlife agencies should also be anticipated),
 - c. a final draft for OCTA (with Wildlife Agency) approval, and;

d. attendance and presentation of the RMP updates to the OCTA Environmental Oversight Committee (public meeting).

All final documents must be submitted in electronic format (with a final clean Word version, PDF format, and inclusive of all associated shapefiles) as well as two (2) bound hard copies (per Preserve if RMP is separated for each Preserve) to OCTA. All figures, images, and maps should be provided to OCTA as separate appropriate file formats (e.g. PDF, JPG, .shp). OCTA often uses these separate attachments in coordination and presentations.

OCTA's Project Manager shall outline any further tasks to be accomplished, including budget information and the schedule expectations for completion. Consultant shall be required to confirm compliance of the schedule and budget prior to commencing with any work.

V. 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 Authority to any course of action or enter into any contractual agreement on behalf of Authority. 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 Authority personnel, counsel, and management.

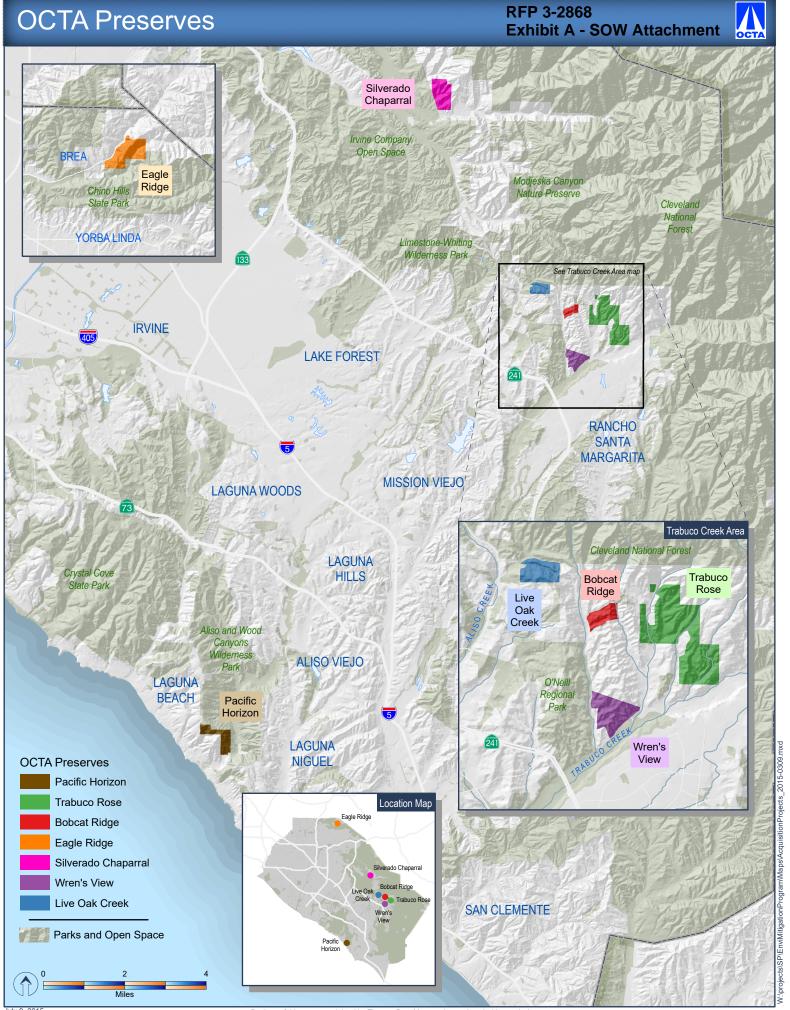


EXHIBIT B: COST AND PRICE FORMS

PRICE SUMMARY SHEET

REQUEST FOR PROPOSALS (RFP) 3-2868

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

Effective for a two (2)-year term through December 31, 2025.

Key Personnel

Job Function	Name	Fully Burdened Hourly Rate		
Project Director		\$		
Project Manager		\$		
Wildlife Biologist		\$		
GIS Specialist		\$		
Environmental Planner		\$		

Note: For cost analysis purposes, please provide hourly rates for the above designated job categories.

Other Labor Charges

Job Function	Name	Fully Burdened Hourly Rate
		\$
		\$
		\$
		\$

Other Direct Costs

Description	Rate
	\$
	 \$
I acknowledge receipt of RFP 3-28	668 and Addenda No.(s)
This offer shall remain firm for(Mir	days from the date of proposal.
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-3-2868

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 I	Main Street, P.O. Box
14184, Orange, California 92863-1584, a public corporation of the State of California	a (hereinafter referred
to as "AUTHORITY"), and , , , , (hereinafter referred to as "CONSULTANT").	

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONSULTANT to update the Resource Management Plans; 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.

B. AUTHORITY's failure to insist in any one or more instances upon CONSULTANT's performance of any terms or conditions of this Agreement shall not be construed as a waiver or

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

ARTICLE 2. AUTHORITY DESIGNEE

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

ARTICLE 3. SCOPE OF WORK

- A. CONSULTANT shall perform the work necessary to complete in a manner satisfactory to AUTHORITY the services set forth in Exhibit A, entitled "Scope of Work," attached to and, by this reference, incorporated in and made a part of this Agreement. All services shall be provided at the times and places designated by AUTHORITY.
- B. CONSULTANT shall provide the personnel listed below to perform the above-specified services, which persons are hereby designated as key personnel under this Agreement.

<u>Names</u> <u>Functions</u>

C. No person named in paragraph B of this Article, or his/her successor approved by AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or level of commitment hereunder be changed, without the prior written consent of AUTHORITY. Should the services of any key person become no longer available to CONSULTANT, the resume and 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 December 31, 2025, 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 time-and-expense basis in accordance with the following provisions.
- B. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the work actually completed by CONSULTANT. COSULTANT shall not charge AUTHORITY for driving time. Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice submitted by CONSULTANT. AUTHORITY shall pay CONSULTANT at the hourly labor rates specified in Exhibit B, entitled "Price Summary Sheet," which is attached to and by this reference, incorporated in and made a part of this Agreement. These rates shall remain fixed for the term of this Agreement and are acknowledged to include CONSULTANT's overhead costs, general costs, administrative costs and profit. 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 until such time as CONSULTANT has documented to AUTHORITY'S satisfaction that CONSULTANT has fully completed all work required. AUTHORITY's payment in full shall constitute AUTHORITY's final acceptance of CONSULTANT's work.
- C. Invoices shall be submitted by CONSULTANT on a monthly 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 monthly progress report specified in paragraph B 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-3-2868;
- 2. Specify the effort for which the payment is being requested;
- The time period covered by the invoice;
- 4. Labor (staff name, hours charged, hourly billing rate, current charges, and cumulative charges) performed during the billing period;
 - 5. Total monthly invoice (including project-to-date cumulative invoice amount);
 - 6. Monthly Progress Report;
- 7. 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.
- 8. 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.

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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: Senior Contract Administrator

Phone: Phone: (714) 560 - 5486

Email: Email: jle@octa.net

<u>ARTICLE 8.</u> <u>INDEPENDENT CONTRACTOR</u>

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

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

ARTICLE 9. INSURANCE

- A. CONSULTANT shall procure and maintain insurance coverage in full force and effect during the entire term of the Agreement. Coverage shall be full coverage and not subject to self-insurance provisions. CONSULTANT shall provide the following insurance coverage:
- 1. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, and Personal Injury Liability, and Property Damage with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 general aggregate and \$2,000,000 Products/Completed Operations aggregate;
- 2. Automobile Liability Insurance to include owned, hired and non-owned autos with a combined single limit of \$1,000,000 for each accident;
- 3. Workers' Compensation with limits as required by the State of California including a Waiver of Subrogation in favor of AUTHORITY, its officers, directors and employees; and
- 4. Employers' Liability with minimum limits of \$1,000,000 per accident, \$1,000,000 policy limit-disease, and \$1,000,000 policy limit employee-disease.
- 5. Professional Liability with minimum limits of \$1,000,000 only if the CONSULTANT is required by contract or law to be licensed or specially certified and AUTHORITY is relying on performance based on that specialty license or certification.
- B. Proof of such coverage, in the form of a certificate of insurance and an insurance policy blanket additional insured endorsement, designating AUTHORITY, its officers, directors and employees as additional insureds on general liability and automobile liability, as required by Agreement. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective date of the Agreement and prior to commencement of any work. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by AUTHORITY. Furthermore, AUTHORITY reserves the right to request certified copies or review all related insurance policies, in response to a related loss.
 - C. CONSULTANT shall include on the face of the certificate of insurance the Agreement Number

C-3-2868 and, the Senior Contract Administrator's Name, Jackie Le.

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

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

ARTICLE 10. ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:

(1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 3-2868; (3)

CONSULTANT's proposal dated_____; (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 11. CHANGES

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

ARTICLE 12. DISPUTES

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

otherwise furnish a copy thereof to CONSULTANT. The decision of the Director, CAMM, shall be the final and conclusive administrative decision.

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

ARTICLE 13. TERMINATION

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

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

ARTICLE 14. INDEMNIFICATION

A. CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, its officers, directors, employees and agents (indemnities) from and against any and all claims (including

attorneys' fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions or willful misconduct by CONSULTANT, its officers, directors, employees, agents, subconsultants or suppliers in connection with or arising out of the performance of this Agreement.

ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS

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

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

Subcontractor Name/Addresses

Subcontractor Function

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY deems necessary. CONSULTANT shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONSULTANT's performance hereunder and for a period of four (4) years from the date of final payment by AUTHORITY. AUTHORITY's right to audit books and records

directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 15 of this Agreement. CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

ARTICLE 17. CONFLICT OF INTEREST

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

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

ARTICLE 18. CODE OF CONDUCT

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

ARTICLE 19. PROHIBITION ON PROVIDING ADVOCACY SERVICES

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

ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS

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

ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY

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

ARTICLE 22. PROHIBITED INTERESTS

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

ARTICLE 23. OWNERSHIP OF REPORTS AND DOCUMENTS

- A. The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made for CONSULTANT's records but shall not be furnished to others without written authorization from AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by AUTHORITY.
- B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings, descriptions, and all other written information submitted to CONSULTANT in connection with the performance of this Agreement shall not, without prior written approval of AUTHORITY, be used for any purposes other than the performance under this Agreement, nor be disclosed to an entity not connected

with the performance of the project. CONSULTANT shall comply with AUTHORITY's policies regarding such material. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or is or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of AUTHORITY.

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

ARTICLE 24. PATENT AND COPYRIGHT INFRINGEMENT

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

B. CONSULTANT shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY

under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and copyright indemnity thereto.

ARTICLE 25. FINISHED AND PRELIMINARY DATA

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

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

<u>ARTICLE 26.</u> <u>HEALTH AND SAFETY REQUIREMENT</u>

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

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<u>ARTICLE 27.</u> <u>LIMITATION ON GOVERNMENTAL DECISIONS</u>

CONSULTANT shall not make, participate in making, or use its position to influence any governmental decisions as defined by the Political Reform Act, Government Code section 8100 et seq., and the implementing regulations in Title 2 of the California Code of Regulations section 18110 et seq. CONSULTANT's personnel performing services under this Agreement shall not authorize or direct any actions, votes, appoint any person, obligate, or commit AUTHORITY to any course of action or enter into any contractual agreement on behalf of AUTHORITY. 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 AUTHORITY personnel, counsel, and management.

ARTICLE 28. FORCE MAJEURE

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

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1	IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-3-2868 to be			
2	executed as of the date of the las	st signature below.		
3	CONSULTANT	ORANGE COUNTY TRANSPORTATION AUTHORITY		
4	Ву:	By: Georgia Martinez		
5		Georgia Martinez Department Manager, Contracts and Procurement		
6				
7		APPROVED AS TO FORM:		
8				
9		By: James M. Donich		
10		James M. Donich General Counsel		
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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, ark	pitrations, or investigations associated with contract:
(2) Company and Otation of a pater at	
(2) Summary and Status of contract:	
(3) Summary and Status of action iden	tified in (1):
(5) Gainmary and Status of action iden	uned in (1).
(4) Reason for termination, if applicabl	e:
(1)	
By signing this Form entitled "Status of information provided is true and accurate.	Past and Present Contracts," I am affirming that all of the
Name	Signature
Title	Date

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Revised. 03/16/2018

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.

- 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.
 - 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. <u>Serious Injury:</u> 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.
 - 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. <u>Significant Near Miss Incident;</u> 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

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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	on No. :	
Check one: Scope of Wor Proposed Agr	k (Technical) reement (Contractual)	
Reference Section/E	xhibit:	Page/Article No
Complete Description	of Deviation or Exception:	
		
Rationale for Reques	sting Deviation or Exception:	
Area Below Reserved fo	or Authority Use Only:	