

**REQUEST FOR PROPOSALS (RFP) 3-2944**

**HARBOR BOULEVARD PILOT INNOVATIVE  
TRANSIT SIGNAL PRIORITY STUDY**



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

**Key RFP Dates**

<b>Issue Date:</b>	<b>November 27, 2023</b>
<b>Pre-Proposal Conference Date:</b>	<b>December 6, 2023</b>
<b>Question Submittal Date:</b>	<b>December 8, 2023</b>
<b>Proposal Submittal Date:</b>	<b>December 20, 2023</b>
<b>Interview Date:</b>	<b>January 18, 2024</b>

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November 13, 2023

**NOTICE OF REQUEST FOR PROPOSALS**

**(RFP): 3-2944: “HARBOR BOULEVARD PILOT INNOVATIVE TRANSIT SIGNAL PRIORITY STUDY”**

**TO: ALL OFFERORS**

**FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY**

The Orange County Transportation Authority (Authority) invites proposals from qualified firms to evaluate and assess innovative solutions to improve bus travel times and reliability using transit signal priority and detection of roadway users at signalized intersections as part of the Harbor Boulevard Pilot Innovative Transit Signal Priority Study. The budget for this effort is \$1,800,000 for a two-year term.

**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.**

Offerors are advised that by signing their proposal, they are certifying that they and their subconsultants are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

Offerors are advised that this Project is funded by the Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program for Stage 1 funds and Regional Early Action Planning Grants of 2021 (REAP 2.0) administered by the Southern California Association of Governments (SCAG) REAP 2.0. Consultant proposals and supporting documents for the project contract may be subject to audit or review by the California Department of Transportation (Caltrans), the Department of Transportation (DOT), or SCAG.

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management  
600 South Main Street, (Lobby Receptionist)  
Orange, California 92868  
Attention: Megan Bornman, Senior Contract Administrator**

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

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

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

Note: The Authority utilizes a third-party delivery service therefore, Offerors should anticipate a 48-hour delay in delivery of proposals mailed to the P.O. Box listed above. Proposals are considered received once time-stamped at the Authority's physical address.

Firms interested in obtaining a copy of this Request for Proposals (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 3-2944, 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

Commodity:  
Consultant Services - General  
Consultant Services - Transit  
Planning  
Consultant Services -  
Transportation Planning  
Consultant Services –  
Intelligent Transportation  
Systems (ITS)  
Traffic Planning Consulting

An on-site/in-person pre-proposal conference will be held on December 6, 2023, at 8:30 a.m., at the Authority's Administrative Office, 550 South Main Street, Orange, CA 92868, in Conference Room 08.

Participation via teleconference will also be available. Prospective Offerors may join or call-in using the following credentials:

- [Microsoft Teams Link](#)
- OR Call-in Number: 916-550-9867
- Conference ID: 690 007 942 #

A copy of the presentation slides and pre-proposal conference registration sheet(s) will be issued via addendum prior to the date of the pre-proposal conference.

All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established **January 18, 2024**, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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

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

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

**SECTION I: INSTRUCTIONS TO OFFERORS**

**SECTION I. INSTRUCTIONS TO OFFERORS****A. PRE-PROPOSAL CONFERENCE**

An on-site/in-person pre-proposal conference will be held on December 6, 2023, at 8:30 a.m., at the Authority's Administrative Office, 550 South Main Street, Orange, CA 92868, in Conference Room 08.

Participation via teleconference will also be available. Prospective Offerors may join or call-in using the following credentials:

- [Microsoft Teams Link](#)
- OR Call-in Number: 916-550-9867
- Conference ID: 690 007 942 #

A copy of the presentation slides and pre-proposal conference registration sheet(s) will be issued via addendum prior to the date of the pre-proposal conference.

All prospective Offerors are encouraged to attend the pre-proposal conference.

**B. EXAMINATION OF PROPOSAL DOCUMENTS**

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

**C. ADDENDA**

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.

**D. AUTHORITY CONTACT**

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

Megan Bornman, Senior Contract Administrator  
Contracts Administration and Materials Management Department  
600 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584  
Phone: 714.560. 5064, Fax: 888.404.6282  
Email: mbornman@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.

**E. CLARIFICATIONS**

**1. Examination of Documents**

Should an Offeror require clarifications of this RFP, the Offeror shall notify the Authority in writing in accordance with Section 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, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and received via e-mail at mbornman@octa.net no later than 5:00 p.m., on December 8, 2023.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions RFP 3-2944" 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 December 11, 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:

<u>Category:</u> Professional Consulting	<u>Commodity:</u> Consultant Services - General Consultant Services - Transit Planning Consultant Services - Transportation Planning Consultant Services – Intelligent Transportation Systems (ITS) Traffic Planning Consulting
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Inquiries received after 5:00 p.m. on December 8, 2023, will not be responded to.

**F. SUBMISSION OF PROPOSALS**

**1. Date and Time**

Proposals must be received in the Authority’s office at or before 2:00 p.m. on December 20, 2023.

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

**2. Address**

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

**Orange County Transportation Authority  
Contracts Administration and Materials Management (CAMM)  
600 South Main Street, (Lobby Receptionist)  
Orange, California 92868  
Attention: Megan Bornman, Senior Contract Administrator**

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

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

Note: The Authority utilizes a third-party delivery service therefore, Offerors should anticipate a 48-hour delay in delivery of proposals mailed to the P.O. Box listed above. Proposals are considered received once time-stamped at the Authority's physical address.

**3. Identification of Proposals**

Offeror shall submit one (1) original hard copy of its proposal in a sealed package, addressed as shown above in F.2. The outer envelope must show the Offeror's name and address and clearly marked as follows:

**(RFP 3-2944 and Harbor Boulevard Pilot Innovative Transit Signal Priority Study).**

In addition to the above, Offerors shall also include one (1) electronic copy of their entire RFP submittal package in "PDF" format, on a CD, DVD, or flash drive.

**4. Acceptance of Proposals**

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to 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.

**G. PRE-CONTRACTUAL EXPENSES**

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

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

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

**H. JOINT OFFERS**

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

**I. TAXES**

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

**J. PROTEST PROCEDURES**

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

**K. CONTRACT TYPE**

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

**L. CONFLICT OF INTEREST**

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

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.

**M. PREVAILING WAGES**

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et.seq., and all applicable Federal requirements respecting prevailing wages.

It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. The Offeror to whom a contract for the work is awarded by the Authority shall comply with the provision of the California Labor Code, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the work is to be performed in accordance with, without limitation, Sections 1773.1, 1774, 1775 and 1776 of the California Labor Code governing employment of apprentices.

Copies of the prevailing rates of per diem wages are on file at the Authority's principal office at 550 S. Main Street, Orange, CA 92868 and are available to any interested party on request.

**N. 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.

**O. PRIME AND LOWER TIER DEBARMENT**

Offerors are advised that by signing their proposal, they are certifying that they and their subconsultants are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

**P. 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 7922.000 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 a Offeror for the disclosure of any materials or information submitted in response to the RFP or by failing to notify a 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.

**Q. 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 30 days after the execution of the Agreement, annually thereafter for the duration of the Agreement, and within 30 days of termination of the Agreement.

**R. BUY AMERICAN ACT**

This Project is federally funded and subject to the Buy American Act requirements set forth at 41 U.S.C. Section 8301 et seq., which generally require that only unmanufactured articles, materials, and supplies that have been mined or produced in the United States, and only manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, shall be acquired for public use unless the Federal Government determines their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. The awarded Offeror shall comply with the Buy American Act in the performance of the contract.

As required by the Buy American Act, Offeror shall include with its Proposal Exhibit I "Prohibition on Conducting Restricted Business Operations in Sudan – Certification" and Exhibit J "Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran – Representation and Certification."

**SECTION II: PROPOSAL CONTENT**

**SECTION II. PROPOSAL CONTENT****A. PROPOSAL FORMAT AND CONTENT****1. Format**

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

**2. Letter of Transmittal**

The Letter of Transmittal shall be addressed to Megan Bornman, 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 180 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) Identify all firms hired or retained to provide lobbying or advocating services on behalf of the Offeror by company name, address, contact person, telephone number and email address. This information is required to be provided by the Offeror immediately during the evaluation process, if a lobbyist or advocate is hired or retained.
- (6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

**b. Proposed Staffing and Project Organization**

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

Offeror to:

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

**c. Work Plan**

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

Offeror to:

- (1) Describe the approach to completing the tasks specified in the Scope of Work. The approach to the work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who would perform them.

- (3) Furnish a project schedule for completing the tasks in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

**d. Exceptions/Deviations**

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

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

#### 4. Cost and Price Proposal

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

The Offeror shall complete the "Price Summary Sheet" form included with this RFP (Exhibit B), and furnish any narrative required to explain the prices quoted in the schedules. It is anticipated that the Authority will issue a firm-fixed price contract specifying firm-fixed prices for individual tasks.

#### 5. Appendices

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

### B. FORMS

#### 1. Campaign Contribution Disclosure Form

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Board of Directors, Offeror is required to complete and sign the Campaign Contribution Disclosure Form provided in this RFP and submit as part of the proposal.

This form **must** be completed regardless of whether a campaign contribution has been made or not and regardless of the amount of the contribution.

The prime contractor, subconsultants, lobbyists and agents are required to report all campaign contributions made from the proposal submittal date up to and until the Board of Directors makes a selection.

Offeror is required to submit only **one** copy of the completed form(s) as part of its proposal and it must be included in only the **original** proposal.

Offeror is required to report any campaign contributions made by the prime contractor, subconsultants, lobbyists and agents after the proposal submittal date, and up to the anticipated Board of Directors selection. The offeror shall use the campaign contribution form for any additional reporting. The forms must be submitted at least 15 calendar days prior to the Board Committee date on and sent via e-mail to the Contract Administrator.

**2. Status of Past and Present Contracts Form**

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

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

**3. Certification of Restrictions on Lobbying**

This form requires the Offeror to certify compliance with the lobbying requirements of 31 U.S.C. Section 1352 and the applicable regulations under 49 CFR part 19 and 20. (Required if the bid is equal or greater than \$100,000). The offeror is required to submit the Certification of Restrictions on Lobbying Form” and “Disclosure of Lobbying Activities Form”, in order for the offeror’s proposal to be responsive and to be considered for evaluation.

**4. Disclosure of Lobbying Activities**

This form requires the Offeror to disclose lobbying activities pursuant to the requirements of 31 U.S.C. Section 1352. If Offeror does not have any reportable activities to disclose, they shall check the box entitled “No Reportable Activities” on the attached Standard Form-LLL “Disclosure of Lobbying Activities” and complete Section 16 of the form in order for the offeror’s proposal to be responsive and to be considered for evaluation. The certifying official shall sign and date the form, print his/her name, title and telephone number.

**5. Safety Specifications**

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

**6. 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.

**7. Prohibition on Conducting Restricted Business Operations in Sudan – Certification**

Offerors shall complete the form entitled “Prohibition on Conducting Restricted Business Operations in Sudan – Certification” provided in this RFP and submit it as part of the original proposal.

**8. Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran – Representation and Certification**

Offerors shall complete the form entitled “Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran – Representation and Certification” provided in this RFP and submit it as part of the original proposal.

**9. Iran Contracting Act Certification**

This form requires the Offeror to certify that the Offeror is not engaged in specified investment activities in the energy sector of Iran. (Required if the proposal is equal to or greater than \$1,000,000).

**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 30%**

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

Reasonableness of the total price, as well as the individual tasks; competitiveness with other offers received; adequacy of data in support of figures quoted.

#### B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **January 18, 2024**, 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.

At the conclusion of the evaluation process, the evaluation committee will recommend to the Regional Transportation Planning Committee, the Offeror with the highest final ranking or a short list of top ranked firms within the competitive range whose proposal(s) is most advantageous to the Authority. The Board Committee will review the evaluation committee's recommendation and forward its recommendation to the Board of Directors for final action.

**C. AWARD**

The Authority's Board of Directors will consider the selection of the firm(s) recommended by the Board Committee.

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**

### **Harbor Boulevard Pilot Innovative Transit Signal Priority Study**

This Scope of Work (SOW) describes work elements necessary for the various tasks related to the Harbor Boulevard Pilot Innovative Transit Signal Priority Study (hereinafter referred to as the “Project”). The desired services shall be provided by what is herein referred to as the “CONSULTANT.” In the course of this consulting relationship, CONSULTANT shall work directly for the Orange County Transportation Authority (OCTA) which is serving as the lead agency for the study of innovative solutions to transit signal priority (TSP) and detection of roadway users at signalized intersections owned and operated by the cities of Fullerton, Anaheim, Garden Grove, Fountain Valley, and Santa Ana (collectively referred to as “corridor agencies”). The major project components of this SOW include the following elements to be completed in close coordination with corridor agencies:

#### **Assessment of Existing Conditions**

- Comprehensive data collection and field reviews
- Coordinate and verify data and field reviews with corridor agencies
- Develop key performance indicators to baseline existing conditions
- Identification of existing transit bottlenecks, delays, and traffic signal limitations for multimodal operations
- Determine benefits of the detection and TSP solution on Project corridor

#### **Proof-of-Concept Deployment and Analysis**

- Implement the various detection solutions in the prototype area
- Implement an innovative centralized TSP solution in the prototype area
- Evaluate and assess the technology solutions implemented
- Conduct ongoing data analysis and stakeholder engagement
- Compare performance measure to the existing baseline conditions

#### **Conceptual Planning**

- Develop proposed strategy to implement recommended solutions for the full corridor
- Prepare cost estimate for TSP concept, including operations and maintenance
- Identify non-TSP improvements to improve bus speeds and reliability for the corridor
- Develop Implementation Plan for the full Harbor Boulevard corridor, including potential funding and revenue sources

CONSULTANT shall utilize the documents identified below. It is not OCTA’s intent to provide a comprehensive list of resources; therefore, CONSULTANT shall make sure of additional reference material as appropriate. CONSULTANT shall also be responsible for ensuring the use of the most recent version of the reference materials, including any addenda and errata.

- State of California Division of Occupational Safety and Health Safety Orders (Cal OSHA)
- Manual of Uniform Traffic Control Devices (MUTCD)
- California Manual of Uniform Traffic Control Devices
- MUTCD California Supplement
- Applicable Local Codes and Manuals
- Americans with Disabilities Act (ADA)

All electronic data procured and supporting the Project shall be provided on digital media in formats consistent with OCTA.

### **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. 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 personnel, counsel, and management.

### **Project Background**

Harbor Boulevard is a multi-modal corridor traversing five cities in central Orange County, each with numerous historically disadvantaged communities. The 12-mile Harbor Boulevard Bravo! 543 and 43 bus routes have a combined average of more than 10,000 daily boardings. Eight percent of all OCTA bus ridership takes place on this corridor which has 50,000 daily vehicles that also commute along this route. Harbor Boulevard connects to key destinations including medical facilities, California State University, Fullerton, Santa Ana College, Disneyland, memorial park, places of worship, and shopping.

If public transit is not improved, bus service reliability and predictability will continue to worsen preventing commuters from reaching their jobs, medical appointments, schools, and homes in a safe and timely manner particularly given the additional vehicles expected in the coming years due to the projected population and job growth. Additionally, 50 bicyclists and 75 pedestrians were struck by motorists along Harbor Boulevard in the Project area in the past five years California Statewide Integrated Traffic Records System.

The Harbor Boulevard Corridor was identified as needing high-quality transit and is consistent with the Southern California Association of Governments' (SCAG) regional long-range transportation plan. Although the implementation of TSP using older technologies was previously considered, it did not progress due to the substantial capital improvements required. In contrast, the proposed Project requires less equipment and implements innovative solutions, while leveraging recent improvements local agencies have implemented using local funds. Therefore, a solid foundation is now in place to ensure successful TSP deployment with support from all five local agencies resulting in a more unified and streamlined approach to delivering this cross-jurisdiction improvement.

### **Project Study Area and Special Considerations**

The Project study area includes approximately 60 signalized intersections along the OCTA Harbor Boulevard Bravo! 543 Route from the OCTA Santa Ana Base at MacArthur Boulevard and Hyland Avenue in the City of Santa Ana to the Fullerton Transit Center (FTC) at Commonwealth Avenue and Pomona Avenue in the City of Fullerton, as shown in Attachment A. The proof-of-concept deployment will only occur at the nine (9) signalized intersections in the City of Fullerton; however, the recommended solutions and analysis should consider the entire corridor.

Orange County agencies have made significant investments in their signal infrastructure to improve the communication between the signalized intersections to their respective Traffic Management Centers. For example, the City of Fullerton plans to upgrade its 9 signalized intersections in the Project prototype area in early 2024 with upgraded signal equipment, summarized in the table below, which will be communicating through new fiber optic cables to their Q-Free's Kinetic Advanced Traffic Management System (ATMS) located in the City's Traffic

Management Center (TMC).

INTERSECTION	CONTROLLER	DETECTION
Commonwealth Avenue at Pomona Avenue	Q-Free MAXTIME	Loops*
Harbor Boulevard at Commonwealth Avenue	Q-Free MAXTIME	Video/Radar System
Harbor Boulevard at Santa Fe Avenue	Q-Free MAXTIME	Video/Radar System
Harbor Boulevard at Valencia Drive	Q-Free MAXTIME	Loops*
Harbor Boulevard at Southgate Avenue/Costco Way	Q-Free MAXTIME	Loops*
Harbor Boulevard at Orangethorpe Avenue	Q-Free MAXTIME	Video/Radar System
Harbor Boulevard at Orangefair Mall	Q-Free MAXTIME	Loops*
Harbor Boulevard at Orangefair	Q-Free MAXTIME	Video/Radar System
Harbor Boulevard at Houston Avenue	Q-Free MAXTIME	Loops*

\*No detection upgrades planned, so existing loop detection will be used at this location

OCTA buses host a suite of equipment that allows for comprehensive data collection, remote network communications, and location tracking that exchange information between the bus operator and the OCTA Traffic Operation Center (TOC). Each bus is equipped with a Cradlepoint router (IBR1100 or IBR1700) with cellular connection to the OCTA's Conduent OrbCAD Computer-Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system. Bus locations are polled by the OrbCAD system and uploads the General Transit Feed Specification (GTFS) package to the Swiftly data engine roughly every six (6) seconds. This level of location tracking and schedule status is often sufficient to support priority service systems, like centralized and/or cloud-based TSP systems, that ingest this information to make informed priority requests to other traffic systems.

The focus of this Project is to study the TSP and multimodal detection opportunities available, as a successful study could lead to deployments of similar solutions on other OCTA routes throughout the county. The Project is funded by the U.S. Department of Transportation's Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program for Stage 1 projects and by the Regional Early Action Planning (REAP) Grants of 2021 (or REAP 2.0) administered by the Southern California Association of Governments (SCAG). The CONSULTANT shall provide an understanding of the funding requirements throughout the delivery of the Project.

## TASK 1 – PROJECT MANAGEMENT

This task focuses on the management of the Project to ensure that the Project meets funding expenditure, milestone, and reporting deadlines.

### 1.1 Administration and Project Management

This sub-task includes the requirements for schedules, cost control, progress reports, invoicing, and administration of all CONSULTANT work.

Project Management Plan: The CONSULTANT shall provide a comprehensive plan for project management to communicate the SOW, constraints, and technical requirements to all Project participants. The plan shall include coordination strategies with appropriate agencies to ensure timely completion of countywide retiming. The plan shall also include an organization chart with description of participant responsibilities, a baseline schedule prepared using the Critical Path Method, and work breakdown structure that identifies the

duration and completion of key Project activities milestones. The budgeted hours and resource allocation for each task and subtask shall also be defined. The CONSULTANT shall submit a copy of the Project Management Plan (PMP) for this Project within twenty (20) calendar days of contract execution. Elements of the PMP shall include:

- Project description and map indicating Project area and/or sub-sections
- Project schedule for Project tasks and technical studies including Project milestones and delivery and review of intermediate Project deliverables
- Project organization with names of key staff/sub-consultants and their responsibilities
- Key staff directory
- Project controls including schedule and budget
- Document management procedures including electronic document filing index
- Applicable standards
- Applicable computer software
- Communications procedures
- Quality management procedures (reference Quality Management Plan)
- Risk Management procedures including a risk register

The draft PMP shall be provided to the OCTA Project Manager for review and input. At the discretion of the OCTA Project Manager, it may be distributed to Project participants at the start of the Project. If distributed to Project participants, a kick-off meeting shall be held to review the plan requirements within thirty (30) calendar days of contract execution.

Quality Management Plan: The CONSULTANT shall submit to OCTA for review and acceptance a Quality Management Plan (QMP) for this Project within thirty (30) calendar days of receipt of contract execution. All CONSULTANT team members shall receive training and acknowledge receipt of the QMP. In addition to OCTA staff and participants from the local agencies, consultants, and affected third parties may be requested to review deliverables submitted by the CONSULTANT during the course of the Project.

Project Safety Plan: The CONSULTANT shall submit a Project specific safety plan a minimum of 30 calendar days prior to any field visits or site survey/investigation work. The plan shall be developed in accordance with OCTA's established safety management practices and in particular, shall describe how the CONSULTANT will manage safety of its staff during the field work and site visits.

Permit Applications: The CONSULTANT shall prepare and submit encroachment permit applications for field data collection and surveys. All permit applications will be submitted to OCTA for review and approval prior to being submitted to the applicable regulatory entity.

Monthly Progress Status Reports and Schedule Updates: The CONSULTANT shall prepare and submit an initial Project Master Schedule twenty (20) days following contract execution. Upon approval by OCTA, the schedule will become the Project Baseline Schedule. The following elements must be included by CONSULTANT in the Baseline Schedule:

- Work items and deliverables identified in accordance with a Work Breakdown Structure (WBS) reflecting the requirements of this SOW developed by CONSULTANT and approved by OCTA

- Work items of agencies and third parties that may affect or be affected by CONSULTANT's activities and develop proposed solutions
- The Project Master Schedule shall include all data necessary to represent the total Project and the critical path shall be clearly identified
- The order, sequence and interdependence of significant work items shall be reflected in the Project Master Schedule

The CONSULTANT shall prepare and submit monthly progress reports to the OCTA Project Manager including updates on key milestones, Project schedule, and percent complete detail for each task, particularly worked done during the reporting period. The Project progress and schedule updates shall be reported as Earned Value (percent complete) against the Baseline Schedule. The report will also describe anticipated activities to be undertaken in the next reporting period, and any new or changed, challenges or risks that may affect schedule, scope, and budget. This report shall be received no later than the tenth (10th) calendar day of the month following the month being reported.

During the course of work, should the CONSULTANT fall behind in overall performance in accordance with the current schedule, a project management meeting will be called to determine the cause. If the cause is found to be due to CONSULTANT performance, payment to CONSULTANT may be withheld pending the submittal of an action/recovery plan outlining the steps which will be taken to correct the identified delay(s).

## **1.2 Project Development Team Meetings**

A Project Kick-Off Meeting shall be scheduled with OCTA immediately following the contract execution. The meeting will include administrative items, such as progress reports and invoicing requirements, and Project critical path. The CONSULTANT shall prepare the agenda and notes following the meeting.

The Project Development Team (PDT) members will include OCTA Project Manager and key project stakeholders that will help guide the direction of the study. The CONSULTANT shall schedule, coordinate, and attend monthly PDT meetings. The CONSULTANT shall prepare meeting materials on Project related issues discussed, including agendas, power point presentations, handouts, progress plans, meeting notes and notations for specific or directed follow-up action items.

## **1.3 Agency Project Oversight**

In addition to regular monthly PDT meetings, the CONSULTANT shall schedule and attend project-specific coordination meetings, as necessary (estimate minimum of 10 meetings), in this Project. Coordination meetings/technical workshops with stakeholders shall be held to discuss issues pertinent to the analysis, configuration, and effects of the Project. During these meetings, OCTA, corridor agencies, and other key stakeholders may provide directions for the Project. The CONSULTANT shall prepare meeting materials on technical issues for discussion, including agendas, power point presentations, handouts, progress plans, meeting minutes and notations for specific or directed follow-up action items. The printed format of meeting materials shall be appropriate to the purpose of the meeting and could include scaled black and with and/or color roll plots, 11" x 17" and/or 8.5" x 11" handouts and/or presentation boards.

Any timing modifications for TSP operations shall be developed in coordination with the



corridor agencies. Adherence to local standards will be required as applicable. Communications with OCTA and corridor agencies staff regarding timing requirements and/or interpretation of standards shall be documented and submitted to OCTA and applicable jurisdiction(s) for written concurrence.

#### **1.4 Grant Plans and Outcomes**

This sub-task includes the development of plan and reporting documents required to adhere to the two grant funding guidelines (SMART and REAP 2.0) for the Project.

SMART Grant Plans and Reports: The CONSULTANT shall assist OCTA staff with the milestone Project deliverables required for the SMART grant program, such as the Draft and Final Implementation Reports per the SMART grant program.

REAP Goals and Outcomes: The CONSULTANT shall work with OCTA staff to develop a methodology to report on how the Project works towards REAP 2.0 goals. This methodology shall be presented to SCAG for approval. Once approved, the CONSULTANT shall assist OCTA in monitoring the Project through each Task to ensure it continues to meet the goals and assist OCTA staff in addressing any reporting questions and concerns.

#### **Task 1 – Deliverables** *(One hard copy and an electronic version of each):*

- Resource Loaded Project Master Schedule
- Monthly Progress Reports with Project Earned Value vs. Baseline Schedule updates
- Project Management Plan
- Quality Management Plan
- Project Safety Plan
- Monthly Progress Reports
- Kick-Off Meeting agenda and notes
- PDT meeting materials, agendas, and notes
- Coordination meeting/technical workshop materials, agendas, and notes
- SMART Grant reports and plans
- REAP Outcomes

#### **TASK 2 – EXISTING ANALYSIS AND ASSESSMENT**

This task includes the data collection effort necessary to develop a thorough understanding of all the Project corridor needs and challenges.

#### **2.1 Existing Conditions Survey**

This sub-task includes the data collection and field survey for the Project corridor to capture existing signal and transit operations.

Agency Data Collection: The CONSULTANT shall coordinate with local jurisdictions to collect the following data necessary to thoroughly understand existing traffic conditions for the Project corridors and be able to develop transit supportive timing, as applicable.

- 1) Existing timing charts/sheets that include current coordination plans, traffic as-built drawings, aerial photos, maps, traffic collision data as available, and special intersection signal operations. CONSULTANT shall also collect any as-built or related construction plans impacting signal operations relevant to this Project. CONSULTANT,

- if requested by the involved agency, will provide their own staff to review available records/plans and request copies of needed records/plans with a minimum of disruption to the involved agency.
- 2) Signal timing and signal priority preferences, including, but not limited to, those related to pedestrian and bicycle timing, phase sequence modifications and preferences, and special operations such as conditional service, coordination preferred phase re-service, and ring-barrier logic, as well as the timing optimization software preference.
  - 3) Historically counts, including average daily traffic (ADT) and turning movement counts (vehicle, bicycle, and/or pedestrian), along the Project corridor for weekday and weekend periods.

OCTA Existing System: The CONSULTANT shall coordinate with OCTA to survey and evaluate all existing transit equipment and operations that would be relevant to a centralized TSP implementation. This coordination should include cybersecurity discussions with the OCTA Information Services team to ensure the proposed solution is viable within the existing environment. The CONSULTANT shall also coordinate with the OCTA Transit Planning and Bus Operations staff to collect bus operations, such as ridership, dwell time, and on-time performance for both bus lines (43 and 543) along the Project corridor.

Field Survey: The CONSULTANT shall review the geometric layout, transit bus stop locations, at-grade rail crossings, verify and/or inventory existing traffic signal control and intelligent transportation systems (ITS) equipment, and identify any operational deficiencies for each intersection or road segment along the Project corridor. The review shall include an assessment of the existing intersection lane geometry (opportunity for queue jumps), link lane geometries (add-drop), traffic conditions, and traffic signal or ITS/telemetry control equipment along the corridor and at each intersection. Techniques utilized shall include but not be limited to visual inspection, available as-built plans, agency consultation, and agency provided aerial photos. Upon permission from the controlling local agency, CONSULTANT will inspect and inventory the interior of each traffic controller assembly and ITS telematics cabinets, identify and report deficiencies to the agency and OCTA respective operations staff, and make recommendations for equipment upgrades that would make significant impacts to signal and/or transit operations.

CONSULTANT shall investigate and document factors that are expected to affect signal and transit progression including, but not limited to: intersections with high pedestrian or bicyclist volumes; over- saturated intersections; uneven lane distribution; high volumes of trucks and buses; high-volume un-signalized intersections, including interchanges; parking maneuvers; presence and location of bus stops; differing signal timing patterns among local agencies; etc.

Existing Conditions Survey Memorandum: Following the collection of all data and field surveys, the CONSULTANT shall prepare a memorandum summarizing the corridor's existing condition. The CONSULTANT shall also include an identification of all planned and programmed improvements (widening projects, intersection improvements, transit improvements, etc.) on the Project corridor. The identification of these projects shall at least include a list, summarizing all improvements.

A photo document of each cabinet visited should be included in the Existing Conditions Survey Memorandum. The Existing Conditions Survey Memorandum shall also include a figure summarizing the existing corridor network's ITS and TSP elements. This figure should provide enough information as a standalone image to use for meetings and discussions with corridor agencies and other Project stakeholders.

## 2.2 Project Benefit Analysis

This sub-task will build off the Evaluation and Data Management Plan and generate existing metrics to measure Project effectiveness. The existing travel and safety conditions will be fully baselined and evaluated using high-resolution vehicle probe, high-resolution origin-destination (O-D), and stakeholder datasets.

Performance Metric Data Collection: The CONSULTANT shall pull data from the traffic signal controllers, OCTA Swiftly platform (e.g. On-Time Performance, Speed Maps, Run Times), on-board bus videos, and/or CONSULTANT proposed high-resolution probe (vehicle speed and O-D) to measure the Project corridor's baseline performance. The CONSULTANT shall coordinate with Project stakeholders to identify key performance indicators that will baseline the existing travel and safety conditions along the Project corridor and surrounding area, which may include, but is not limited to:

- Average Travel Time, Delay, and Speeds
- Bottlenecks in vehicular traffic
- Delay in bus speeds that can be related to travel time (traffic delay), dwell time (boarding/alighting), signal delay, or turnout delay (waiting to re-enter traffic from a bus turnout)

All data collected shall be accessible by OCTA and all corridor agencies.

Project Benefit Memorandum: The Consultant shall prepare a memorandum summarizing all datasets, methodology, and provide a comprehensive picture of the corridor and surrounding area and compare it against other OCTA transit corridors. A graphical summary of the metrics to use at meetings and stakeholder discussions shall also be prepared. The CONSULTANT shall also identify additional metrics that could be available once the new detection and TSP solutions are implemented.

### **Task 2 – Deliverables** *(One hard copy and an electronic version of each):*

- Existing Conditions Survey Memorandum
- Project Benefit Memorandum

## **TASK 3 – PROJECT DEVELOPMENT**

This task will focus on the prototype area and leverage the Task 2 detailed surveys to implement and evaluate the TSP and detection solutions. This prototype area will serve as a live lab to educate and provide outreach to Project stakeholders and community leaders. It will also allow OCTA and corridor agencies to specify innovative ITS solutions that may have the potential to assist safe travelling for all modes when scaled up to the full route.

### **3.1 Proof-of-Concept Detector Technology Deployment**

As transit riders are either pedestrians or bicyclists prior to boarding and after exiting the

bus, enhancing the safety and access to transit will additionally impact the experience of their travel via transit. This sub-task will include the implementation and assessment of all potential detection solutions to enhance safety at a signalized intersection.

Recommended Detection Solutions: The CONSULTANT shall demonstrate knowledge of the various detection systems that can be quickly implemented at any signalized intersection. The following non-intrusive detection options along with its recommended deployment shall be presented to OCTA and the City of Fullerton for approval with a focus on improving safety for both vehicles and vulnerable road users:

- Traditional video detection system
- Radar sensors
- Light detection and ranging (LiDAR) system
- Fisheye single camera
- Infrared pedestrian detection

The recommended detection solution along with its recommended signalized intersection location(s) in the prototype area shall be presented shortly after the field surveys to minimize delays due to equipment procurement lead times. The CONSULTANT shall leverage the City's existing upgrade plans in the prototype area to identify solutions that may potentially include more than one system for comparison.

In addition to each detection system, the CONSULTANT shall also implement artificial intelligence (AI) solutions that can ingest the feeds from these detection solutions to trigger or predict safety issues. These can be built into the units themselves or be an external unit that can process the data for staff to review and evaluate remotely.

The CONSULTANT proposal shall include the total cost for all recommended solutions to be implemented for this Project as part of this Task. The exact location of each detection solution may change upon field evaluation. The CONSULTANT shall address the interoperability capabilities of each solution to ensure that, if successful, the solutions can be expanded to all agencies on the Project and the County.

Detection Solution Implementation: Upon OCTA and the City of Fullerton's approval, the CONSULTANT shall procure and coordinate the implementation of the various detection systems. If necessary, existing traffic signal plans shall be redlined to indicate the recommended installation location, such as designated pole in which the unit will be mounted. The CONSULTANT shall document the field implementation, including photos.

Detection Alternatives Technical Memorandum: The CONSULTANT shall prepare a memorandum detailing the detection alternatives, including the logic for implementing each in the recommended location in the prototype area. The memorandum shall also include any challenges regarding the procurement and implementation that can be addressed for future implementations. The CONSULTANT shall share the draft of this memorandum with all stakeholders to provide their input for additional consideration outside of the prototype area.

### **3.2 Proof-of-Concept Transit Signal Priority Technology Deployment**

Orange County does not currently have TSP implemented; however, the cities and OCTA have made investments in the signal infrastructure and buses that can be leveraged to

implement a solution with minimal to no additional construction required in the field. This sub-task will include the procurement, implementation, and configuration of an innovative centralized TSP solution.

Recommended TSP Solution: When recommending a TSP solution for the prototype area, the CONSULTANT shall demonstrate knowledge of interoperability needs with the complete corridor systems. It is important that the recommended centralized TSP solution show understanding of the needs of this Project; thus, the solution shall discuss potential challenges and approach to the following constraints:

- Implementation of recommended TSP solution with signal controllers and ATMS planned for the prototype area
- Implementation of recommended TSP solution with multiple signal controller and/or ATMS vendors, including but not limited to Econolite, Swarco, and Yunex
- Implementation in collaboration with Swiftly vs direct connection to OCTA's CAD/AVL for bus location data
- Communication drops that may impact bus locations on a corridor
- Firewalls and cybersecurity requirements by agencies of similar size to the Project

The final recommended TSP solution along with the necessary equipment (e.g. server in the City's TMC) and/or configuration needs in the prototype area shall be finalized shortly after the field surveys to minimize delays due to internal agency coordination, especially with the City's IT staff. The CONSULTANT's recommendation shall be based on the City's existing upgrade plans in the prototype area, as it will upgrade the ATMS and signal traffic controllers. The CONSULTANT shall also detail the reporting capabilities of the TSP solution to support Sub-Task 2.2 and Sub-Task 3.5.

TSP Implementation and Configuration: Upon OCTA and the City of Fullerton's approval of the recommended TSP solution, the CONSULTANT shall coordinate and schedule the implementation and configuration of the system. The CONSULTANT will be responsible for all configuration and integration required to connect and activate the system.

The CONSULTANT will also be responsible for any timing modifications necessary for the operation of the TSP in the prototype area. Timing modifications shall include, but is not limited to basic timing, coordination timing, and transit parameters available in the City's system. Close coordination with the City of Fullerton staff will be necessary to ensure modifications are made per City standards and preference.

Transit Signal Priority Implementation Technical Memorandum: The CONSULTANT shall prepare a memorandum detailing the TSP solution, including the logic for implementing the recommended solution and timing in the prototype area and how it can be scaled to the corridor and County. The memorandum shall also include any challenges regarding the procurement, configuration, and implementation that can be addressed for future implementations. The CONSULTANT shall share the draft of this memorandum with all stakeholders to provide their input for additional consideration outside of the prototype area.

### **3.3 Proof of Technology Evaluation and Assessment**

This sub-task will continue to monitor, evaluate, assess, and modify the solutions to ensure

it meets the expectations and proof of technology of the Project.

Proof of Technology: Immediately following the implementation of the Project solutions and for a minimum period of six (6) months, the CONSULTANT shall evaluate and assess the solutions based on the metrics identified in Sub-Task 2.2. During this period, the CONSULTANT shall make the necessary adjustments to equipment configuration, timing, and technology based on field visits, agency comments, and the system reporting.

Technology Evaluation and Assessment Technical Memorandum: The CONSULTANT shall prepare a memorandum summarizing the proof of technology evaluation and assessment completed as part of this sub-task. This memorandum shall include the CONSULTANT's recommendation for scaling up from the prototype area, including any infrastructure improvements to achieve the performance desired by each stakeholder in their jurisdiction.

### **3.4 Stakeholder Engagement**

This sub-task ensures that the appropriate stakeholders are kept informed and engaged through each milestone of the Project.

Project Stakeholders: The Project stakeholders will include OCTA and all agencies owning and operating the signalized intersections along Bravo! route 543. This sub-task shall run concurrently with Tasks 2 to 4 to encourage input from all operators throughout the core of the study. Additional stakeholders, such as community and university leaders, may be included where appropriate.

Stakeholder Engagement Memorandum: The CONSULTANT shall prepare a draft Stakeholder Engagement Memorandum that will detail specific milestones where stakeholders will be engaged and the type of information that will be shared and/or collected, including online surveys to gather public feedback related to the Project. These engagements will be in addition to the monthly PDT meetings that will include discussions about the technical and operational concerns of the Project stakeholders. The CONSULTANT shall finalize the memorandum based on comments received from the PDT and other involved agencies.

Stakeholder Engagement: Based on the approved Stakeholder Engagement Memorandum, the CONSULTANT shall prepare the necessary agendas, materials, and notes for each meeting and/or event. The CONSULTANT shall also prepare a brief memorandum and present to the Traffic Forum, Committee (Regional Transportation Planning Committee, Technical Steering Committee, Technical Advisory Committee), and Board, as requested by OCTA, outlining the findings of the study.

### **3.5 Performance Measure Comparison**

Concurrently with and following Sub-Task 3.3, the CONSULTANT shall collect the same performance metrics determined in Sub-Task 2.2. OCTA reserves the right to validate the performance data's accuracy. Should OCTA determine that the data is not meeting the minimum requirements for data accuracy, OCTA will require the CONSULTANT to determine how long and how much of the data is inaccurate and provide a written plan of how the CONSULTANT plans to remedy the data inaccuracy.

The CONSULTANT shall prepare a Performance Measure Comparison Memorandum to

summarize all qualitative and quantitative improvements identified and potential improvements to expect with a full implementation of the solutions on the entire corridor.

**Task 3 – Deliverables** *(One hard copy and an electronic version of each):*

- Detection Alternatives Technical Memorandum
- Transit Signal Priority Implementation Technical Memorandum
- Technology Evaluation and Assessment Technical Memorandum
- Stakeholder Engagement Memorandum
- Stakeholder Engagement meeting agenda, notes, and materials
- Performance Measure Comparison Memorandum

**TASK 4 – CONCEPTUAL PLANNING**

Following the successful deployment and assessment of the proof-of-concept TSP and detection solutions, the CONSULTANT will develop a conceptual plan to expand the implementation of centralized TSP and identify bus improvements that improve speed and reliability.

**4.1 Transit Signal Priority Concept Development**

The CONSULTANT shall present to and receive consensus from OCTA and corridor agencies on the approach for enhancing transit signal priority based on the results of the TSP and detection solutions analysis. This proposed strategy shall implement detection solutions, centralized TSP, and other necessary ITS improvements along the stretch of Harbor Boulevard that encompasses the OCTA bus lines 543 and 43 (FTC to MacArthur Boulevard). The approach will include key stakeholder input and shall consider institutional constraints on reasonability. Additionally, the TSP concept will include impact avoidance and minimization strategies as well as benefits and risks among disadvantaged communities and geographical areas along the corridor.

**4.2 Transit Signal Priority Draft Plan Cost Estimates**

The CONSULTANT shall prepare detailed cost estimates for implementing the proposed TSP and ITS enhancements. The cost estimates shall include efforts for preparing plans, specification, and estimate (PS&E) bid packages, Right of Way acquisition, additional resources costs, construction, construction management, and maintenance.

**4.3 Bus Speed and Reliability Opportunities**

The CONSULTANT will conceptualize non-TSP enhancements to boost bus speeds and reliability along Harbor Boulevard. While the primary focus will be on OCTA bus lines 543 and 43 (FTC to McArthur Boulevard), the improvements are not confined to these lines. Potential enhancements may encompass bus queue jump lanes, dedicated lanes, off-board fare collection, elevated platforms, enhanced stations, and more.

The CONSULTANT will pinpoint these improvements, their specific locations, potential benefits, and provide detailed cost estimates on the corridor. The benefits will be evaluated for various stakeholders including the OCTA bus system, bus users, pedestrians, bicyclists, and car users. Cost estimates will cover PS&E, Right of Way acquisition, additional resources costs, construction, construction management, and maintenance.

The approach will incorporate key stakeholder input and consider institutional constraints on feasibility. Furthermore, strategies for impact avoidance and minimization will be considered alongside an assessment of benefits and risks for disadvantaged communities

and geographical areas along the corridor.

**4.4 Funding Opportunities**

Upon completion of the conceptual planning phase, the CONSULTANT will explore and identify potential funding avenues for the implementation of the proposed enhancements in Sub-Task 4.1 and 4.3.

**4.5 Risk Register**

The CONSULTANT shall develop a risk register that identifies potential risks associated with implementing the proposed TSP enhancements, bus improvements, ITS upgrades, and strategies for mitigating these risks.

**4.6 Develop an Implementation Plan**

Upon stakeholders' approval of the conceptual plan, the CONSULTANT will develop a detailed Implementation Plan Report for enhancing TSP, ITS, and improving bus speeds and reliability on the Harbor Boulevard Corridor. The Implementation Plan will be used as a springboard for upcoming projects.

**Task 4 – Deliverables** *(One hard copy and an electronic version of each):*

- Transit Signal Priority Conceptual Plan Memorandum
- Project Cost Estimates Memorandum
- Bus Speed and Reliability Memorandum
- Funding Opportunities Memorandum
- Master Project Risk Register
- Implementation Plan Report



# Harbor Boulevard Innovative TSP Study



- Bravo! Stops
- Bravo! Route 543
- Route 43 Stops
- Route 43

**Traffic Signals**

- Anaheim
- Caltrans
- Fountain Valley
- Fullerton
- Garden Grove
- Santa Ana

Source: OCTA

0 0.25 0.5  
Miles

**EXHIBIT B: COST AND PRICE FORM**

**REQUEST FOR PROPOSALS (RFP) 3-2944**

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

<b><u>Description</u></b>	<b><u>Firm-Fixed Price</u></b>
Task 1: Project Management	\$ _____
Task 2: Analysis and Assessment of Existing Conditions	\$ _____
Task 3: Project Development	\$ _____
Task 4: Conceptual Planning	\$ _____
<b>Total Firm-Fixed Price</b>	<b>\$ _____</b>

- \_\_\_\_\_
1. I acknowledge receipt of RFP 3-2944 and Addenda No.(s) \_\_\_\_\_
  2. This offer shall remain firm for \_\_\_\_\_ days from the date of proposal  
(Minimum 120)

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

ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_

FACSIMILE # \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

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

NAME AND TITLE OF PERSON  
AUTHORIZED TO BIND OFFEROR \_\_\_\_\_

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

**EXHIBIT C: PROPOSED AGREEMENT**



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 the AUTHORITY by way of a written amendment to this Agreement and issue in accordance with the provisions of this Agreement CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by AUTHORITY.

C. This Article shall survive termination or expiration of the 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," which is 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's Contract Administrator.

D. 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**

A. This Agreement shall go into effect on \_\_\_\_\_, contingent upon approval by AUTHORITY, and CONSULTANT shall commence after notification to proceed by AUTHORITY’s Contract Administrator. This Agreement shall end on \_\_\_\_\_, unless extended by amendment to the Agreement, or terminated as provided hereunder.

B. CONSULTANT is advised that any recommendation for contract award is not binding on AUTHORITY until the Agreement is fully executed and approved by AUTHORITY.

**ARTICLE 5. ALLOWABLE COSTS AND PAYMENT**

A. For CONSULTANT’s full and complete performance of its obligations under this Agreement and subject to the maximum cumulative payment obligation provision set forth in Article 7 “Maximum Obligation” AUTHORITY shall pay CONSULTANT on a firm fixed price (lump sum) basis in accordance with the following provisions.

B. The following schedule shall establish the firm fixed payment to CONSULTANT by AUTHORITY for each task set forth in the Scope of Work.

<u>Task</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1	Project Management	\$____.00
2	Analysis and Assessment of Existing Conditions	\$____.00
3	Project Development	\$____.00
4	Conceptual Planning	\$____.00
<b>TOTAL FIRM FIXED PRICE (LUMP SUM) PAYMENT</b>		<b>\$____.00</b>

1 C. The method of payment for this Agreement is based on lump sum. The total lump sum price  
2 paid CONSULTANT will include compensation for all work and deliverables, including travel and  
3 equipment described in Exhibit A entitled "Scope of Work" to this agreement. No additional compensation  
4 will be paid to CONSULTANT unless there is a change in the Scope of Work or the scope of the project.  
5 In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum  
6 compensation will be negotiated between CONSULTANT and AUTHORITY. Adjustment in the total lump  
7 sum compensation will not be effective until authorized by amendment to this Agreement that is approved  
8 by AUTHORITY. The total firm fixed price (lump sum) as specified in Paragraph B of this Article shall not  
9 be exceeded, unless authorized by an amendment to this Agreement.

10 D. The overhead rate established for this Agreement is extended through the term of this specific  
11 Agreement. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds  
12 AUTHORITY's approved overhead rate set forth in this Agreement.

13 E. Reimbursement for transportation and subsistence costs shall not exceed the rates specified  
14 in the approved Cost Proposal.

15 F. Progress payments will be made monthly in arrears based on the percentage of work  
16 completed by the CONSULTANT. If CONSULTANT fails to submit the required deliverable items  
17 according to the schedule set forth in the Scope of Work, AUTHORITY shall have the right to delay  
18 payment or terminate this Agreement in accordance with the provisions of Article 14 entitled  
19 "Termination."

20 G. CONSULTANT shall not commence performance of work or services until this Agreement  
21 has been approved by AUTHORITY and notification to proceed has been issued by AUTHORITY. No  
22 payment will be made prior to approval of any work, or for any work performed prior to approval of this  
23 Agreement.

24 H. For personnel subject to prevailing wage rates as described in the California Labor Code, all  
25 salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

26 I. CONSULTANT will be reimbursed, less any retention amount withheld, as promptly as fiscal



1 procedures will permit upon receipt by the AUTHORITY's Accounts Payable office of itemized invoices  
2 in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of  
3 the work for which the CONSULTANT is billing. Invoices shall detail the work performed on each  
4 task/milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved  
5 Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain  
6 the final cost and all credits due the AUTHORITY that include any equipment purchased under the  
7 provisions of Article 47 entitled "Equipment Purchase" of this Agreement. The final invoice should be  
8 submitted to AUTHORITY within sixty (60) calendar days after completion of CONSULTANT's work.

9 J. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to  
10 the work actually completed by CONSULTANT. Percentage of work completed shall be documented in  
11 a monthly progress report prepared by CONSULTANT, which shall accompany each invoice submitted  
12 by CONSULTANT. The report should be sufficiently detailed for the AUTHORITY to determine, if  
13 CONSULTANT is performing to expectations, or is on schedule; or to provide communication of interim  
14 findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be  
15 developed. CONSULTANT shall also furnish such other information as may be requested by  
16 AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to  
17 make full payment for any task listed in Paragraph B of this Article until such time as CONSULTANT has  
18 documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required  
19 under the task. AUTHORITY's payment in full for any task completed shall not constitute AUTHORITY's  
20 final acceptance of CONSULTANT's work under such task.

21 K. As partial security against CONSULTANT's failure to satisfactorily fulfill all its obligations  
22 under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice  
23 submitted for payment by CONSULTANT, and shall make prompt and regular incremental acceptances  
24 of portions/milestones/tasks, as determined by AUTHORITY, of the Agreement work, and pay retainage  
25 to CONSULTANT based on these acceptances. The CONSULTANT, or subconsultant, shall return all  
26 monies withheld in retention from a subconsultant within thirty (30) calendar days after receiving payment

1 for work satisfactorily completed and accepted including incremental acceptances of  
2 portions/milestones/tasks of the Agreement work by the AUTHORITY. CONSULTANT shall invoice  
3 AUTHORITY for the release of the retention in accordance with this Article.

4 L. The prime consultant, or subconsultant, shall return all monies withheld in retention from a  
5 subconsultant within seven (7) days for construction contracts and fifteen (15) days for consultant  
6 contracts after receiving payment for work satisfactorily completed and accepted. Any subcontract  
7 entered into as a result of this Agreement shall contain all of the provisions of this section. These  
8 requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies,  
9 otherwise available to the prime consultant or subconsultant in the event of a dispute involving late  
10 payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance  
11 by a subconsultant.

12 M. All retained funds shall be released by AUTHORITY and shall be paid to CONSULTANT  
13 within sixty (60) calendar days of payment of final invoice, unless AUTHORITY elects to audit  
14 CONSULTANT's records in accordance with Article 17 entitled "Audit and Inspection of Records", of this  
15 Agreement. If AUTHORITY elects to audit, retained funds shall be paid to CONSULTANT within thirty  
16 (30) calendar days of completion of such audit in an amount reflecting any adjustment required by such  
17 audit. During the term of the Agreement, at its sole discretion, AUTHORITY reserves the right to release  
18 all or a portion of the retained amount based on CONSULTANT's satisfactory completion of certain  
19 portions/milestones/tasks. CONSULTANT shall invoice AUTHORITY for the release of the retention in  
20 accordance with this Article.

21 N. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in  
22 duplicate to AUTHORITY's Accounts Payable office or may be emailed to VendorInvoices@octa.net.  
23 Each invoice shall be accompanied by the monthly progress report specified in paragraph G of this Article.  
24 Invoices shall be submitted no later than 30-calendar days after the performance of work for which  
25 CONSULTANT is billing. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt  
26 and approval of each invoice. Each invoice shall include the following information:

- 1           1. Agreement No. 3-2944;
- 2           2. Specific task number for which payment is being requested;
- 3           3. The time period covered by the invoice;
- 4           4. Total monthly invoice by task (including project to-date cumulative invoice amount);
- 5                 and retention amount;
- 6           5. Monthly Progress Report;
- 7           6. Weekly certified payroll for personnel subject to prevailing wage requirements;
- 8           7. Certificate signed by the CONSULTANT or his/her designated alternate that a) The

9 invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup  
 10 information included with the invoice is true, complete and correct in all material respects; c) All payments  
 11 due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to  
 12 subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The  
 13 invoice does not include any amount which CONSULTANT intends to withhold or retain from a  
 14 subcontractor or supplier unless so identified on the invoice.

- 15           8. Any other information as agreed or otherwise requested by AUTHORITY to
- 16                 substantiate the validity of an invoice.

17           O. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this  
 18 Agreement number and project title.

19           P. CONSULTANT shall not commence performance of work or services until this Agreement  
 20 has been approved by the AUTHORITY. No payment will be made prior to approval of any work, or for  
 21 any work performed prior to approval of this Agreement.

22           **ARTICLE 6. PROMPT PAYMENT CLAUSE**

23           A. AUTHORITY has adopted a prompt payment provision to facilitate timely payment to all  
 24 subcontractors in accordance with regulatory mandates as modified to meet the requirements of the  
 25 federal grant funding:

- 26           B. CONSULTANT or subconsultant agrees to pay each subconsultant under this Agreement for

1 satisfactory performance of its Agreement no later than seven (7) days for construction contracts and ten  
 2 (10) days for consultant contracts from the receipt of each progress payment CONSULTANT receives  
 3 from AUTHORITY on account of the work performed by the subconsultant. CONSULTANT agrees further  
 4 to return retainage payments to each subconsultant within seven (7) days for construction contracts and  
 5 ten (10) days for consultant contracts after receiving payment for work satisfactorily completed and  
 6 accepted including incremental acceptances of portions of the Agreement work by AUTHORITY. Any  
 7 delay or postponement of payment from the above referenced time frame may take place only for good  
 8 cause and with AUTHORITY's prior written approval. CONSULTANT agrees further to return retainage  
 9 payments on construction-related contracts to each subcontractor within seven (7) days after receiving  
 10 payment for work satisfactorily completed and accepted including incremental acceptances of portions of  
 11 the Agreement work by AUTHORITY. CONSULTANT shall incorporate this clause verbatim, set forth  
 12 above, in all subcontract, broker, dealer, vendor, supplier, purchase order or other source agreements  
 13 issued to non-DBE firms. In the event that there is a dispute over all or any portion of the amount due on  
 14 a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or  
 15 subconsultant may withhold no more than 150 percent of the disputed amount.

16 C. This requirement shall not be construed to limit or impair any contractual, administrative or  
 17 judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute  
 18 involving late payment or nonpayment by CONSULTANT; deficient subcontract performance or  
 19 noncompliance by a subconsultant.

20 D. Failure to comply with these provisions without prior written approval from AUTHORITY will  
 21 constitute noncompliance, which shall result in the application of appropriate administrative sanctions to  
 22 the licensee, including, but not limited to, a penalty payable to the subconsultant, of two percent (2%) of  
 23 the invoice amount due per month, for every month that full payment is not made.

24 E. CONSULTANT agrees to include these requirements in all of its subcontracts.

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26 /

**ARTICLE 7. MAXIMUM OBLIGATION**

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

**ARTICLE 8. NOTICES**

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

TO CONSULTANT:

TO AUTHORITY:

Orange County Transportation Authority

550 SOUTH MAIN STREET

P.O. BOX 14184

ORANGE, CA 92863-1584

ATTENTION:

ATTENTION: Megan Bornman

Title:

Title: Senior Contract Administrator

Phone:

Phone: (714) 560 - 5064

Email:

Email: mbornman@octa.net

Cc: Alicia Yang, Project Manager

Phone: (714) 560 – 5362

Email: ayang@octa.net

**ARTICLE 9. INDEPENDENT CONTRACTOR**

A. CONSULTANT's relationship to AUTHORITY and the Southern California Association of Governments in the performance of this Agreement is that of an independent contractor. CONSULTANT's

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

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

11 C. CONSULTANT agrees to include these requirements in all of its subcontracts.

12 **ARTICLE 10. INSURANCE**

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

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

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

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

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

26 /

1           5. Professional Liability with minimum limits of \$1,000,000 only if the CONSULTANT is  
2 required by contract or law to be licensed or specially certified and AUTHORITY is relying on performance  
3 based on that specialty license or certification.

4           B. Proof of such coverage, in the form of a certificate of insurance and an insurance policy  
5 blanket additional insured endorsement, designating the AUTHORITY, the Southern California Council  
6 of Governments, and their respective officers, directors, employees, and volunteers as additional insureds  
7 on general liability and automobile liability, as required by Agreement. Proof of insurance coverage must  
8 be received by AUTHORITY within ten (10) calendar days from the effective date of the Agreement and  
9 prior to commencement of any work. Such insurance shall be primary and non-contributive to any  
10 insurance or self-insurance maintained by the AUTHORITY. Furthermore, AUTHORITY reserves the  
11 right to request certified copies or review all related insurance policies, in response to a related loss.

12           C. CONSULTANT shall include on the face of the certificate of insurance the Agreement Number  
13 C-3-2944 and, the Contract Administrator's Name, Megan Bornman.

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

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

20           F. This Article shall survive termination or expiration of the Agreement.

21           G. CONSULTANT agrees to include these requirements in all of its subcontracts.

22           **ARTICLE 11. ORDER OF PRECEDENCE**

23           To the extent there are any conflicts or inconsistency arising between any provisions or  
24 documents incorporated in this Agreement, the order of precedence for conflict resolution in descending  
25 order shall be as follows: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of  
26 RFP 3-2944; (3) CONSULTANT's technical proposal dated \_\_\_\_\_, CONSULTANT's cost proposal

1 dated \_\_\_\_\_ and final cost proposal dated \_\_\_\_\_, and (4) all other documents, if any, cited herein or  
2 incorporated by reference.

3 **ARTICLE 12. CHANGES**

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

12 B. This Agreement may be amended or modified only by mutual written agreement of the parties.

13 C. CONSULTANT shall only commence work covered by an amendment after the  
14 amendment is executed and notification to proceed has been provided by AUTHORITY's Contract  
15 Administrator.

16 **ARTICLE 13. DISPUTES**

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

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



1 accordance with the laws of the State of California.

2 C. If AUTHORITY is required to arbitrate a dispute with the Southern California Association of  
3 Governments related to this Agreement in any way, CONSULTANT may be subject to and shall  
4 participate in said arbitration as directed by AUTHORITY. A judgment upon the award rendered by  
5 arbitration may be entered into any court having jurisdiction thereof. The arbitration panel shall have  
6 the authority to grant any remedy or relief that would have been available to the parties had the  
7 matter been heard in a court of law. Following arbitration, the arbitration panel shall prepare a written  
8 decision containing the essential findings and conclusions on which the award is based so as to  
9 ensure meaningful judicial review of the decision. All expenses and fees for the arbitrator and  
10 expenses for hearing facilities and other expenses of arbitration shall be borne equally by the parties  
11 unless they agree otherwise or unless the arbitrator in the award assesses such expenses against  
12 one of the parties or allocates such expenses other than equally between the parties. Either party  
13 may bring an action in court to enforce an arbitration award. CONSULTANT agrees to include this  
14 provision in all of its subcontracts.

15 D. This Article shall survive termination or expiration of the Agreement.

16 **ARTICLE 14. TERMINATION**

17 A. AUTHORITY reserves the right to terminate this Agreement upon thirty (30) calendar days  
18 written notice to CONSULTANT of intent to terminate, with effective date of termination and the reasons  
19 for termination stated in the notice, in accordance with the provisions of the FAR referenced above and  
20 Article 8 "Notices", herein. Upon receipt of said notification, CONSULTANT agrees to comply with all  
21 applicable provisions of the FAR pertaining to termination for convenience.

22 B. Upon termination, AUTHORITY shall be entitled to all work, including but not limited to,  
23 reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed  
24 to that date, whether completed or not.

25 C. AUTHORITY may temporarily suspend this Agreement, at no additional cost to AUTHORITY,  
26 provided that CONSULTANT is given written notice of temporary suspension. If AUTHORITY gives such

1 notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this  
2 Agreement. A temporary suspension may be issued concurrent with the notice of termination.

3 D. AUTHORITY may terminate this Agreement with CONSULTANT should CONSULTANT fail  
4 to perform the covenants herein contained at the time and in the manner herein provided. In the event of  
5 such termination, AUTHORITY may proceed with the work in any manner deemed proper by  
6 AUTHORITY. If AUTHORITY terminates this Agreement with CONSULTANT, AUTHORITY shall pay  
7 CONSULTANT the sum due to CONSULTANT under this Agreement prior to termination, unless the cost  
8 of completion to AUTHORITY exceeds the funds remaining in the Agreement, in which case the overage  
9 shall be deducted from any sum due CONSULTANT under this Agreement and the balance, if any, shall  
10 be paid to CONSULTANT upon demand. Said termination shall be construed in accordance with the  
11 provisions of the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 49, of the Federal  
12 Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination  
13 for convenience.

14 E. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or state  
15 proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT  
16 makes an assignment for the benefit of creditors, or for cause if CONSULTANT fails to perform in  
17 accordance with the scope of work or breaches any term(s) or violates any provision(s) of this Agreement  
18 and does not cure such breach or violation within ten (10) calendar days after written notice thereof by  
19 AUTHORITY. CONSULTANT shall be liable for any and all reasonable costs incurred by AUTHORITY  
20 as a result of such default or breach including, but not limited to, reprocurement costs of the same or  
21 similar services defaulted by CONSULTANT under this Agreement. Such termination shall comply with  
22 CFR Title 48, Chapter 1, Part 49, of the FAR.

23 **ARTICLE 15. INDEMNIFICATION**

24 A. CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, the Southern  
25 California Association of Governments, and their officers, directors, employees and agents (indemnities)  
26 from and against any and all claims (including attorneys' fees and reasonable expenses for litigation or

1 settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property  
2 caused by the negligent acts, omissions or willful misconduct by CONSULTANT, its officers,  
3 directors, employees, agents, subconsultants or suppliers in connection with or arising out of the  
4 performance of this Agreement.

5 B. This Article shall survive termination or expiration of the Agreement.

6 C. CONSULTANT shall include these requirements in all of its subcontracts.

7 **ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS**

8 A. Nothing contained in this Agreement or otherwise, shall create any contractual relation  
9 between AUTHORITY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its  
10 responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to  
11 AUTHORITY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly  
12 employed by any of them as it is for the acts and omissions of persons directly employed by  
13 CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from  
14 AUTHORITY's obligation to make payments to the CONSULTANT.

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

20 C. The CONSULTANT shall perform the work contemplated with resources available within its  
21 own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without  
22 written authorization by AUTHORITY's Contract Administrator, except that, which is expressly identified  
23 in the approved Cost Proposal.

24 D. CONSULTANT shall pay its subconsultants within seven (7) calendar days from receipt of  
25 each payment made to CONSULTANT by AUTHORITY.

26 E. All subcontracts entered into as a result of this Agreement, shall contain all of the provisions

1 stipulated in this entire Agreement to be applicable to subconsultants unless otherwise noted.

2 F. Any substitution or addition of subconsultant(s) must be approved in writing by the  
3 AUTHORITY's Contract Administrator, in advance of assigning work to a substitute subconsultant(s).

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

<u>Subcontractor Name/Address</u>	<u>Subcontractor Amounts</u>

13 **ARTICLE 17. AUDIT AND INSPECTION OF RECORDS**

14 A. CONSULTANT and any subconsultant shall permit AUTHORITY, the State, the Southern  
15 California Association of Governments, the California Department of Housing and Community  
16 Development, the California Department of General Services, the California Bureau of State Audits, the  
17 U.S. Department of Transportation, or their designated representatives, to review and inspect the project  
18 activities and files at all reasonable times during the performance period of this Agreement.

19 B. For the purpose of determining compliance with the Public Contract Code 10115, et seq. and  
20 Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other  
21 matters connected with the performance of the contract pursuant to Government Code 8546.7;  
22 CONSULTANT, subconsultants, and AUTHORITY shall maintain and make available for inspection all  
23 books, documents, papers, accounting records, Independent certified public accountant (CPA) Audited  
24 Cost Rate workpapers, and other evidence pertaining to the performance of the Agreement, including but  
25 not limited to, the costs of administering the Agreement. All parties, including the CONSULTANT and  
26 Independent CPA, shall make such workpapers and materials available at their respective offices at all

1 reasonable times during the Agreement period and for five (5) years after December 31, 2026. If any  
2 litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the  
3 expiration of the required record retention period, all records shall be retained by CONSULTANT and  
4 any subconsultant(s) for five (5) years after: (a) the conclusion or resolution of the matter; (b) the date  
5 an audit resolution is achieved for each annual SCAG Overall Work Plan; or (c) December 31, 2026,  
6 whichever is later. AUTHORITY, or other agents of AUTHORITY, or any duly authorized representative  
7 of the Federal government having jurisdiction under Federal laws or regulations (including the basis of  
8 Federal funding in whole or in part) shall have access to any books, records, payroll documents, facilities  
9 and documents of CONSULTANT, subconsultants, and the CONSULTANT's Independent (CPA), that  
10 are pertinent to the Agreement for audits, examinations, workpaper review, excerpts, and transactions,  
11 and copies thereof shall be furnished if requested without limitation.

12 C. CONSULTANT shall maintain such books, records, data and documents in accordance with  
13 generally accepted accounting principles and the CFR, Title 48, Chapter 1, Part 31 of the Federal  
14 Acquisition Regulation System (FAR) and shall clearly identify and make such items readily accessible  
15 to such parties during CONSULTANT's performance hereunder.

16 D. AUTHORITY's right to audit books and records directly related to this Agreement shall also  
17 extend to all first-tier subcontractors performing work identified in Article 16 "Assignments and  
18 Subcontracts" of this Agreement, and such language must be included in CONSULTANT's agreements  
19 with its subcontractors.

20 E. This Article shall survive termination or expiration of the Agreement.

21 F. CONSULTANT agrees to include these requirements in all of its subcontracts.

22 **ARTICLE 18. AUDIT REVIEW PROCEDURES**

23 A. Any dispute concerning a question of fact arising under an interim or post audit of this  
24 Agreement that is not disposed of by agreement, shall be reviewed by AUTHORITY's Internal Audit.

25 B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a  
26 review by AUTHORITY's Internal Audit of unresolved audit issues. The request for review will be

1 submitted in writing.

2 C. Neither the pendency of a dispute nor its consideration by AUTHORITY will excuse  
3 CONSULTANT from full and timely performance, in accordance with the terms of this Agreement.

4 **ARTICLE 19. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

5 A. CONSULANT agrees that the CFR, Title 48, Chapter 1, Part 31, Contract Cost Principles and  
6 Procedures, shall be used to determine the cost allowability of individual terms of costs.

7 B. CONSULANT also agrees to comply with Federal procedures in accordance with CFR, Title  
8 2, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal  
9 Awards.

10 C. Any costs for which payment has been made to CONSULANT that are determined by  
11 subsequent audit to be unallowable under CFR Title 48, Part 31; CFR Title 2, Part 200; or by the Southern  
12 California Association of Governments, the California Department of Housing and Community  
13 Development, or other state or federal authorities are subject to repayment by CONSULANT to  
14 AUTHORITY.

15 D. When a CONSULANT or Subconsultant is a Non-Profit Organization or an Institution of  
16 Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements,  
17 Cost Principles, and Audit Requirements for Federal Awards shall apply.

18 E. Any travel expenses and per diem rates are not to exceed the rates specified by the State of  
19 California Department of Human Resources for similar employees (i.e., non-represented employees)  
20 unless written verification is supplied that government hotel rates were not then commercially available  
21 to CONSULANT at the time and location required as specified in the California Department of  
22 Transportation’s Travel Guide Exception Process, which can be found at the following link:  
23 [http://www.dot.ca.gov/hq/asc/travel/ap\\_b/bu1.htm](http://www.dot.ca.gov/hq/asc/travel/ap_b/bu1.htm). Also see the link for a summary of travel  
24 reimbursement rules.

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1 F. CONSULTANT agrees to submit all invoices to AUTHORITY for services rendered through  
2 June 30<sup>th</sup> no later than \_\_\_\_\_ during the term of this Agreement. AUTHORITY shall not be obligated to  
3 pay CONSULTANT for any invoice received after such date.

4 G. CONSULTANT agrees to include these requirements in all of its subcontracts.

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

6 CONSULTANT warrants that in the performance of this Agreement, it shall comply with all  
7 applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and  
8 regulations promulgated thereunder. This Article shall survive termination or expiration of the Agreement.  
9 CONSULTANT agrees to include these requirements in all of its subcontracts.

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

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

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

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

1 have no property right therein whatsoever. Copies may be made for CONSULTANT's records but shall  
2 not be furnished to others without written authorization from AUTHORITY. Immediately upon termination,  
3 AUTHORITY shall be entitled to, and CONSULTANT shall deliver to AUTHORITY, reports,  
4 investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that  
5 date, whether completed or not, and other such materials as may have been prepared or accumulated  
6 to date by CONSULTANT in performing this Agreement which is not CONSULTANT's privileged  
7 information, as defined by law, or CONSULTANT's personnel information, along with all other property  
8 belonging exclusively to City which is in CONSULTANT's possession. Publication of the information  
9 derived from work performed or data obtained in connection with services rendered under this Agreement  
10 must be approved in writing by AUTHORITY.

11 B. Additionally, it is agreed that such deliverables shall be deemed works made for hire.  
12 CONSULTANT acknowledges and agrees that the work (and all rights therein, including without limitation,  
13 copyright) belongs to and shall be the sole and exclusive property of AUTHORITY without restriction or  
14 limitation upon its use or dissemination by AUTHORITY.

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

25 D. No copies, sketches, computer graphics or graphs, including graphic art work, are to be  
26 released by CONSULTANT to any other person or agency except after prior written approval by



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

4 E. This Article shall survive termination or expiration of the Agreement.

5 F. CONSULTANT agrees to include these requirements in all of its subcontracts.

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

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

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

**ARTICLE 25. DESIGN WITHIN FUNDING LIMITATIONS**

A. In order to ensure the accuracy of the construction budget for the benefit of the public works bidders and AUTHORITY’s budget process, CONSULTANT shall accomplish the design services required under this Agreement so as to permit the award of a contract, for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth by AUTHORITY. When bids or proposals for the construction contract are received that exceed the estimated price, CONSULTANT shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price for which the services were specified. However, CONSULTANT shall not be required to perform such additional services at no cost to AUTHORITY if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

B. CONSULTANT will promptly advise AUTHORITY if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, AUTHORITY will review CONSULTANT's revised estimate of construction cost. AUTHORITY may, if it determines that the estimated construction contract price is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth by AUTHORITY, or AUTHORITY may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, AUTHORITY shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance within the funding limitation.

**ARTICLE 26. REQUIREMENTS FOR REGISTRATION OF DESIGNERS**

All design and engineering work furnished by CONSULTANT shall be performed by or under the supervision of persons licensed to practice architecture, engineering or surveying (as applicable) in the State of California, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the work in accordance with the

1 Agreement documents and who shall assume professional responsibility for the accuracy and  
2 completeness of the design documents and construction documents prepared or checked by them.

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

4 A. Upon completion of all work under this Agreement, ownership and title to all reports,  
5 documents, plans, specifications, and estimates, including, but not limited to, illustrations, photographs,  
6 tapes, software, software design documents, including without limitation source code, binary code, all  
7 media, technical documentation and user documentation, photoprints and other graphic information  
8 required to be furnished under this Agreement, will automatically be vested in AUTHORITY and no further  
9 agreement will be necessary to transfer ownership to AUTHORITY.

10 B. It is understood and agreed that all calculations, drawings and specifications, whether in hard  
11 copy or machine-readable form, are intended for one-time use in the construction of the project for which  
12 this Agreement has been entered into.

13 C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with  
14 the modification, or misuse by AUTHORITY of the machine-readable information and data provided by  
15 CONSULTANT under this Agreement. Further, CONSULTANT is not liable for claims, liabilities, or losses  
16 arising out of, or connected with any use by AUTHORITY of the project documentation on other projects,  
17 or for the completion of this project by others, except only as such use as may be authorized in writing by  
18 CONSULTANT.

19 D. It is expressly understood that any title to preliminary technical data is not passed to  
20 AUTHORITY, but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,  
21 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the  
22 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given  
23 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to  
24 AUTHORITY, if CONSULTANT causes AUTHORITY to exercise Article 14 "Termination", and a price  
25 shall be negotiated for all preliminary data.

26 E. This Article shall survive termination or expiration of the Agreement.

1 F. All subcontracts entered into as a result of this Agreement shall contain all of the provisions  
2 of this Article.

3 **ARTICLE 28. STATE PREVAILING WAGE RATES**

4 A. CONSULTANT shall comply with the State of California’s General Prevailing Wage Rate  
5 requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local  
6 laws and ordinances applicable to the work.

7 B. When prevailing wages apply to the services described in the scope of work, transportation  
8 and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial  
9 Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

10 C. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons,  
11 craftspersons or apprentices employed by CONSULTANT or subconsultant at any tier for any work  
12 hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent  
13 deduction or rebate on any account (except such payroll deductions as are permitted or required by  
14 federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed  
15 at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates  
16 and rates of payments, contributions or costs for any fringe benefits contained in the current general  
17 prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial  
18 Relations of the State of California, (as set forth in the Labor Code, commencing at Section 1770 et. seq.),  
19 or as established by the Secretary of Labor (as set forth in the Davis-Bacon Act, 40 U.S.C. 267a, et. seq.),  
20 regardless of any contractual relationship which may be alleged to exist between CONSULTANT or  
21 subconsultant and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or  
22 apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on  
23 file at AUTHORITY's offices and will be made available to CONSULTANT upon request. CONSULTANT  
24 shall post a copy thereof at each job site at which work hereunder is performed.

25 D. In addition to the foregoing, CONSULTANT agrees to comply with all other provisions of the  
26 California Labor Code, which is incorporated herein by reference, pertaining to workers performing work

1 hereunder including, but not limited to, those provisions for work hours, payroll records and  
2 apprenticeship employment and regulation program.

3 E. Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public  
4 works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public  
5 works, shall contain all of the provisions of this Article. CONSULTANT agrees to insert or cause to be  
6 inserted the preceding clause in all subcontracts which provide for workers to perform work hereunder  
7 regardless of the subcontractor tier.

8 **ARTICLE 29. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

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

11 A. CONSULTANT’s signature affixed herein, and dated, shall constitute a certification under  
12 penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt,  
13 complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title  
14 2, California Code of Regulations, Section 8103.

15 B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not  
16 deny the Agreement’s benefits to any person on the basis of race, religious creed, color, national origin,  
17 ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex,  
18 gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor  
19 shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for  
20 employment because of race, religious creed, color, national origin, ancestry, physical disability, mental  
21 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
22 expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants  
23 shall ensure that the evaluation and treatment of their employees and applicants for employment are free  
24 from such discrimination and harassment.

25 C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment  
26 and Housing Act (Government Code Section 12990 et seq.), the applicable regulations promulgated there

1 under (Title 2 of the California Code of Regulations (CCR) Section 11000 et seq.), the provisions of  
2 Government Code Sections 11135-11139.5, and the regulations or standards adopted by AUTHORITY  
3 to implement such article. The applicable regulations of the Fair Employment and Housing Commission  
4 implementing Government Code Section 12990 (a-f), set forth in 2 CCR Section 8100-8504, are  
5 incorporated into this Agreement by reference and made a part hereof as if set forth in full.

6 D. CONSULTANT shall permit access by representatives of the Department of Fair Employment  
7 and Housing (Department) and the AUTHORITY upon reasonable notice at any time during the normal  
8 business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records,  
9 accounts, and all other sources of information and its facilities as said Department or AUTHORITY shall  
10 require to ascertain compliance with this clause.

11 E. CONSULTANT and its subconsultants shall give written notice of their obligations under this  
12 clause to labor organizations with which they have a collective bargaining or other Agreement.

13 F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause  
14 in all subcontracts to perform work under this Agreement.

15 G. CONSULTANT, with regard to the work performed under this Agreement, shall act in  
16 accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.). Title VI provides  
17 that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which  
18 no person in the United States shall, on the basis of race, color, national origin, religion, sex, age,  
19 disability, be excluded from participation in, denied benefits of or subject to discrimination under any  
20 program or activity by the recipients of federal assistance or their assignees and successors in interest.

21 H. CONSULTANT shall comply with regulations relative to nondiscrimination in federally-  
22 assisted programs of the U.S. Department of Transportation (49 CFR Part 21 – Effectuation of Title VI of  
23 the 1964 Civil Rights Act). Specifically, CONSULTANT shall not participate either directly or indirectly in  
24 the discrimination prohibited by 49 CFR Section 21.5, including employment practices and the selection  
25 and retention of subconsultants.

26 I. CONSULTANT, subrecipient, or subconsultant will never exclude any person from

1 participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection  
2 with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color,  
3 sex, or national origin. In administering the AUTHORITY components of the DBE Program Plan,  
4 CONSULTANT, subrecipient, or subconsultant will not, directly, or through contractual or other  
5 arrangements, use criteria or methods of administration that have the effect of defeating or substantially  
6 impairing the accomplishment of the objectives of the DBE Program Plan with respect to individuals of a  
7 particular race, color, sex, or national origin.

8 J. CONSULTANT shall adopt and implement affirmative processes and procedures that  
9 provide information, outreach and promotion of opportunities in this Agreement to encourage  
10 participation of all persons regardless of race, color, national origin, sex, religion, familial status, or  
11 disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to  
12 the maximum extent possible, of minorities and women, and entities owned by minorities and women,  
13 as required by 24 CFR § 92.351.

14 K. This Article shall survive termination or expiration of the Agreement.

15 L. CONSULTANT agrees to include these requirements in all of its subcontracts.

16 **ARTICLE 30. PRIVACY ACT**

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

24 B. CONSULTANT agrees to include this requirement in all its subcontracts at any tier.

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**ARTICLE 31. 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 the 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 the AUTHORITY’s Clerk of the Board disclosing all required financial interests.

C. This Article shall survive termination or expiration of the Agreement.

D. CONSULTANT agrees to include these requirements in all of its subcontracts.

**ARTICLE 32. CODE OF CONDUCT**

A. CONSULTANT agrees to comply with the AUTHORITY’s Code of Conduct as it relates to Third-Party contracts which is hereby referenced and by this reference is incorporated herein.

B. CONSULTANT agrees to include these requirements in all of its subcontracts.

**ARTICLE 33. 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.

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**ARTICLE 34. INCORPORATION OF FEDERAL TERMS**

All contractual provisions required by United States Department of Transportation (USDOT) whether or not expressly set forth in this document, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all federally mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause AUTHORITY to be in violation of the USDOT or FHWA terms and conditions.

**ARTICLE 35. FEDERAL CHANGES**

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

**ARTICLE 36. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

A. AUTHORITY and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the AUTHORITY, CONSULTANT, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the underlying Agreement.

B. CONSULTANT agrees to include these requirements in all of its subcontracts.

**ARTICLE 37. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

A. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§3801 et seq., and USDOT regulations, “Program Fraud Civil Remedies,” CFR, Title 49, Part 31, apply to its actions pertaining to this project. Accordingly, by signing

1 this Agreement, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has  
2 made, it makes, it may make, or may cause to be made, pertaining to the underlying Agreement or the  
3 FTA assisted project for which this Agreement's work is being performed. CONSULTANT also  
4 acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement,  
5 submission, or certification, the Federal Government reserves the right to impose penalties set forth in  
6 the Program Fraud Civil Remedies Act of 1986 against the CONSULTANT to the extent the Federal  
7 Government deems appropriate.

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

14 C. CONSULTANT agrees to include this requirement in all of its subcontracts.

15 **ARTICLE 38. RECYCLED PRODUCTS**

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

20 B. CONSULTANT agrees to include this requirement in all of its subcontracts.

21 **ARTICLE 39. ENERGY CONSERVATION REQUIREMENTS**

22 If the maximum cumulative payment obligation of this Agreement exceeds \$150,000,  
23 CONSULTANT shall comply with mandatory standards and policies relating to energy efficiency, which  
24 are contained in the state energy conservation plan issued in compliance with the Energy Policy  
25 Conservation Act.

26 /

**ARTICLE 40. CLEAN AIR**

A. CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each violation to AUTHORITY, who will in turn, report each violation as required to assure notification to USDOT and the appropriate Environmental Protection Agency (EPA) Regional Office.

B. CONSULTANT agrees to include this requirement in each subcontract exceeding \$150,000.

**ARTICLE 41. CLEAN WATER REQUIREMENTS**

A. If the maximum cumulative payment obligation of this Agreement exceeds \$150,000, CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq. CONSULTANT shall report any violations of use of prohibited facilities to the USDOT and US EPA.

B. CONSULTANT agrees to include this requirement in each subcontract exceeding \$150,000.

**ARTICLE 42. FLY AMERICA REQUIREMENT**

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

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**ARTICLE 43. CONTINGENT FEE**

CONSULTANT warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, AUTHORITY has the right to annul this Agreement without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**ARTICLE 44. DEBARMENT AND SUSPENSION CERTIFICATION**

A. CONSULTANT’s signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:

- 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
- 3. Does not have a proposed debarment pending; and
- 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

B. Any exceptions to this certification must be disclosed in writing to the AUTHORITY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and the dates of agency action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

**ARTICLE 45. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING**

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any local, State or Federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding or making of this Agreement, or with the extension, continuation, renewal, amendment, or modification of this Agreement.

2. If any funds other than Federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed one hundred thousand (\$100,000) dollars, and that all such sub recipients shall certify and disclose accordingly.

**ARTICLE 46. FUNDING REQUIREMENTS**

A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the Agreement were executed after that

1 determination was made.

2 B. This Agreement is valid and enforceable only if sufficient funds are made available to  
3 AUTHORITY for the purpose of this Agreement. In addition, this Agreement is subject to any additional  
4 restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or  
5 AUTHORITY governing board that may affect the provisions, terms, or funding of this Agreement in any  
6 manner.

7 C. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be  
8 amended to reflect any reduction in funds.

9 D. AUTHORITY has the option to terminate the Agreement pursuant to Article 14 Termination,  
10 or by mutual agreement to amend the Agreement to reflect any reduction of funds.

11 **ARTICLE 47. EQUIPMENT PURCHASE**

12 A. Prior authorization, in writing, by AUTHORITY's Project Manager shall be required before  
13 CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand  
14 (\$5,000.00) Dollars for supplies, equipment or CONSULTANT services. CONSULTANT shall provide an  
15 evaluation of the necessity or desirability of incurring such costs.

16 B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost  
17 Proposal and exceeding five thousand (\$5,000.00) Dollars prior authorization by AUTHORITY's Project  
18 Manager; three (3) competitive quotations must be submitted with the request, or the absence of bidding  
19 must be adequately justified.

20 C. Any equipment purchased as a result of this Agreement is subject to the following:

21 1. "CONSULTANT shall maintain an inventory of all nonexpendable property.  
22 Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost  
23 of \$5,000.00 or more. If the purchased equipment needs replacement and is sold or traded in,  
24 AUTHORITY shall receive a proper refund or credit at the conclusion of this Agreement, or if the  
25 Agreement is terminated, CONSULTANT may either keep the equipment and credit AUTHORITY in  
26 an amount equal to the its fair market value, or sell such equipment at the best price obtainable at a

1 public or private sale, in accordance with established AUTHORITY procedures; and credit  
2 AUTHORITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment,  
3 fair market value shall be determined at CONSULTANT's expense, on the basis of a competent  
4 independent appraisal of such equipment. Appraisals shall be obtained from an appraiser agreeable  
5 to both AUTHORITY and CONSULTANT. If it is determined to sell the equipment, the terms and  
6 conditions of such sale must be approved in advance by AUTHORITY.

7 2. Regulation CFR, Title 2, Part 200 requires a credit to Federal funds when  
8 participating equipment with a fair market value greater than five thousand (\$5,000.00) Dollars is  
9 credited to the project.

10 **ARTICLE 48. HEALTH AND SAFETY REQUIREMENTS**

11 A. CONSULTANT shall comply with all the requirements set forth in Exhibit B, Level 1 Safety  
12 Specifications. As used therein, "Contractor" shall mean "Consultant" and Subcontractor" shall mean  
13 "Sub-consultant."

14 B. CONSULTANT agrees to include this requirement in all of its subcontracts.

15 **ARTICLE 49. CONFIDENTIALITY OF DATA**

16 A. All financial, statistical, personal, technical, or other data and information relative to the  
17 AUTHORITY's operations, which are designated confidential by the AUTHORITY and made available to  
18 the CONSULTANT in order to carry out this Agreement, shall be protected by the CONSULTANT from  
19 unauthorized use and disclosure.

20 B. Permission to disclose information on one occasion, or public meeting held by the  
21 AUTHORITY relating to the Agreement, shall not authorize the CONSULTANT to further disclose such  
22 information or disseminate the same on any other occasion.

23 C. CONSULTANT shall not comment publicly to the press or any other media regarding the  
24 Agreement or AUTHORITY's actions on the same, except to AUTHORITY's staff, CONSULTANT's own  
25 personnel involved in the performance of this Agreement, at public hearings, or in response to questions  
26 from a Legislative committee.

1 D. CONSULTANT shall not issue any news release or public relations item of any nature,  
2 whatsoever, regarding work performed or to be performed under this Agreement without prior review of  
3 the contents thereof by the AUTHORITY, and receipt of the AUTHORITY's written permission.

4 E. This Article shall survive termination or expiration of the Agreement.

5 F. CONSULTANT agrees to include these requirements in all of its subcontracts.

6 **ARTICLE 50. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

7 CONSULTANT warrants that this Agreement was not obtained or secured through rebates,  
8 kickbacks or other unlawful consideration, either promised or paid to any AUTHORITY employee. For  
9 breach or violation of this warranty, AUTHORITY shall have the right in its discretion, to terminate the  
10 Agreement without liability, to pay only for the value of the work actually performed, or to deduct from the  
11 Agreement price, or otherwise recover the full amount of such rebate, kickback or other unlawful  
12 consideration.

13 **ARTICLE 51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

14 In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under  
15 penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court  
16 has been issued against CONSULTANT within the immediately preceding two-year period because  
17 of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply  
18 with an order of the National Labor Relations Board.

19 **ARTICLE 52. EVALUATION OF CONSULTANT**

20 CONSULTANT's performance will be evaluated by AUTHORITY. A copy of the evaluation will be  
21 sent to CONSULTANT for comments. The evaluation together with any comments shall be retained as  
22 part of the Agreement record.

23 **ARTICLE 53. PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS**  
24 **AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

25 A. Pursuant to Subsections 889(a)(l)(A)-(B) of the John S. McCain National Defense  
26 Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), Federal funds may not be used to procure



1 or obtain, or to enter into a contract or extend or renew a contract with an entity that uses, any  
2 equipment, system, or service that uses covered telecommunications equipment or services as a  
3 substantial or essential component of any system, or as critical technology as part of any system, as  
4 defined. CONTRACTOR is prohibited from providing to AUTHORITY or the Federal Government any  
5 equipment, system, or service that uses covered telecommunications equipment or services as a  
6 substantial or essential component of any system, or as critical technology as part of any system,  
7 unless an exception applies or the covered telecommunication equipment or services are covered by  
8 a waiver described in FAR §4.2104. As described in Section 889, covered telecommunications  
9 equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE  
10 Corporation (or any subsidiary or affiliate of such entities).

11 1. For the purpose of public safety, security of government facilities, physical security  
12 surveillance of critical infrastructure, and other national security purposes, video surveillance and  
13 telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision  
14 Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such  
15 entities).

16 2. Telecommunications or video surveillance services provided by such entities or using  
17 such equipment.

18 3. Telecommunications or video surveillance equipment or services produced or  
19 provided by an entity that the Secretary of Defense, in consultation with the Director of the National  
20 Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity  
21 owned or controlled by, or otherwise connected to, the government of a covered foreign country.

22 **ARTICLE 54. LIMITATION ON GOVERNMENTAL DECISIONS**

23 CONSULTANT shall not make, participate in making, or use its position to influence any  
24 governmental decisions as defined by the Political Reform Act, Government Code section 8100 et seq.,  
25 and the implementing regulations in Title 2 of the California Code of Regulations section 18110 et seq.  
26 CONSULTANT's personnel performing services under this Agreement shall not authorize or direct any

1 actions, votes, appoint any person, obligate, or commit AUTHORITY to any course of action or enter into  
2 any contractual agreement on behalf of AUTHORITY. In addition, CONSULTANT’s personnel shall not  
3 provide information, an opinion, or a recommendation for the purpose of affecting a decision without  
4 significant intervening substantive review by AUTHORITY personnel, counsel, and management.

5 **ARTICLE 55. CIVIL RIGHTS ASSURANCE**

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

8 A. Compliance with Regulations: CONSULTANT shall comply with the Regulations relative to  
9 nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, “DOT”)  
10 Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter  
11 referred to as the Regulations), which are herein incorporated by reference and made a part of this  
12 Agreement.

13 B. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the  
14 Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and  
15 retention of subcontractors, including procurements of materials and leases of equipment. The  
16 CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section  
17 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth  
18 in Appendix B of the Regulations.

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

25 D. Information and Reports: CONSULTANT shall provide all information and reports required  
26 by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records,

1 accounts, other sources of information and its facilities as may be determined by the AUTHORITY to be  
2 pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information  
3 required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this  
4 information the CONSULTANT shall so certify to the AUTHORITY as appropriate, and shall set forth what  
5 efforts it has made to obtain the information.

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

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

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

12 F. Title VI of the Civil Rights Act: In determining the types of property or services to acquire, no  
13 person in the United States shall, on the grounds of race, color, or national origin, be excluded from  
14 participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program  
15 or activity receiving Federal financial assistance in violation of Title VI of the Civil Rights Act of 1964, as  
16 amended, 42 U.S.C. Sections 2000d et seq. and DOT regulations, "Nondiscrimination in Federally  
17 Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of  
18 1964," 49 CFR Part 21. In addition, FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for  
19 FTA Recipients," 05-13-07, provides FTA guidance and instructions for implementing DOT's Title  
20 VI regulations.

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

25 H. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (A)  
26 through (H) in every subcontract, including procurements of materials and leases of equipment, unless

1 exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such  
2 action with respect to any subcontract or procurement as the AUTHORITY may direct as a means of  
3 enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a  
4 CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as  
5 a result of such direction, the CONSULTANT may request the AUTHORITY to enter into such litigation  
6 to protect the interests of the AUTHORITY, and, in addition, the CONSULTANT may request the United  
7 States to enter into such litigation to protect the interests of the United States.

8 **ARTICLE 56. BUY AMERICAN ACT**

9 This Agreement is subject to the Buy American Act set forth at 41 U.S.C. Section 8301 et seq.,  
10 which generally requires that only unmanufactured articles, materials, and supplies that have been mined  
11 or produced in the United States, and only manufactured articles, materials, and supplies that have been  
12 manufactured in the United States substantially all from articles, materials, or supplies mined, produced,  
13 or manufactured in the United States, shall be acquired for public use unless the Federal Government  
14 determines their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or  
15 that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies  
16 from which they are manufactured, are not mined, produced, or manufactured in the United States in  
17 sufficient and reasonably available commercial quantities and of a satisfactory quality. CONSULTANT  
18 agrees to comply with the Buy American requirements in the performance of this Agreement, including  
19 the implementing regulations in Part 25 of the Federal Acquisition Regulations.

20 **ARTICLE 57. RECYCLING CERTIFICATION**

21 A. CONSULTANT shall certify in writing under penalty of perjury, the minimum, if not exact,  
22 percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products,  
23 materials, goods, or supplies offered or sold to AUTHORITY or the Southern California Council of  
24 Governments regardless of whether the product meets the requirements of Public Contract Code Section  
25 12209. With respect to printer or duplication cartridges that comply with the requirements of Section  
26 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub.

1 Contract Code § 12205).

2 B. This Article shall survive termination or expiration of the Agreement.

3 C. CONSULTANT agrees to include these requirements in all of its subcontracts.

4 **ARTICLE 58. ANTITRUST CLAIMS**

5 A. CONSULTANT agrees to comply with Government Code Sections 4550-4554.

6 B. This Article shall survive termination or expiration of the Agreement.

7 C. CONSULTANT agrees to include these requirements in all of its subcontracts.

8 **ARTICLE 59. CHILD SUPPORT COMPLIANCE ACT**

9 A. If the Maximum Payment Obligation exceeds \$100,000, CONSULTANT acknowledges in  
10 accordance with Public Contract Code 7110, that:

11 1. CONSULTANT recognizes the importance of child and family support obligations and  
12 shall fully comply with all applicable state and federal laws relating to child and family support  
13 enforcement, including, but not limited to, disclosure of information and compliance with earnings  
14 assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of  
15 the Family Code; and

16 2. CONSULTANT, to the best of its knowledge is fully complying with the earnings  
17 assignment orders of all employees and is providing the names of all new employees to the New  
18 Hire Registry maintained by the California Employment Development Department.

19 B. This Article shall survive termination or expiration of the Agreement.

20 C. CONSULTANT agrees to include these requirements in all of its subcontracts.

21 **ARTICLE 60. PRIORITY HIRING CONSIDERATIONS**

22 A. If Maximum Payment Obligation includes services in excess of \$200,000, CONSULTANT  
23 shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified  
24 recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Public Contract  
25 Code Section 10353.

26 B. This Article shall survive termination or expiration of the Agreement.

1 C. CONSULTANT agrees to include these requirements in all of its subcontracts.

2 **ARTICLE 61. LOSS LEADER**

3 A. If this Agreement involves the furnishing of equipment, materials, or supplies then the  
4 following statement is incorporated: It is unlawful for any person engaged in business within this state to  
5 sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and  
6 Professions Code. (Public Contract Code § 10344(e).)

7 B. This Article shall survive termination or expiration of the Agreement.

8 C. CONSULTANT agrees to include these requirements in all of its subcontracts.

9 **ARTICLE 62. GOVERNING LAW**

10 This Agreement shall be governed by and construed in accordance with the laws of the State of  
11 California. Unless otherwise required by the funding source, venue for any action arising from this  
12 Agreement shall be Orange County, California. This Article shall survive termination or expiration of the  
13 Agreement.

14 **ARTICLE 63. 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  
20 party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due  
21 to the fault or negligence of the party not performing.

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**EXHIBIT D: CAMPAIGN CONTRIBUTION DISCLOSURE FORM**



**CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

**Information Sheet**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

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

**IMPORTANT NOTICE**

Basic Provisions of Government Code Section 84308

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

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

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and California Code of Regulations, Title 2 Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY  
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: \_\_\_\_\_ RFP Title: \_\_\_\_\_

Was a campaign contribution made to any OCTA Board Member within the preceding 12 months, regardless of dollar amount of the contribution by either the proposing firm, proposed subconsultants and/or agent/lobbyist? Yes \_\_\_\_ No \_\_\_\_

**If no**, please sign and date below.

**If yes**, please provide the following information:

Prime Contractor Firm Name: \_\_\_\_\_

Contributor or Contributor Firm's Name: \_\_\_\_\_

Contributor or Contributor Firm's Address: \_\_\_\_\_

\_\_\_\_\_

Is Contributor:

- The Prime Contractor Yes \_\_\_\_ No \_\_\_\_
- Subconsultant Yes \_\_\_\_ No \_\_\_\_
- Agent/Lobbyist hired by Prime to represent the Prime in this RFP Yes \_\_\_\_ No \_\_\_\_

Note: Under the State of California Government Code section 84308 and California Code of Regulations, Title 2, Section 18438, campaign contributions made by the Prime Contractor and the Prime Contractor's agent/lobbyist who is representing the Prime Contractor in this RFP must be aggregated together to determine the total campaign contribution made by the Prime Contractor.

Identify the Board Member(s) to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions, the name of the contributor, the dates of contribution(s) in the preceding 12 months and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board Member: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Name of Board Member: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Contributor

\_\_\_\_\_  
Print Firm Name

\_\_\_\_\_  
Print Name of Contributor

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
AND AFFILIATED AGENCIES**

**Board of Directors**

**Gene Hernandez, Chairman**  
**Tam Nguyen, Vice Chairman**  
**Doug Chaffee, Director**  
**Jose Diaz, Director**  
**Andrew Do, Director**  
**Jon Dumitru, Director**  
**Jamey Federico, Director**  
**Katrina Foley, Director**  
**Brian Goodell, Director**  
**Patrick Harper, Director**  
**Michael Hennessey, Director**  
**Steve Jones, Director**  
**Fred Jung, Director**  
**Farrah N. Khan, Director**  
**Jessie Lopez, Director**  
**Vicente Sarmiento, Director**  
**Donald P. Wagner, Director**

**EXHIBIT E: STATUS OF PAST AND PRESENT CONTRACTS**

**STATUS OF PAST AND PRESENT CONTRACTS FORM**

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

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

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

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

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

\_\_\_\_\_

Name

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**EXHIBIT F: RESTRICTIONS ON LOBBYING**

**CERTIFICATION**  
**LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN**  
**FEDERAL TRANSACTIONS**

A. DEFINITIONS

1. Authority, as used in this clause, means the Orange County Transportation Authority, acting on behalf of the Orange County Transit District.
2. Covered Federal action, as used in this clause, means any of the following Federal actions:
  - a. The awarding of any Federal contract.
  - b. The making of any Federal grant.
  - c. The making of any Federal loan.
  - d. The entering into of any cooperative agreement.
  - e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
3. Indian tribe and tribal organization, as used in this clause, have the meaning provided in Section 450b of the Indian self-determination and Education Assistance Act (25 U.S.C. 450) and include Alaskan Natives.
4. Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
5. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
6. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:
  - a. An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.
  - b. A member of the uniformed services, as defined in the subsection



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

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

## B. PROHIBITIONS

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

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

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

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

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

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

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

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

b. Professional and technical services

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

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

Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application or that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include contractors and trade associations.

- (2) For purposes of paragraph C.3.a.(1) of this clause, professional and technical services shall be limited to advise and analysis directly applying any professional or technical discipline. For

example, drafting of a legal document accompanying a bid or proposal is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission, or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

- (3) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- (4) Only those services expressly authorized by paragraph C.3.a.(1) and (2) of this clause are permitted under this clause.
- (5) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

c. Disclosure

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

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

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

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

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

- (3) The consultant shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime consultant. The prime consultant shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding consultant.

d. Agreement

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

e. Penalties

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

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

forms.

f. **Cost Allowability:**

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

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf (name of bidder/offeror) of \_\_\_\_\_ that:  
(Firm name)

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence making lobbying contracts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
3. If bidder/offeror does not have any reportable activities to disclose, they shall check the box entitled "No Reportable Activities" on the attached Standard Form-LLL "Disclosure of Lobbying Activities" and complete Section 16 of the form. The certifying official shall sign and date the form, print his/her name, title and telephone number.
4. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

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

The bidder/offeror, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the bidder/offeror understands and agrees that the provisions of 31 U.S.C. 3801, et seq. apply to this certification and disclosure, if any.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_\_

By \_\_\_\_\_  
(Signature of authorized official)

\_\_\_\_\_  
(Title of authorized official)

**NO REPORTABLE ACTIVITIES** (*Bidder/Offeror required to complete Section 16 below.*)

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

Approved by  
 OMB  
 003480045

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

Approved by  
 OMB  
 003480045



## **INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES**

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.
7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

## Harbor Boulevard Pilot Innovative Transit Signal Priority Study

### 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.

### Harbor Boulevard Pilot Innovative Transit Signal Priority Study

- 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

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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

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- 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 H: 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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**EXHIBIT I: PROHIBITION ON CONDUCTING RESTRICTED BUSINESS  
OPERATIONS IN SUDAN – CERTIFICATION**

**PROHIBITION ON CONDUCTING RESTRICTED BUSINESS OPERATIONS IN  
SUDAN – CERTIFICATION**

(a) *Definitions.* As used in this provision-

*Business operations* means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

*Marginalized populations of Sudan* means-

- (1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) ([50 U.S.C. 1701 note](#)); and
- (2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate-

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

(b) *Certification.* By submission of its offer, the Offeror certifies that the Offeror does not conduct any restricted business operations in Sudan.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT J – PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING  
IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN –  
REPRESENTATION AND CERTIFICATION**

**PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS  
RELATING TO IRAN—REPRESENTATION AND CERTIFICATIONS (JUN 2020)**

(a) *Definitions.* As used in this provision-

*Person—*

(1) Means—

(i) A natural person;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

*Sensitive technology-*

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically-

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ( [50 U.S.C. 1702\(b\)\(3\)](#)).

(b) The Offeror shall e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with Federal Acquisition Regulation (FAR) [25.703-4](#), by submission of its offer, the Offeror—

(1) Represents, to the best of its knowledge and belief, that the Offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(2) Certifies that the Offeror, or any person owned or controlled by the Offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran,

production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

(3) Certifies that the Offeror, and any person owned or controlled by the Offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR [25.703-2](#)(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(d) *Exception for trade agreements.* The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if-

(1) This solicitation includes a trade agreements notice or certification (e.g., [52.225-4](#), [52.225-6](#), [52.225-12](#), [52.225-24](#), or comparable agency provision); and

(2) The Offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT K – IRAN CONTRACTING ACT CERTIFICATION**

**IRAN CONTRACTING ACT CERTIFICATION**

(California Public Contract Code Sections 2200, *et seq.*)

The Iran Contracting Act of 2010 (PCC Sections 2200-2208), prohibits bidders who are engaged in investment activities in the energy sector of Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods or services of one million dollars (\$1,000,000) or more. At the time of submitting a bid, each bidder must certify that the bidder is not identified on the Department of General Services list of ineligible persons pursuant to PCC Section 2203(b). Each bidder is also required to certify that the bidder is not engaged in investment activities in violation of the Iran Contracting Act of 2010.

A bidder who is engaged in investment activities in the energy sector of Iran is defined as:

1. A person providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. A person that is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to PCC Section 2203(b).

A bidder is not required to certify that it is engaged in investment activities in the energy sector of Iran if the bidder is exempt from the certification under PCC Section 2203(c) or (d). If the bidder is exempt from the certification requirement, the bidder will be required to provide documentation demonstrating the exemption.

To comply with the Iran Contracting Act of 2010, the bidder shall complete **one** of the options below. Please note: under PCC Section 2205, false certification of this form may result in civil penalties of \$250,000 or twice the amount of the contract for which false certification was made, termination of the contract, and/or ineligibility to bid on contracts for a period of three years.



**Option No. 1: Certification**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below, and any subcontractor who will perform work or labor or render services to the vendor identified below, is not on the current Department of General Services list identifying persons engaged in investment activities in the energy sector of Iran, and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current Department of General Services list identifying persons engaged in investment activities in the energy sector of Iran.

Vendor/Financial Institution: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Option No. 2: Exemption**

Pursuant to PCC Section 2203(c) and (d), a public entity may permit a bidder or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit proposals for, or enter into or renew a contract with a public entity for goods or services of one million dollars (\$1,000,000) or more. If the bidder, financial institution, or any subcontractor who will perform work or labor or render services to the bidder has obtained an exemption from the certification requirement, please complete and sign below and attach the documentation demonstrating the exemption approval.

Vendor/Financial Institution: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Option No. 3: Non-Applicability**

Pursuant to PCC Section 2203(b), a bidder or financial institution engaged in investment activities in Iran may not be eligible for, or to bid on, submit proposals for, or enter into or renew a contract with a public entity for goods or services of one million dollars (\$1,000,000) or more. If the contract is not for goods or services of one million dollars (\$1,000,000) or more, please sign below indicating that the contract is not for goods or services of one million dollars (\$1,000,000) or more and thus bidder is not required to certify and does not meet the exemption.

Vendor/Financial Institution: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_