

REQUEST FOR PROPOSALS (RFP) 3-3003

FULLERTON PARK AND RIDE JOINT USE MASTER PLAN



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

Key RFP Dates

Issue Date:	December 4, 2023
Pre-Proposal Conference Date:	December 12, 2023
Question Submittal Date:	December 15, 2023
Proposal Submittal Date:	January 11, 2024
Interview Date:	February 6, 2024

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NOTICE OF REQUEST FOR PROPOSALS

(RFP): 3-3003: "FULLERTON PARK AND RIDE JOINT USE MASTER PLAN"

TO: ALL OFFERORS

FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to **establish a comprehensive and effective program of alternative transit and mobility improvements for the overall improvement of transit operations at the Fullerton Park and Ride lot.** The budget for this project is \$500,000 for a 20-month 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.

Proposals must be submitted, electronically, through the following URL link: <http://www.octa.net/Proposal Upload Link>, at or before the deadline of 2:00 p.m. on January 11, 2024. The link has an upload file size limit of 80MB. Authority will not accept hard copy proposals for this RFP.

Offerors are instructed to click the upload link, select "**RFP 3-3003**" from the drop-down menu, and follow the instructions as prompted to upload the proposal. The upload link will expire at the submittal deadline and will not allow proposals to be uploaded.

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

Offerors are advised that this Project is funded by the 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 SCAG.

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 3-3003, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Consultant Services - General
	Consultant Services - Transit
	Planning
	Consultant Services -
	Transportation Planning
Professional Services	Transit Management Services

An on-site/in-person pre-proposal conference will be held on December 12, 2023, at 8:30 a.m. at the Authority's Administrative Office, 550 South Main Street, Orange, CA 92868 in Conference Room 09.

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: 414 021 853#

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 February 6, 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

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

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and received via e-mail at mbornman@octa.net no later than 5:00 p.m., on December 15, 2023.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions RFP 3-3003" 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 19, 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>	<u>Commodity:</u>
Professional Consulting	Consultant Services - General
	Consultant Services - Transit
	Planning
	Consultant Services -
	Transportation Planning
Professional Services	Transit Management Services

Inquiries received after 5:00 p.m. on December 15, 2023 will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be submitted, electronically, through the following URL link: <http://www.octa.net/Proposal Upload Link>, at or before the deadline of **2:00 p.m. on January 11, 2024. The link has an upload file size limit of 80MB. Authority will not accept hard copy proposals for this RFP.**

Offerors are instructed to click the upload link, select “**RFP 3-3003**” from the drop-down menu, and follow the instructions as prompted to upload the proposal. The upload link will expire at the submittal deadline and will not allow proposals to be uploaded.

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

2. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.

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

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. CODE OF CONDUCT

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

N. 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 7922.0000 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.

O. 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.

SECTION II: PROPOSAL CONTENT

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A. PROPOSAL FORMAT AND CONTENT

1. Format

Proposals should be typed with a standard 12-point font, double-spaced, and submitted in 8 1/2" x 11" format. Charts and schedules may be included in 11" x 17" format. Proposals should not include any unnecessarily elaborate or promotional materials. Proposals should not exceed fifty (50) pages in length, excluding any appendices, cover letters, resumes, or forms.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to 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 120 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal

a. Qualifications, Related Experience and References of Offeror

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the

services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.
- (5) 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 labor-hour allocation to the project by individual task.
- (4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

Offeror to:

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

- (5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

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

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

4. Cost and Price Proposal

As part of the cost and price proposal, the Offeror shall submit proposed pricing to provide the services 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. 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.

2. Proposal Exceptions and/or Deviations Form

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

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

SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

1. **Qualifications of the Firm** **20%**

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

Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.
3. **Work Plan** **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 February 6, 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 may also negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offerors simultaneously and, thereafter, to award a contract to the Offeror offering the most favorable terms to the Authority.

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

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

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

EXHIBIT A: SCOPE OF WORK

Fullerton Park & Ride Joint Use Master Plan

SCOPE OF WORK

Introduction

This Scope of Work (SOW) describes work elements necessary for the various tasks related to the creation of a high-quality mixed use, mixed-income, transit-oriented development at the Fullerton Park and Ride (Project). The desired services shall be provided by what is herein referred to as the "CONSULTANT." CONSULTANT shall work directly for the Orange County Transportation Authority (OCTA) which is serving as the lead agency to develop up to 11.1 acres of OCTA property located at the Fullerton Park and Ride lot (3000 W. Orangethorpe Avenue, Fullerton, CA 92833).

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

The Fullerton Park-and-Ride lot (FPNR), in the City of Fullerton (City), is an OCTA-owned and operated facility that was purchased with Federal Transit Administration (FTA) funds and opened in 1974. OCTA intends to offer the property or a portion thereof under a long-term ground lease from OCTA.

The site includes 745 public parking spaces on 11.1-acres, along with 14 bus docks, covered waiting areas, restrooms, and benches. This is OCTA's largest park-and-ride facility, and it serves as a regional transfer point for transit customers. There are connections to eight bus routes, including Los Angeles County Metropolitan Transportation Authority bus operations. The facility is bounded by the Interstate 5/State Route 91 interchange to the south and west, Orangethorpe Avenue to the north, and Magnolia Avenue to the east. Use of the facility declined when Metrolink service began in 1990.

In 2018, OCTA initiated a **Phase 1** Joint Development Study for the OCTA-owned FPNR facility. This study found that the property possesses opportunities, including:

- Underutilized land - only 400 of the 745 parking spaces are needed to maintain 2019 OCTA operations.
- Street frontage – the property has high-visibility from major roadways, and it is proximate to transit services, and existing retail and residential developments.

In recognition of site conditions, and consistent with existing policy, the following criteria were used to develop seven conceptual scenarios for analysis:

- Identify land-uses that complement transit and park-and-ride uses
- Support the City and local neighborhoods with complementary concepts
- Improve services and conditions for transit riders

In 2021, OCTA initiated the **Phase 2** joint development study for the FPNR site. This study was intended to establish parameters and expectations for potential development partners, taking into consideration input from the City, the local community, developers, and other stakeholders.

Project Description

OCTA is seeking proposals from qualified consulting firms with substantial transit oriented development (TOD) experience to develop a site visioning feasibility study at the FPNR lot. This study will establish a comprehensive and effective program of alternative transit and mobility improvements to address first and last mile mobility and local circulation needs. Additionally, this study will potentially improve the overall transit operation at the facility.

OCTA completed an initial joint development study at the FPNR lot that reviewed local market conditions, considered OCTA's goals, and analyzed financial feasibility of potential development scenarios. OCTA is interested in constructing a mixed-use development (retail, restaurant, offices, and affordable housing) within the FPNR lot (Project). Recommendations and preferred design plans will be developed, consistent with OCTA established policies, and proposed for consideration by the OCTA Board of Directors.

Through an 20-month contract for advancing joint development opportunities that include:

- Consideration of best practices and lessons learned from other transit agencies
- Development of conceptual design drawings for the Project site
- Carrying out of outreach activities to collect feedback from the local businesses and community

This Project will enhance the sense of community and place, in coordination with surrounding land uses and development plans, while also supporting opportunities to increase transit ridership and OCTA revenues through value capture strategies. The final operating model and design must be financially feasible, allow for cost-effective maintenance and operations, and consider public safety. Project Tasks

Task 1: Project Management

1.1 Project Meetings

OCTA and Consultant shall hold a kick-off meeting to review the Project's scope, schedule, deliverables, and overall understanding. Consultant shall prepare a detailed project budget and schedule for each task/subtask, identifying the lead personnel, duration, key milestones, and

critical path items. The project budget and schedule shall be prepared for presentation at the project kick-off meeting.

Consultant shall have monthly project progress meetings with OCTA's PM, and conduct up to 12 project development team (PDT) meetings to ensure good communication with the project team on project status and review of project deliverables. The PDT meetings shall include OCTA staff in long-range planning, traffic modeling, traffic operations, outreach, and other departments as needed. Consultant shall use Microsoft Teams or another agreed-upon virtual meeting platform if these meetings are conducted virtually.

1.2 Project Coordination

Consultant shall be responsible for overall and daily activities of the project (and, if applicable, subconsultant) team and day-to-day communications with OCTA's PM. Consultant shall ensure timely and integrated production of all project work tasks.

The Consultant team shall assist in stakeholder coordination and communication throughout the project duration.

The Consultant team shall prepare and provide all meeting materials (i.e., agenda, minutes, presentations, etc.) throughout the project duration. The meeting agenda and materials must be distributed at least two (2) working days before the meetings.

1.3 Progress Reports and Project Updates

Consultant shall promptly communicate and coordinate all work and progress on the Project with OCTA's PM. Coordination and administration for the Project shall include, but are not limited to, the following:

- Monthly progress reports prepared by Consultant and submitted to the OCTA PM shall be included with each monthly invoice. Progress reports shall consist of: the status of work and budget by task; significant accomplishments; problems encountered and potential solutions; decisions to be made by OCTA and/or other agencies; project schedule updates, as needed; and work planned for the next month (by task and responsible parties).
- Monthly invoices prepared by Consultant and submitted to OCTA's PM for approval and payment shall provide a summary of project budget activity-to-date and show cost against each major task and/or subtask as appropriate. Specific billing requirements will be provided by OCTA staff upon award of the contract.

The Consultant Team shall report results for the project and shall work with OCTA staff to develop a methodology to report how the project works towards REAP goals.

Task 1 Deliverables

- Kick-Off Meeting with Consultant
- Project Schedule
- PDT Meeting Materials and Minutes
- Monthly Invoices and Progress Report
- Meeting Agendas, Minutes, and Action Items
- Meeting Materials (presentations, handouts, posters, etc.)

Task 2: Site Assessment**2.1 Background Review**

CONSULTANT shall meet with OCTA's PM, City staff, and key stakeholders to discuss project goals and objectives and confirm project schedule. Consultant shall review relevant plans, policies, and permits, including entitlement process, relevant sections of the General Plan, and Zoning Code in addition to examining existing and proposed land uses to identify potential traffic and circulation considerations.

2.2 Site Assessment

CONSULTANT shall perform site assessments, including site visits, development of site and study area maps, geotechnical investigations, and reviews to document existing physical, environmental, and operational features and identify factors affecting development. As part of this site assessment, the CONSULTANT shall document:

1. Existing bus operations, boardings/*alighting*, amenities, and other pertinent transit data at or near the transit facility
2. Near-term and long-term transit operation plans related to the site
3. Multimodal site access, parking utilization, study area volumes, and site circulation
4. Existing transit facility activity levels (i.e., transit customer parking, park-and-ride, vanpool, drop-offs, etc.)
5. Existing as-built plans, environmental and geotechnical conditions, including any above or below ground utilities and drainage (consistent with Task 5)
6. Collision data in the study area, site safety, and any other *relevant* on-site activities
7. Surrounding land uses and facilities

The CONSULTANT shall communicate with relevant agencies and departments as required to conduct this assessment.

2.3 Challenges and Opportunities

CONSULTANT shall develop a matrix of needs, challenges, opportunities, and constraints for the project site considering OCTA policies and plans; City plans, policies, and zoning codes; state and federal guidance and programs (including the Surplus Land Act); the market assessment; environmental considerations; and other applicable references.

2.4 Vision Development

Use input from Task 4, "Community Engagement", to reflect input from OCTA, City, and stakeholders, and document preferences and expectations for the potential development of the site. Document priorities and desired outcomes, accounting for existing land use policies, transit operation needs, and site characteristics.

2.5 Market Assessment

CONSULTANT shall prepare a market analysis to identify the current and forecasted demand for various types of real estate development within and in the vicinity of the study area. Include analysis of demographic and socioeconomic conditions, performance of existing real estate, projected future demand. Also, consider input from real estate professionals and developers.

Task 2 Deliverables

- Background Review & Goals and Objectives
- Existing Conditions Site Assessment Technical Memorandum
- Needs, Challenges, Opportunities, and Constraints Matrix
- Vision Technical Memorandum
- Market Feasibility Study Technical Memorandum

Task 3: Conceptual Site Design Plan

3.1 Conceptual Site Design Alternatives

CONSULTANT shall develop conceptual land use plans for the FPNR project site. The CONSULTANT shall prepare up to five (5) conceptual site design alternatives. The project site design documents shall consist of performance drawings and specifications that describe the proposed land uses. The plan alternatives will reflect a range of development densities and land use types, including office and restaurant uses.

The conceptual design plans shall include maps, tables, data, presentation materials, and other information as necessary. These should include conceptual illustrations, site plans, and building massing for each scenario. All conceptual design plans shall incorporate mobility hub elements to enhance the overall user experience.

3.2 Cost Estimate

CONSULTANT, shall prepare a cost estimate and financial assessment of each conceptual design alternative (up to 5) to include construction, operation, and maintenance cost. The estimates shall provide include sufficient detail to allow staff to review different costing scenarios. The estimate for operations costs shall include: materials, utilities, labor, and contracted services. The estimate for labor costs may include: preventative maintenance of equipment, regular maintenance of the facility, and standard operations. The estimate shall show quantities and unit prices as well as developed totals.

3.4 Feasibility Analysis

CONSULTANT shall evaluate the conceptual alternatives based on pro forma analysis, alignment with the goals and objectives of this project, and in consideration of the Surplus Land Act. Consultant shall evaluate alternatives to qualitatively compare cost, connectivity, safety, accessibility, construction phasing, environmental impacts, and any utility location requirements.

Task 3 Deliverables

- Draft and Final up to 5 Conceptual Design Plans
- Presentation collaterals (maps, PowerPoint slides, etc.)
- Cost Estimates for the five (5) Conceptual Alternatives
- Feasibility Analysis Results Technical Memorandum
- Pro forma analysis summary for each Conceptual Alternative

Task 4: Community Engagement

4.1 Outreach Plan and Findings

CONSULTANT shall, in collaboration with the team, develop and execute a robust and innovative outreach plan that will establish a comprehensive and meaningful strategy for engaging community stakeholders in developing a shared vision for the FPNR lot.

The outreach plan shall identify stakeholders (community groups, residents, business owners, transit users, and other stakeholders as appropriate). The outreach plan will outline the methods by which stakeholders will be informed about and engaged in the Project through multiple formats, as needed, including community meetings, charrettes, workshops, stakeholder interviews, focus groups, project website, and social media. The outreach plan shall identify the key project milestones that will require stakeholder input and develop innovative and complementary engagement activities, with the goal of building a broad spectrum of support for the Project.

The outreach plan shall also inform the development of meeting materials and include strategies and tools to reach disadvantaged and non-English speaking communities through organizing meetings at various times and accessible community locations to maximize attendance, providing on-site translation as needed and materials in multiple languages. To align with OCTA's diversity,

equity and inclusion goals, outreach methods shall be created and implemented with a diverse audience in mind to ensure all voices had the opportunity to be heard, regardless of ethnicity, language or socioeconomic background. Stakeholders will include community and business leaders, local jurisdictions, elected officials, relevant advisory review committees, and utility providers or suppliers.

4.2 Community Visioning Workshops

CONSULTANT shall coordinate and support up to three (3) community meetings or charrettes in identifying community concerns and soliciting feedback on the mixed-use development. The charrettes should engage as many members of the community as possible including local stakeholders, area residents, businesses, developers, and transit riders. Additionally, other innovative online engagement tools including surveys and social media campaigns should be developed and executed for the project that would provide additional engagement opportunities for all.

4.3 Industry Professional Interviews

CONSULTANT shall interview industry professionals (up to four (4) interviews) from the real estate and developer communities to gather insights that may benefit the planning process.

4.3 Briefing with Elected Officials and Study Session

CONSULTANT shall prepare for and attend up to two (2) meetings with the City elected officials, commissioners, and their staff members. These meetings and study sessions will be conducted on an as-needed basis to keep the policy makers informed of the project progress and to solicit feedback as necessary throughout the project phases.

Task Deliverables

- Outreach Plan
- Outreach and Engagement Findings Technical Memorandum
- Community Visioning Workshops – up to 3
- Industry professional interviews - up to 4
- Briefing with Elected Officials and Study Session – up to 2
- Meeting Agenda and Minutes
- Collateral Materials (PowerPoint Presentations, conceptual drawings, fact sheet, postcards, etc.)

Task 5: Preliminary Environmental Assessment

5.1 Existing Environmental Evaluation

CONSULTANT shall conduct a detailed evaluation of the existing environmental risks at the site and provide a comprehensive environmental evaluation of the potential risks, such as air and noise

pollution, habitat disruption, and water contamination. Consultant shall consider incorporating measures to mitigate these specific environmental risks.

5.2 Preliminary Environmental Assessment

CONSULTANT shall conduct a preliminary evaluation of the conceptual scenarios in accordance with Appendix G - Checklist of the California Environmental Quality Act (CEQA) Guidelines (Checklist) and provide a preliminary assessment of environmental issues based on findings from the Environmental Checklist. <https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/ab52/final-approved-appendix-G.pdf>

Task Deliverables

- Existing Environmental Risks Technical Memorandum
- Preliminary Environmental Assessment Technical Memorandum
- Appendix G - Checklist of the CEQA Guidelines

Task 6: Draft and Final Study Report

6.1 Implementation Approach

CONSULTANT shall identify the next steps needed to implement the Project, such as partnership structure options and recommendations, development phasing options and recommendations, as well as requirements and considerations related to environmental clearance, development process, entitlement process, general plan update, zone change, etc.

6.2 Draft RFP Materials

CONSULTANT shall prepare draft materials, including initial terms for a developer agreement, to support a future Request for Proposal (RFP) for the FPNR Joint Development project. These materials shall support the procurement process should the OCTA Board of Directors choose to pursue a project.

6.3 Draft Master Plan Report

CONSULTANT shall prepare a Draft Master Plan Summary Report summarizing all the work completed including the community workshop summary and the conceptual design alternative plans. CONSULTANT shall prepare all presentation materials and draft documents in formats that clearly communicate the approach, findings, and recommendations.

6.3 Final Study Report

The Draft Master Plan Summary Report shall be revised to reflect feedback received from the OCTA Board of Directors, any appropriate committees, OCTA staff, and other stakeholders, as appropriate. Additional presentations will be made to inform the OCTA Board of Directors (and others, as appropriate) of the revisions and final recommendations.

CONSULTANT shall prepare all presentation materials and documents in formats that clearly communicate the approach, findings, and recommendations. CONSULTANT shall prepare an Executive Summary.

Task Deliverables
<ul style="list-style-type: none">• Implementation Strategy Plan• Draft Procurement Materials – including a draft developer agreement• Draft Study Report• Final Study Report• PowerPoint Presentation (Draft & Final)• Posters and other presentation Materials (as needed)

EXHIBIT B: COST AND PRICE FORMS

PRICE SUMMARY SHEET
REQUEST FOR PROPOSALS (RFP) 3-3003

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.

<u>Description</u>	<u>Firm-Fixed Price</u>
Task 1: Project Management	\$ _____
Task 2: Site Assessment	\$ _____
Task 3: Conceptual Site Design Plan	\$ _____
Task 4: Community Engagement	\$ _____
Task 5: Preliminary Environmental Assessment	\$ _____
Task 6: Draft and Final Study Report	\$ _____
Total Firm-Fixed Price	\$ _____

1. I acknowledge receipt of RFP 3-3003 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

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

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

9 **ARTICLE 2. AUTHORITY DESIGNEE**

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

12 **ARTICLE 3. SCOPE OF WORK**

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

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

19 **Names**

Functions

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

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

ARTICLE 4. TERM OF AGREEMENT

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

ARTICLE 5. PAYMENT

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

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

<u>Tasks</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1	Project Management	\$.00
2	Site Assessment	\$.00
3	Conceptual Site Design Plan	\$.00
4	Community Engagement	\$.00
5	Preliminary Environmental Assessment	\$.00
6	Draft and Final Study Report	<u>\$.00</u>
TOTAL FIRM FIXED PRICE PAYMENT		<u>\$.00</u>

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

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

21 E. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in
22 duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices
23 electronically to AUTHORITY's Accounts Payable Department at vendorinvoices@octa.net. Each invoice
24 shall be accompanied by the monthly progress report specified in paragraph 0 of this Article.
25 AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each
26 invoice. Each invoice shall include the following information:

1. Agreement No. C-3-3003;
2. Specify the task number for which payment is being requested;
3. The time period covered by the invoice;
4. Total monthly invoice (including project-to-date cumulative invoice amount); and retention;
5. Monthly Progress Report;
6. Certification signed by the CONSULTANT or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
7. Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.
8. CONSULTANT shall pay any subcontractors performing work under this Agreement for satisfactorily completed work no later than ten (10) days of receipt of each payment from AUTHORITY. The ten (10) calendar days period is applicable unless a shorter period is required by applicable law.
9. Any costs for which CONSULTANT receives reimbursement or credit that is determined by a subsequent audit or other review by either AUTHORITY, the Southern California Association of Governments, the California Department of Housing and Community Development, other State authorities or federal cognizant agency to be ineligible or otherwise unallowable, are to be repaid by CONSULTANT within thirty (30) calendar days of CONSULTANT receiving notice or a written demand for reimbursement from AUTHORITY. Such repayment may include interest, penalties, or related fees, as determined by the California Department of Housing and Community

1 Development or other State authorities. Should CONSULTANT fail to reimburse unallowable costs
2 due to AUTHORITY within fifteen (15) calendar days of demand, or within such other period as may
3 be agreed between both parties hereto, AUTHORITY is authorized to withhold and/or off-set future
4 payments to CONSULTANT. CONSULTANT agrees to include these requirements in all of its
5 subcontracts.

6 10. Any travel expenses and per diem rates are not to exceed the rates specified by
7 the State of California Department of Human Resources for similar employees (i.e., non-represented
8 employees) unless written verification is supplied that government hotel rates were not then commercially
9 available to CONSULTANT at the time and location required as specified in the California Department of
10 Transportation's Travel Guide Exception Process, which can be found at the following link:
11 http://www.dot.ca.gov/hq/asc/travel/ap_b/bu1.htm. Also see the link for a summary of travel
12 reimbursement rules. CONSULTANT agrees to include these requirements in all of its subcontracts.

13 11. CONSULTANT agrees to submit all invoices to AUTHORITY for services
14 rendered through June 30th no later than _____ during the term of this Agreement. AUTHORITY shall not
15 be obligated to pay CONSULTANT for any invoice received after such date.

16 **ARTICLE 6. MAXIMUM OBLIGATION**

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

22 **ARTICLE 7. NOTICES**

23 All notices hereunder and communications regarding the interpretation of the terms of this
24 Agreement, or changes thereto, shall be effected by delivery of said notices in person or by depositing
25 said notices in the U.S. mail, registered or certified mail, returned receipt requested, postage prepaid and
26 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: Ivy Hang, Project Manager

Phone: (714) 560 – 5684

Email: lhang@octa.net

ARTICLE 8. 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 personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

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

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

ARTICLE 9. INSURANCE

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

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

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

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

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

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

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

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C. CONSULTANT shall include on the face of the certificate of insurance the Agreement Number C-3-3003 and, the Contract Administrator's Name, Megan Bornman.

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

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

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

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

ARTICLE 10. ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 3-3003; (3) CONSULTANT's proposal dated _____; (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 11. CHANGES

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

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ARTICLE 12. DISPUTES

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

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

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

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

ARTICLE 13. TERMINATION

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

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

ARTICLE 14. INDEMNIFICATION

A. CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, the Southern California Association of Governments and their respective officers, directors, employees and agents (indemnities) from and against any and all claims (including attorneys' fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions or willful misconduct by CONSULTANT, its officers, directors, employees, agents, subconsultants or suppliers in connection with or arising out of the performance of this Agreement. This Article shall survive termination or expiration of the Agreement. CONSULTANT shall include these requirements in all of its subcontracts.

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ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS

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

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

Subcontractor Name/Addresses

Subcontractor Amounts

\$.00

\$.00

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, the Southern California Association of Governments, the California Department of Housing and Community Development, the California Department of General Services, the California Bureau of State Audits, or their designated representatives, such access to CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY deems necessary. CONSULTANT shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONSULTANT's performance hereunder and for a period of five (5) years after December 31, 2026. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, all records shall be retained by

CONSULTANT and any subcontractors for five (5) years after: (a) the conclusion or resolution of the matter; (b) the date an audit resolution is achieved for each annual Southern California Association of Governments Overall Work Plan; or (c) December 31, 2026, whichever is later. AUTHORITY's right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 15 of this Agreement. CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary. This Article shall survive termination or expiration of the Agreement. CONSULTANT agrees to include these requirements in all of its subcontracts.

ARTICLE 17. CONFLICT OF INTEREST

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

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

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

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

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ARTICLE 18. CODE OF CONDUCT

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

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

ARTICLE 19. PROHIBITION ON PROVIDING ADVOCACY SERVICES

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

ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS

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

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

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

ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY

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

B. CONSULTANT shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in this Agreement to encourage participation of all persons regardless of race, color, national origin, sex, religion, familial status, or

1 disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to
2 the maximum extent possible, of minorities and women, and entities owned by minorities and women,
3 as required by 24 CFR § 92.351.

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

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

6 **ARTICLE 22. PROHIBITED INTERESTS**

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

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

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

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

26 /

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

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

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

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

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

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

1 said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and
2 copyright indemnity thereto.

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

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

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

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

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

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

22 All design and engineering work furnished by CONSULTANT shall be performed by or under the
23 supervision of persons licensed to practice architecture, engineering or surveying (as applicable) in the
24 State of California, by personnel who are careful, skilled, experienced and competent in their respective
25 trades or professions, who are professionally qualified to perform the work in accordance with the
26 Agreement documents and who shall assume professional responsibility for the accuracy and

1 completeness of the design documents and construction documents prepared or checked by them.

2 **ARTICLE 27. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

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

5 A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under
6 penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt,
7 complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title
8 2, California Code of Regulations, Section 8103.

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

19 C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment
20 and Housing Act (Government Code Section 12990 et seq.), the applicable regulations promulgated there
21 under (Title 2 of the California Code of Regulations (CCR) Section 11000 et seq.), the provisions of
22 Government Code Sections 11135-11139.5, and the regulations or standards adopted by AUTHORITY
23 to implement such article. The applicable regulations of the Fair Employment and Housing Commission
24 implementing Government Code Section 12990 (a-f), set forth in 2 CCR Section 8100-8504, are
25 incorporated into this Agreement by reference and made a part hereof as if set forth in full.

26 /

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

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

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

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

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

21 I. This Article shall survive termination or expiration of the Agreement.

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

23 **ARTICLE 26. CONTRACTOR PURCHASED EQUIPMENT**

24 A. If during the course of this Agreement, additional equipment is required, which will be paid for
25 by the AUTHORITY, CONSULTANT must request prior written authorization from the AUTHORITY's
26 project manager before making any purchase. As part of this purchase request, CONSULTANT shall

1 provide a justification for the necessity of the equipment or supply and submit copies of three (3)
2 competitive quotations. If competitive quotations are not obtained, CONSULTANT must provide the
3 justification for the sole source.

4 B. CONSULTANT shall maintain an inventory record for each piece of equipment purchased
5 that will be paid for by the AUTHORITY. The inventory record shall include the date acquired, total cost,
6 serial number, model identification, and any other information or description necessary to identify said
7 equipment or supply. A copy of the inventory record shall be submitted to the AUTHORITY upon request.

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

14 D. Any subconsultant agreement entered into as a result of this Agreement shall contain all
15 provisions of this clause.

16 **ARTICLE 27. HEALTH AND SAFETY REQUIREMENT**

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

19 **ARTICLE 28. LIMITATION ON GOVERNMENTAL DECISIONS**

20 CONSULTANT shall not make, participate in making, or use its position to influence any
21 governmental decisions as defined by the Political Reform Act, Government Code section 8100 et seq.,
22 and the implementing regulations in Title 2 of the California Code of Regulations section 18110 et seq.
23 CONSULTANT's personnel performing services under this Agreement shall not authorize or direct any
24 actions, votes, appoint any person, obligate, or commit AUTHORITY to any course of action or enter into
25 any contractual agreement on behalf of AUTHORITY. In addition, CONSULTANT's personnel shall not
26 provide information, an opinion, or a recommendation for the purpose of affecting a decision without

significant intervening substantive review by AUTHORITY personnel, counsel, and management.

ARTICLE 29. RECYCLING CERTIFICATION

A. CONSULTANT shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to AUTHORITY or the Southern California Council of Governments regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code § 12205).

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

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

ARTICLE 30. ANTITRUST CLAIMS

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

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

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

ARTICLE 31. CHILD SUPPORT COMPLIANCE ACT

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

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

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

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

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

ARTICLE 32. PRIORITY HIRING CONSIDERATIONS

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

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

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

ARTICLE 33. LOSS LEADER

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

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

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

ARTICLE 34. GOVERNING LAW

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

ARTICLE 35. FORCE MAJEURE

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

1 by the other party; when satisfactory evidence of such cause is presented to the other party, and provided
2 further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or
3 negligence of the party not performing.

4 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-3-3003 to be
5 executed as of the date of the last signature below.

6 **CONSULTANT**

ORANGE COUNTY TRANSPORTATION AUTHORITY

7
8 By: _____

By: _____
Lydia Bilynsky
Department Manager, Capital Projects

11 **APPROVED AS TO FORM:**

13 By: _____
14 James M. Donich
General Counsel

EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS FORM

STATUS OF PAST AND PRESENT CONTRACTS FORM

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

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

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

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

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

Name

Signature

Title

Date

EXHIBIT E: SAFETY SPECIFICATIONS

LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

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

1.2 REGULATORY

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

- B. Substance Abuse Prevention Program
Contractor shall comply with the Policy or Program of the Company's Substance Abuse Prevention Policy that complies with the most recent Drug Free Workplace Act. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- C. Heat Illness Prevention Program
Contractor shall comply with CCR Title 8, Section, Section 3395, Heat Illness Prevention. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- D. Hazard Communication Program
Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of SDS for all applicable chemical products used, if any. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
 - a. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.
- E. Storm Water Pollution Prevention Plan
The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the contract. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements. The program or plan if required by scope shall be provided to the Authority's Project Manager, upon request, within 72 hours.

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

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

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

1.4 DESIGNATED HEALTH AND SAFETY REPRESENTATIVE

- A. Upon contract award, the contractor within 10 business days shall designate a health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.
- B. This person shall be a competent or qualified individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards (Cal/OSHA) and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.

1.5 PERSONAL PROTECTIVE EQUIPMENT

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

1.6 REFERENCES

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

END OF SECTION

EXHIBIT F: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

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

Offeror:_____

RFP No.:_____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

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

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

Complete Description of Deviation or Exception:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:
